by the disabled. If a door pulls open or takes considerable pressure to push open, someone on crutches or in a wheelchair may have difficulty getting through it.

Worse yet are doors that are too narrow for a wheelchair. Because of the narrowness of stall doors only one restroom on the entire campus has been usable by persons confined to wheelchairs—and it's only there because it was built specially for an aging faculty member in 1970. It's in a quonset hut behind Marvin Hall.

Drinking fountains and wall telephones are other problems. So are room numbers in classroom buildings. If a blind person manages to find the right building on campus, he can't be sure he's found the right room without asking someone in the room, perhaps disturbing a class in the process. If rooms were labeled with raised numbers at the side of each doorway instead of above the doorway, the blind could avoid this problem.

"These are people problems, not necessarily just problems of the handicapped," Williams said. Using as an example curb cuts put in campus sidewalks last summer, he said that bike riders and service personnel "find these are a tremendous aid and they forget that they were initially put in for the handicapped. They make it easier and safer for everybody."

The University Committee for the Architecturally Handicapped has been using KU's educational and research facilities to find and remedy these and other problems. Occupational therapy students surveyed all campus buildings as a practical classroom project, using guidelines set by federal and state building laws.

An industrial design student is currently creating a model restroom stall for the disabled. The Committee hopes to involve the School of Engineering in designing and building ramps to make more buildings on campus accessible.

Plans have recently been made to redesign two residence hall shower stalls, one in Joseph R. Pearson Hall and one in Oliver Hall. A Braille map of the campus should be completed soon.

A number of changes have already been planned for or made in the Kansas Union. Because a non-profit private corporation owns the building, it can make the changes independent of official University funding. And, the cost of changes for even as large a building as the Union is dwarfed when compared to the cost of making the changes in a whole University.

"Our one discouraging factor has been that it's going to take a great deal of money to remedy some of the major problems and, because of cutbacks in federal funds, the outlook is not auspicious," Williams said.

It's illegal to build any new facility with tax monies that's not fully useable by the disabled, according to Williams. The committee examined plans for the new student health center and for Wescoe Hall. They discovered that in the new student hospital there was no public restroom that could be used with a wheelchair. A long ramp to make Wescoe Hall accessible had no level resting areas on it.

"We've saved a great deal of money when we have been able to get at these building problems when they're still on paper," Williams said.

"MURDER BY HANDGUN: A CASE FOR GUN CONTROL"—NO. 11

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1973

Mr. HARRINGTON. Mr. Speaker, one of the facts about gun violence that should be emphasized is that the majority of murders committed with handguns are not premeditated acts and are not associated with robberies or other criminal activities.

In Washington, D.C., 81 percent of all homicides involve a suspect and a victim who were either husbands and wives, relatives, friends or acquaintances, and 86 percent of those murders stem from an argument, a fight or a lovers' quarrel.

Today's edition of the Washington Post describes such a murder, a common occurrence in this city and nearly every other city. Two men were arguing. During the argument, one man reached for his pistol and shot the other. Oliver M. Pettaway, age 25, is dead. Clarence T. Alexander, age 27, has been charged with murder.

In his testimony before the House Judiciary Committee last year, Chicago Mayor Richard Daley spoke eloquently about the impulsive nature of violence. He said:

There is one case that I know intimately because I was there. What do you do with a boy 5 or 6 years of age who fires a gun and kills his companion and his mother and father are standing there, with the kid on the ground? Both families are all crying. What do you do with a neighbor who has an argument over a guy doing something to his fence or maybe parking his car in front of his house and one runs in and grabs a gun and comes out and shoots?

I have seen situations like that. You are called to the scene and you see the man has committed a murder. But, after all, if he did not have the gun, he would not have been able to kill this man.

You see people crying. You see the families and everyone else and the man does not know what happened. He got angry and had a little high blood pressure and ran in and grabbed the gun and ran out and shot before he thought what he was doing. And his neighbor, a good friend, was dead alongside of him and his family, and both families had known one another for years and they are all in tears.

A judge has that before him and what is he going to do? It was not premeditated murder.

Opponents of gun control legislation seem to ignore the fact that so much of violence is impulsive, and that violent action can often be stimulated by the mere sight of a gun. Opponents argue that stronger penalties for people who use guns would be the solution to the rampant violence in this country. Yet it is clear that stronger jail sentences are no deterrent to the murders that are caused by rage, by anger, by frustration.

We must try to prevent murders, we must try to keep them from occurring. We must take out of circulation the guns which enable people to murder so impulsively.

An article from the August 1, Washington Post follows:

DISTRICT OF COLUMBIA MAN SLAIN IN APARTMENT

A 25-year-old Washington man was shot to death last night during an argument with another man in an Oxon Hill apartment, Prince George's County police reported.

Police said the dead man, Oliver M. Pettaway, whose last known address was on Eastern Avenue NW, was shot four times with a handgun about 8 p.m. He was pronounced dead on the scene, a basement apartment at 5076 Livingston Ter., police said.

Shortly after the shooting, police arrested Clarence T. Alexander, 27, of the Oxon Hill address and charged him with murder. No bond had been set as of early this morning, police said.

SENATE—*Thursday, August 2, 1973*

The Senate met at 11 a.m. and was called to order by Hon. WILLIAM D. HATHAWAY, a Senator from the State of Maine.

PRAYER

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

Our Father God, in whose providence this Nation was born and by whose spirit it has been guided, grant us now a constant awareness of Thy presence. Deliver us from all offenses against Thee and against one another. Above all suspicions, contentions, and indignations may we see lifted up the cross of forgiveness and reconciliation. Help us first to be our brother's brother before we attempt to be our brother's keeper.

"Reclothe us in our rightful mind,
In purer lives Thy service find,
In deeper reverence praise."

Bless all who serve in this place, granting us pure hearts and clear minds and sanctified motives, that we may be worthy partners with Thee in advancing Thy kingdom.

We pray in the Redeemer's name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The second assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., August 2, 1973.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. WILLIAM D. HATHAWAY, a Senator from the State of Maine, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

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

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, August 1, 1973, be dispensed with.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar, under 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, under New Reports, will be stated.

U.S. AIR FORCE

The second assistant legislative clerk read the nomination of Brig. Gen. Harold R. Vague, to be a major general and for appointment as the Judge Advocate General, U.S. Air Force.

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

U.S. ARMY

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

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

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

U.S. NAVY

The second assistant legislative clerk read the nominations in the U.S. Navy, as follows:

Vice Adm. C. Edwin Bell, U.S. Navy, to be a vice admiral.

Comdr. Grace Murray Hopper, U.S. Naval Reserve (retired), to be a captain.

Mr. MANSFIELD. Mr. President, I ask pore. Without objection, the nominations are considered and confirmed en bloc.

The ACTING PRESIDENT pro temunanimous consent that the nominations be considered en bloc.

U.S. POSTAL SERVICE

The second assistant legislative clerk read the nomination of John Y. Ing, of Hawaii, to be a Governor of the U.S. Postal Service for the term expiring December 8, 1981.

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

ATOMIC ENERGY COMMISSION

The second assistant legislative clerk read the nomination of William A. Anders, of Virginia, to be a member of the Atomic Energy Commission for a term of 5 years expiring June 30, 1978.

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

ENVIRONMENTAL PROTECTION AGENCY

The second assistant legislative clerk read the nomination of Russell E. Train, of the District of Columbia, to be Administrator of the Environmental Protection Agency.

Mr. MANSFIELD. Mr. President, I ask that this nomination go over.

The ACTING PRESIDENT pro tempore. The nomination will go over.

DEPARTMENT OF STATE

The second assistant legislative clerk read the nomination of Thomas R. Byrne, of Pennsylvania, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Norway.

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

AMBASSADOR

The second assistant legislative clerk read the nomination of John R. Stevenson, of New York, Special Representative of the President for the Law of the Sea Conference and Chief of Delegation, to be an ambassador.

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

NOMINATIONS PLACED ON THE SECRETARY'S DESK

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

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent that on these nominations, and all previous nominations not so requested, the President be notified.

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

LEGISLATIVE SESSION

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

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

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendars Nos. 340, 343, 345, 347, 348, and 349.

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

NATIONAL CONSUMER EFFORT TO SAVE GAS

The Senate proceeded to consider the resolution (S. Res. 138), on the national consumer effort to save gas and arrive alive.

THE ENERGY CRISIS

Mr. GURNEY. Mr. President, as Members of Congress, we have been made increasingly aware of the fact that the energy crisis is upon us by the oil industry, consumer groups, investigations by Congress, the Federal Trade Commission, and various States, Newspaper accounts and constituent mail. What about answers to the gasoline shortage and other energy shortages? Everyone and every group seems to have their own answer. Most of the debate seems to be over the long-term answers such as the amount to be spent on energy research and development, or where a pipeline should be built or if we should allow drilling on the Outer Continental Shelf. These issues, even when we resolve them, will not solve our energy crisis for a number of years.

It has become clear to me that some action must be taken immediately to conserve our present energy supply. With this in mind I introduced Senate Resolution 138 on July 11. Thanks to speedy action by the Commerce Committee and the Senate leadership, this resolution passed today. This resolution encourages a national consumer effort to conserve gas and decrease safety hazards on our Nation's high-speed roads. It calls upon all motor vehicle operators traveling on high-speed roads on weekends and holidays, between the date of passage and Labor Day, September 3, 1973, to:

First. Travel at a speed no greater than 10 miles per hour less than the posted speed limit; and

Second. Turn on their headlights to encourage fellow travelers to join in this summertime, nationwide campaign to slow down, save gas, save lives, and save money.

In order to promote the success of this consumer effort, I have contacted major civic organizations asking for their cooperation. I have alerted certain Government departments that might be able to help in this project. Finally, I have contacted the Governor of every State asking for his cooperation. My efforts alone, however, are not enough to make this consumer effort a success. Every Senator can pitch in to make this a success by contacting their State highway patrol, their Governor, and State legislature and the media in their State and urging them to help.

This resolution should be just the beginning of a concentrated effort to conserve gasoline. Eventually this effort should be extended year round.

The energy crisis must enlist the support of every single American, and I believe that this resolution can stimulate such support.

The resolution was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

Whereas our Nation faces a shortage of retail gasoline supplies; and

Whereas the causes of and solutions for this shortage are now being investigated by Congress, and any solutions proposed may not be implemented in time to alleviate the predictable exacerbation of the shortage of such supplies due to increased motor vehicle traffic on our Nation's roads between the date of passage of this resolution and September 3, 1973; and

Whereas there is substantial evidence that for each mile per hour traveled above forty-five miles per hour ("high speed travel") there is a substantial increase in gas consumption per mile in contrast to that at lower speeds, and that the cost per mile of gasoline at high speed travel is greater than that at lower speeds; and

Whereas substantial amounts of gasoline can be saved if motor vehicles are driven less frequently or without excessive idling, rapid acceleration or deceleration; and

Whereas that there is substantial evidence that safety will be increased on our Nation's roads if motor vehicles travel at lower speeds: Be it therefore

Resolved, That it is the sense of the Senate that:

(1) Each operator of a motor vehicle should, when traveling during weekends or holidays between the date of passage of this resolution and September 3, 1973, on any road where the posted speed limit is fifty-five miles per hour or greater:

(a) travel at a speed no greater than ten miles per hour less than the posted speed limit;

(b) turn on the headlights of his or her motor vehicle in order to publicize his or her participation in a national consumer effort to decrease consumption of motor vehicle gasoline and to increase safety on the Nation's roads.

(2) The Governor of each State should, as soon as practicable, make State funds available on an equitable basis and encourage private and other governmental organizations within the State to make funds available on an equitable basis, to State and local agencies, including but not limited to State highway patrols and traffic safety organizations, and to appropriate private organizations or individuals, for the purpose of encouraging motor vehicle operators to observe the provisions of (1), above, and to inform motor vehicle operators that substantial amounts of gasoline can be saved if motor vehicles are driven less frequently, or without excessive idling, rapid acceleration or deceleration.

(3) The television, radio, and print media should publicize, to the maximum extent possible, the details of this resolution in such a fashion as to encourage motor vehicle operators to observe the provisions of (1), above, and to inform motor vehicle operators that substantial amounts of gasoline can be saved if motor vehicles are driven less frequently, or without excessive idling, rapid acceleration or deceleration.

(4) Each Federal agency which has or can make funds available through such agency's own programs or to State or local governments or to private organizations or individuals, for the purpose of publicizing traffic safety efforts, should do so to the maximum extent possible, and as soon as practicable, for the purpose of encouraging motor vehicle operators the provisions of (1), above, and to inform motor vehicle operators that substantial amounts of gasoline can be saved if motor vehicles are driven less frequently, or without excessive idling, rapid acceleration or deceleration.

DEFENSE PRODUCTION ACT OF 1950

The Senate proceeded to consider the bill (S. 1980) to amend the Defense Production Act of 1950, as amended, which had been reported from the Committee on Banking, Housing and Urban Affairs with an amendment on page 2, after line 17, strike out:

"(b) Interest shall accrue on the cumulative amount of disbursements to carry out the purposes of sections 302 and 303 (except for storage, maintenance, and other operating and administrative expenses), plus any unpaid accrued interest, less the cumulative amount of any funds received on transactions entered into pursuant to sections 302 and 303 and any net losses incurred by an agency in carrying out its functions under sections 302 and 303 when the head of the agency determines that such net losses have occurred. At the close of each fiscal year, there shall be deposited into the Treasury as miscellaneous receipts, from any amounts appropriated under this section, an amount which the Secretary of the Treasury determines necessary to provide for the payment of any interest accrued and unpaid under this subsection. The rate of such interest shall be determined by the Secretary of the Treasury, taking into consideration the average market yield during the month preceding each fiscal year on outstanding marketable obligations of the United States with one year remaining to maturity."

And, in lieu thereof, insert:

"(b) Interest shall accrue on (1) the cumulative amount of disbursements to carry out the purposes of sections 302 and 303 (except for storage, maintenance, and other operating and administrative expenses), plus any unpaid accrued interest, less the cumulative amount of any funds received on transactions entered into pursuant to sections 302 and 303 and any net losses incurred by an agency in carrying out its functions under sections 303 and 303 when the head of the agency determines that such net losses have occurred; and (2) the current market value of the inventory of materials procured under section 303 as of the first day of each fiscal year commencing with the fiscal year beginning July 1, 1975. At the close of each fiscal year, there shall be deposited into the Treasury as miscellaneous receipts, from any amounts appropriated under this section, an amount which the Secretary of the Treasury determines necessary to provide for the payment of any interest accrued and unpaid under this subsection. The rate of such interest shall be determined by the Secretary of the Treasury, taking into consideration the average market yield during the month preceding each fiscal year on outstanding marketable obligations of the United States with one year remaining to maturity.".

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Defense Production Act Amendments of 1973".

SEC. 2. (a) Subsection (b) of section 304 of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2094), is repealed.

(b) Such section 304 is amended by adding at the end thereof the following new subsections:

"(c) The Secretary of the Treasury is authorized and directed to cancel the outstanding balance of all unpaid notes issued to the Secretary of the Treasury pursuant to this section, together with interest accrued and unpaid on such notes.

"(d) Any cash balance remaining on June 30, 1974, in the borrowing authority previously authorized by this section, and any funds thereafter received on transactions heretofore or hereafter entered into pursuant to sections 302 and 303 shall be covered into the Treasury as miscellaneous receipts."

SEC. 3. Section 711 of the Defense Production Act of 1950 (50 U.S.C. App. 2161) is amended—

(1) by inserting "(a)" after "SEC. 711.";

(2) by inserting "(including sections 302 and 303 and for payment of interest under subsection (b) of this section)" after "Act" the first place the term appears; and

(3) by adding at the end thereof the following new subsection:

"(b) Interest shall accrue on (1) the cumulative amount of disbursements to carry out the purposes of sections 302 and 303 (except for storage, maintenance, and other operating and administrative expenses), plus any unpaid accrued interest, less the cumulative amount of any funds received on transactions entered into pursuant to sections 302 and 303 and any net losses incurred by an agency in carrying out its functions under sections 302 and 303 when the head of the agency determines that such net losses have occurred; and (2) the current market value of the inventory of materials procured under section 303 as of the first day of each fiscal year commencing with the fiscal year beginning July 1, 1975. At the close of each fiscal year, there shall be deposited into the Treasury as miscellaneous receipts, from any amounts appropriated under this section, an amount which the Secretary of the Treasury determines necessary to provide for the payment of any interest accrued and unpaid under this subsection. The rate of such interest shall be determined by the Secretary of Treasury, taking into consideration the average market yield during the month preceding each fiscal year on outstanding marketable obligations of the United States with one year remaining to maturity.".

The amendment was agreed to.

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

CERTAIN LIMITATION ON EXPENDITURES BY THE COMMITTEE ON POST OFFICE AND CIVIL SERVICE

The resolution (S. Res. 143) establishing a limitation on expenditures by the Committee on Post Office and Civil Service for the procurement of consultants was considered and agreed to, as follows:

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

MAJORITY AND MINORITY LEADERS OF THE SENATE

The resolution (S. Res. 151) 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 Sen-

ate Parliamentarian, was considered and agreed to, as follows:

Resolved, That a compilation entitled "Majority and Minority Leaders of the Senate", prepared under the direction of the Secretary of the Senate, Francis R. Valeo, by the Senate Parliamentarian, Floyd M. Riddick, shall be reprinted with any revisions and certain tables as a Senate document, and that an additional two thousand copies be printed for distribution by the Secretary of the Senate.

GRATUITY TO ROOSEVELT ANDERSON

The resolution (S. Res. 153) to pay a gratuity to Roosevelt Anderson, was considered and agreed to, as follows:

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.

SUPPLEMENTAL EXPENDITURES BY THE COMMITTEE ON PUBLIC WORKS

The Senate proceeded to consider the resolution (S. Res. 135) authorizing supplemental expenditures by the Committee on Public Works for inquiries and investigations, which had been reported from the Committee on Rules and Administration with amendments in line 4, after the word "thereof", strike out "$940,000" and insert "$1,140,000"; and, in the same line, after the word "and", strike out "$309,000" and insert "$509,000, respectively"; so as to make the resolution read:

Resolved, That section 2 of S. Res. 21, Ninety-third Congress, agreed to February 22, 1973, is amended by striking out "$625,000" and "$9,000" and inserting in lieu thereof "$1,140,000" and "$509,000", respectively.

Mr. HART. Mr. President, I would like to thank the chairmen and the members of the Rules Committee and the Public Works Committee for their efforts in reporting out what I am sure will prove to be a wise and useful measure. It will help to insure that much-needed actions to control air pollution in this country will be taken responsibly on a sound data base. By enlisting the services of the National Academy of Sciences we give ourselves access to the best scientific talent that we know. I have no doubt that the tasks assigned to the Academy under this resolution will be performed conscientiously and very competently.

It is also essential that they be performed quickly, given the decisions we in the Congress will soon be called upon to make. It is, therefore, reassuring that the contracts negotiated under this resolution will provide for interim reports to the Congress a number of months after the Academy has begun its work. In addition to these interim reports, it is my understanding that the Public Works Committee will ask for monthly progress reports on both the health effects and the cost benefit studies which are authorized. Thus any significant information which becomes known to the Academy prior to the date for the interim report will be made available to the Congress without delay. It is my hope that the Academy will move with all possible speed so that we may know as soon as possible whether further action on the part of the Congress is called for, and if so what action is most appropriate.

The Academy's task will not be easy. There have been many conflicting statements both with respect to the dangers caused by air pollution and the costs of preventing those dangers. It is largely because of these conflicts that the suggestion of a study to address them and possibly resolve them is so welcome. While I hardly envy the Academy's experts their task, I will feel much more comfortable in the performance of my own in knowing that we will have their services.

The amendments were agreed to.

The resolution, as amended, was agreed to.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House insisted upon its amendments 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," 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. BOLLING, Mr. SISK, Mr. PEPPER, Mr. LONG of Louisiana, Mr. MARTIN of Nebraska, Mr. LATTA, and Mr. DEL CLAWSON were appointed managers on the part of the House at the conference.

The message also announced that the House had passed a bill (H.R. 9590) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending June 30, 1974, and for other purposes, in which it requested the concurrence of the Senate.

ENROLLED BILL SIGNED

The message further announced that the Speaker had affixed his signature to the enrolled bill (S. 2120) to amend the Federal Railroad Safety Act of 1970 and other related acts to authorize additional appropriations, and for other purposes.

HOUSE BILL REFERRED

The bill (H.R. 9590) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending June 30, 1974, and for other purposes, was read twice by its title and referred to the Committee on Appropriations.

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

Mr. GRIFFIN. No, Mr. President.

ORDER OF BUSINESS

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

DEATH OF MAJ. GEN. HOLMES ELY DAGER

Mr. THURMOND. Mr. President, on July 24 the Nation lost a great soldier and patriot, Maj. Gen. Holmes Ely Dager, who succumbed at Walter Reed Army Medical Center, following an illness of several months.

General Dager commanded the 11th Armored Division under Gen. George Patton during some of the most difficult fighting toward the close of World War II. General Patton was frequently quoted as saying that when he had a tough job to be performed, he called on General Dager.

General Dager commanded the 11th Armored Division from the Rhine to Linz, Austria, and until the meeting with the Russian 7th Paratroop Guards Division. This was a 150-mile drive through varying light and hard fighting. Upon reaching Linz, the nearest troops to either of General Dager's 11th Armored flanks were 42 miles behind.

As a sequel to this military triumph, General Dager served as the commanding general of U.S. Forces in Vienna from the latter part of 1946 until his retirement in 1947. He retired from active duty on October 31, 1947, as a permanent major general.

Mr. President, it was my pleasure to know General Dager during his retirement here in Washington. He was one of those rare Americans who quickly conveyed to you his dedication to his country.

As a division commander in Europe during World War II, his leadership was instrumental in bringing an early end to the conflict in that theater, thus directly reducing the loss of life of American personnel there.

The heroism of General Dager was recognized by his country through a number of high military decorations. These included the Distinguished Service Cross, Distinguished Service Medal, Sil-

ver Star with Oak Leaf Cluster, a Bronze Star Medal for valor and two Oak Leaf Clusters on the Bronze Star for meritorious service, the Legion of Merit, the French Legion of Honor, the French Croix-de-Guerre with Palm and the Belgian Croix-de-Guerre with Palm. Also, he was 1 of the 11 men in the American Army to receive the Soviet "Defense of the Fatherland" medal, 1st Degree, Gold.

Our Nation is indebted to this man. He not only ably served the men in uniform during World War II, but his efforts were an important part of preserving our freedom in this generation and future generations.

My heartfelt sympathy goes out to his beloved and dedicated wife, Eleanora, who loved him ardently and was always so loyal and devoted to him. She stood by him valiantly and faithfully ministered unto him during his final illness. Her courage and faith must have been a great inspiration and strength to him during the last days of his life.

Mr. President, an excellent article about General Dager appeared in the "Thunderbolt," a publication of the 11th Armored Division Association, in January of 1956. In order that the outstanding career of General Dager might be fully recorded, I ask unanimous consent that this article and the articles appearing in the Washington Post and the Washington Star-News on July 26, 1973, concerning his death be printed in the RECORD.

Mr. President, a poet once said:

When a brave soldier dies,
For years beyond his ken,
The light he leaves behind him
Will shine upon the path of men.

Truly, this applies to General Dager, a brave soldier and a great American.

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

[From Thunderbolt, January 1956]

MAJ. GEN. HOLMES E. DAGER

Major General Holmes E. Dager was indeed privileged and had the most unusual experience of leading troops in two famous hard-hitting armored divisions in the Third Army during World War II. General Patton laid his most heavy and difficult assignments on the 4th and 11th Armored Divisions. They never failed him, laid their name, reputation and prestige on the line and they paid willingly and heavily in the lives and wounds of the material of which fighting units are built—alert, highly-trained and physically fit officers and men with plenty of guts.

Holmes E. Dager was born on June 23rd, 1893 in Asbury Park, New Jersey. His ambition in life was to practice medicine and particularly to be a surgeon. His family moved to Newark, New Jersey where he attended high school graduating in 1911. He then went to college for pre-medical courses and graduated in 1916. During this period from 1910 to 1916 he was a member of the New Jersey National Guard and attained the position of platoon leader in the Infantry. He was commissioned a Second Lieutenant.

In his youth and during his college days General Dager was interested in fishing, hunting, amateur bicycle racing, swimming and boxing. He was an alert young man and his favorite reading was books on world affairs.

Dager went into the regular army in 1917 and from March until August of that year he was a student at the Training School in Ft. Leavenworth, Kansas. During this assignment he was promoted to a First Lieutenant. Upon completion of his assignment at the Training School he was assigned to the 51st U.S. Infantry.

Early in 1918 he went overseas with the 51st Infantry and participated in the fighting in the defensive sector of the Vosges Mountains and he also fought in the Meuse-Argonne offensive. During this period he was promoted to Captain and he was made a company commander and then later he was promoted to Major and he served for a time as a battalion commander.

For an unusual fete of bravery during World War I general Dager was awarded the Silver Star Medal.

After a short tour of duty with the occupational forces after the War he returned to the United States in 1920 and became a professor of Military Science and Tactics at Clason Military Academy in Bronx, New York. He remained at the Academy until the end of 1924.

In 1925 he became a student at Infantry School in Fort Benning, Ga., and in 1926 he was made Company Commander of Co. "K", 29th Infantry Division at Fort Benning. Still at Benning in 1927 he was made a Regimental Adjutant. In 1928 he once again became a student at Fort Benning taking an Advanced Officers Course at the Infantry School.

After completion of the advanced course at the Infantry School in 1929 he was transferred to the Command and General Staff School at Fort Leavenworth, Kansas. He remained at this school as a student until his graduation in 1931.

Holmes E. Dager was assigned to the 65th Infantry Division in 1931 as a battalion commander. The unit was sent to Puerto Rico and Dager remained with the 65th until the end of 1934. Upon his return to the States he was assigned for a short time in 1935 as G–3 in the 1st Infantry Division at Fort Hamilton, N.Y.

Once again as a student he was honored by the assignment to the Army War College in Washington, D.C., late in 1935. Upon graduation he was sent back to Command and General Staff School in Fort Leavenworth, Kansas but this time as an instructor. He remained at this assignment from 1936 to 1940 and attained the rank of Lieutenant Colonel.

Early in 1940 General Dager was assigned to Fort Wadsworth on Staten Island in New York where he was Post Commander. Later that year he was assigned as Assistant G–3 in Headquarters of the First Army stationed at Governors Island, New York. During this assignment he wrote the Carolina and Louisiana maneuver problems.

As war clouds gathered again Dager was transferred in 1941 to the 41st Armored Infantry Regiment of the Second Armored Division which was in training at Fort Benning, Georgia. Holmes Dager was assigned as Regimental Commander and during this period he was promoted to Colonel.

In September of 1941 Dager was made a Brigadier General and he was made Commanding General of CCB of the 8th Armored Division then stationed at Fort Knox, Kentucky.

Early in 1942 General Dager was assigned to the 4th Armored Division as Commanding General of CCB and joined them at Pine Camp, New York. He trained with the Division in Tennessee, desert maneuvers and at Camp Bowie, Texas. He went overseas with the 4th Armored and he was with them from Omaha Beach to the Rhine. He led CCB of the 4th in the famous 65 mile "rat-race" to the Rhine in 58 hours. There General Patton came up and spit (?) in the Rhine remarking, "Dager, I've been waiting three long years to spit (?) in this—creek!" This job was one of many famous "crash-drives" for which the 4th and 11th Armored Divisions became famous.

In March of 1945 at Mayen, Germany Dager was promoted to Major General and assumed command of the 11th Armored Division. He remained with the Division until September of 1945. He commanded the 11th from the Rhine to Linz, Austria and the meeting with the Russian 7th Paratroop Guards Division. This was a 150 mile drive through varying hard and light opposition but made with an average of 15 miles a day. On reaching Linz, the nearest troops to the 11th Armored were 42 miles behind and nothing on either flank. Even the nurses were with us all the way. Our determined armor "paid the rent" and pulled the infantry along. It was the farthest east unit of all American troops when the war ended and it was itching to go farther.

During World War II General Dager received the Distinguished Service Cross, Distinguished Service Medal, Oak Leaf Cluster on his Silver Star, a Bronze Star Medal for valor and two oak leaf clusters on the Bronze Star for meritorious services, the Legion of Merit, the French Legion of Honor, the French Croix-de-Guerre, with Palm, the Belgian Croix-de-Guerre, with Palm and the Russian "Defense of the Fatherland", 1st Degree, gold.

In September of 1945 General Dager returned to the United States and was assigned as Board President of the Army Integration Board at Ft. Snelling, Minnesota.

In 1946 he was appointed G–3 of the Seventh Army at Atlanta, Georgia. He remained in this post for about eight months and then he was transferred to Vienna, Austria. During the closing months of 1946 and until his retirement in 1947 General Dager was Commanding General of U.S. forces in the City of Vienna. He retired from active duty on October 31st, 1947 as a permanent Major General.

Since his retirement General Dager has been employed with the Federal Civil Defense Administration. He had been stationed in Nevada for several years but just recently he was transferred to the Planning Staff of the Administration at their national headquarters in Battle Creek, Michigan. The General and his very charming wife now reside at Battle Creek, Michigan.

The General still likes to fish for trout and game-fish. He should find fishing to his liking in his new environment. Like another famous retired General we know he is an avid golfer. General Dager wrote "I consider age a matter of mental attitude. I still arise early, work steadily, read and study every evening, attend church regularly and refuse to 'fade-out' of life's activities." The General does considerable public speaking, including radio and television appearances.

[From the Washington Post, July 26, 1973]

RETIRED CHIEF OF U.S. ARMY IN AUSTRIA

Retired Army Maj. Gen. Holmes E. Dager, 80, a veteran of both world wars, died Tuesday at Walter Reed Army Medical Center.

Born in Asbury Park, N.J., he grew up in Newark and was an officer in the New Jersey National Guard when he joined the regular Army in 1917.

Gen. Dager was sent overseas with the 51st Infantry and was a company and later a battalion commander in the Vosges Mountains and the Meuse-Argonne campaign.

After the war, he became a professor of military science and tactics at Clason Military Academy in the Bronx, N.Y.

Between the wars, he held a number of command and staff positions and attended the Infantry School at Ft. Benning, the Army War College here and the Command and General Staff College at Ft. Leavenworth, where he also became an instructor.

In 1941, Gen. Holmes was a regimental commander with the 2d Armored Division at

Ft. Benning and then commanding general of the 8th Armored Division's Combat Command B at Ft. Knox.

He took command of the 4th Armored Division's Combat Comand B in 1942, and served with the division from the landing at Omaha Beach in Normandy to the Rhine.

He assumed command of the 11th Armored Division at Mayen, Germany, in 1945, and led it to a meeting with the Russian 7th Paratroop Guards Division in Linz, Austria.

He returned to this country in 1945, served at Ft. Snelling and with the 7th Army at Atlanta and was assigned to Vienna, Austria, where he commanded U.S. forces until retiring in 1947.

Gen. Dager's decorations included the Distinguished Service Cross, two Silver Stars, the Distinguished Service Medal, the Legion of Merit and three Bronze Star Medals.

He is survived by his wife, Eleanora, of the home, 1900 S. Eads St., Arlington.

[From the Washington Star-News, July 26, 1973]

GEN. HOLMES DAGER, HEADED 11TH DIVISION

Retired Army Maj. Gen. Holmes E. Dager, 80, commander of the 11th Armored Division forces that joined with the Soviet Union's 7th Paratroop Guards Division in Austria near the end of World War II, died Tuesday in Walter Reed General Hospital.

He lived on S. Eads Street in Arlington.

Earlier in the war he was commander of the 8th and 4th Armored Divisions' Combat Command B. He commanded the latter division from the Omaha Beach landing in Normandy through fighting in France on to the Rhine River.

In 1945 he took the 11th Armored Division from Mayen, Germany, to Linz, Austria, where his group joined the Russian troops. Gen. Dager retired in 1947 as commander of the U.S. forces in Vienna.

Gen. Dager was born in Asbury Park, N.J. An officer in the New Jersey National Guard, he joined the Army in 1917 and served in Europe with the 51st Infantry in the Vosges mountains and Meuse-Argonne campaigns of World War I.

He leaves his wife, Eleanora. Service will be at 10:45 a.m. tomorrow in the Ft. Myer Chapel. Burial will be in Arlington Cemetery. It is requested that expressions of sympathy be in the form of contributions to a charity.

ORDER OF BUSINESS

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

Mr. ROBERT C. BYRD. Mr. President, how much time remains to the distinguished Senator from South Carolina under the order?

The ACTING PRESIDENT pro tempore. Ten minutes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that that time may be reserved to my control.

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

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and I ask that it be charged against my time which has been reserved, and without prejudice to the Senator from Tennessee.

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

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

Mr. ROBERT C. BYRD. I yield my remaining 5 minutes to the Senator from Florida, without prejudice to the Senator from Tennessee.

DEROGATORY CHARACTERIZATION OF A U.S. SENATOR

Mr. CHILES. Mr. President, I have not had an opportunity to see much of the Watergate hearings because during the day we have been occupied with a little business on the floor. I have an interest in Watergate, as I think many people have, and I try to catch the news when I can and see what I can that way.

Last night, when I reached home, I had an opportunity to view a news broadcast showing some excerpts from the hearings, and it included an interview with Mr. Wilson, who is the counsel for certain of the witnesses at the Watergate hearing—Mr. Haldeman and Mr. Ehrlichman.

Apparently, earlier Mr. Wilson had made a comment in regard to Senator INOUYE, and the commentator was asking him if he stood on that comment or if he would repeat it. Mr. Wilson said at that time that he certainly stood on it, that what he had said was that Mr. INOUYE was "a little Jap." He said he saw no reason why Senator INOUYE should take any offense with that; it was true; and that he did not think he could take offense if anyone referred to him (Mr. Wilson) as "a little American."

Mr. President, I take offense at it—tremendous offense. I cannot understand how Mr. Wilson could say that he would stand on the comment and that he would not mind if anyone called him "a little American," but he could call DANNY INOUYE "a little Jap."

Senator INOUYE was born in Hawaii. He enlisted as a private in World War II. He received a battlefield commission. He was decorated; he served in France and Italy. He was wounded in the service of his country. How it can be said that he is not an American is something beyond me and it is beyond my capabilities to understand how anyone could make that statement.

It bothers me, Mr. President, that we distinguish in this country between whom we would call an American and whom we would call a "little Jap," perhaps by the color of the skin. My ancestry is Scotch-Irish. I am proud of that ancestry, and I am sure that DAN INOUYE is proud of his Japanese heritage.

I thought that the strength of this country is that we are a mixing pot, and when we were trying to nurture this country, we offered asylum to many people and had people come from many lands, as long as they were seeking freedom and liberty. That is the kind of strength this country was built upon. Then, we turn around and find a comment used and calculated to invoke derision; that is what it is, as if related to treason. You would not call a Japanese citizen a Jap. The term itself is a term of derision and it is not a term of anything other than that.

We see a lawyer who is very concerned about his ethics, who wants no one to question his propriety and the conduct of his representation, or who he represents, yet he would turn around and use a remark like this on a distinguished American, a distinguished Senator, a distinguished citizen of this country. It is beyond me. It makes me ashamed to see a fellow lawyer use that remark. It makes me ashamed to see a fellow American who happens to have white skin use that remark. It concerns me tremendously that that newscast goes out to many people in many lands; it shows we could have a prejudice like that that could abound in this country. I do not think that kind of prejudice is present. It is not in the hearts of many people who are white skinned in this country.

I apologize for the remark of a fellow lawyer, the remark of a white skinned American. I think it was most untimely, most uncalled for, and it gives me great concern that such a remark would be made.

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

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

The Senator from Montana is recognized for 3 minutes.

Mr. MANSFIELD. Mr. President, I wish to express my astonishment and chagrin at the statement made about Senator DANIEL INOUYE on yesterday. Senator INOUYE's parents were immigrants from Japan. It just so happens that my parents, both of them, were immigrants from Ireland. But because our parents came to this country, we were given opportunities which otherwise would have been denied us.

DAN INOUYE is a great American—in my book the greatest American in this body. DAN INOUYE paid for his devotion to this country when in Italy he lost an arm fighting for it, and in losing that arm he gave 7 pounds of flesh in behalf of this Republic which he fought for under the most difficult and dangerous circumstances.

Senator INOUYE has made an outstanding record in this body. He has been one of the good arms of the leadership because for the past 8 years he has served as an assistant whip. Nobody needs to stand up for DAN INOUYE, but I hope that it is about time that we learned to speak to one another in this country regardless of religion, or background, or the color of the skin, but as brothers and sisters; it is about time we reach that stage and get away from such remarks as this remark made yesterday.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. ROBERT C. BYRD. Mr. President, I wish to associate myself with the remarks that have been made by the distinguished Senator from Florida and the distinguished majority leader.

I had thought the time was long past in this country when anyone would use such words of opprobrium as Jap, Dago,

Honkey, Spic, Krauts, Nigger, Whitie, and the like.

I deplore the statement of the lawyer for Mr. Haldeman and Mr. Ehrlichman on yesterday. We ought always to try to get along with other people and to respect every man regardless of his race, his color, his religion, or his national origin.

Mr. BROCK. Mr. President, I yield to the Senator from Nevada.

The ACTING PRESIDENT pro tempore. The Senator from Nevada is recognized.

Mr. BIBLE. Mr. President, I would not want the RECORD not to reflect my sentiments at a time when these statements have been made during my presence in this Chamber.

DANIEL INOUYE is one of my dearest and closest friends. He is a great American. He has visited my State many times and he is one of the most popular men who ever came to my State. He is deserving of the full support of everyone who has the privilege to know him. He is that type of guy, as we say in Nevada. We in Nevada do not pay any attention to racial ancestry. We are people of a Western State who judge a man for what he is and not because of his race, his color, or his creed.

Mr. President, I share the sentiments which have just been expressed.

DEPARTMENT OF INTERIOR APPROPRIATIONS, 1974

Mr. BIBLE. Mr. President, I ask unanimous consent that the Senate reconsider the vote by which H.R. 8917, the Department of Interior and related agencies appropriation bill was passed, together with the third reading.

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

The legislative clerk read as follows:

Calendar 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 ACTING PRESIDENT pro tempore. Is there objection to the request of the Senator from Nevada? The Chair hears none, and it is so ordered.

Mr. BIBLE. Mr. President, I ask unanimous consent that the bill be amended, to insert at the end of line 9 on page 25 the following new paragraph:

Provided further, That the funds included herein shall be deemed to be appropriated for the Redwood National Park, California, established pursuant to Public Law 90-545, including those lands, which, consistent with the provisions of section 3(b)(1) thereof, are described in the Federal Register of October 7, 1971 36 (Fed. Reg. 19518 et seq.);

And that, as thus amended, the bill be read again the third time and passed, and that a motion to reconsider the vote be considered as having been made and laid on the table.

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

Mr. BIBLE. Mr. President, the purpose of this request is simply to correct a clerical error. This language was approved in the regular process of the committee markup. It was only because of a clerical oversight that it was omitted in the printed bill. This request is merely to have the bill conform to the committee's amendments which were all adopted.

INTERIOR APPROPRIATIONS BILL—FUNDING FOR OFFICE OF COAL RESEARCH

Mr. STEVENSON. Mr. President, I want to express my satisfaction with the appropriation approved yesterday by the Senate for the Office of Coal Research in the Department of Interior. The original administration budget proposal for the OCR in January was $52.5 million, including $51.3 for OCR's contract research functions. This figure was an increase over fiscal 1973 but far below what could usefully be spent on coal research and far below what our national spending priorities demand given the present energy crisis and its future gravity.

On May 9, during Senate Subcommittee hearings on the Interior Appropriations bill, I testified on behalf of myself and Senator SCHWEIKER of Pennsylvania. We called for a virtual doubling of funds for coal research in the Office of Coal Research, or from $51.3 to $103 million. Our position was endorsed by 18 other Senators.

This was followed up by a letter to the distinguished chairman of the Interior Appropriations Subcommittee, Senator BIBLE, dated July 25, cosigned by 25 Senators. This letter reiterated the need to increase OCR funding to a proposed level of $103 million.

Fortunately, the administration also recognized this need, albeit belatedly. President Nixon in his June 29 energy message called for increased energy research and development funding in fiscal 1974 of $100 million over the original fiscal 1974 budget estimate. About half of this increase, the President indicated, should be spent on coal research and development. This corresponded closely with the increase Senator SCHWEIKER and I proposed on May 9.

The committee has now amended H.R. 8917 to provide $95 million for the Office of Coal Research. This is not the full $103 million which many other Senators and I hoped for, but it is a giant step in the right direction. Certainly it is a vast improvement over where we started last January.

I commend the chairman of the subcommittee, Senator BIBLE, the chairman of the full committee, Senator MCCLELLAN, and the other members of the committee. They are aware of our energy problems, which only worsen by the day. They know that we have already waited far too long to begin the level of research necessary to utilize adequately our vast coal reserves. They know that now we must vastly expand our efforts.

The House version of H.R. 8917 contains only $61 million in funding for the Office of Coal Research. However, the House passed its version of H.R. 8917 before the President's second energy message of June 29. I am hopeful the House will accede to the OCR figure the Senate has provided and I urge the Senate conferees to maintain the higher Senate figure.

Mr. President, in order that the Members of the Senate and the House might better realize the importance of coal research and development including coal liquefaction, gasification and mining, I ask unanimous consent that a copy of my May 9 testimony before the Interior Appropriations Subcommittee—which addresses these issues—be inserted in the RECORD at this point.

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

STATEMENT BY SENATOR STEVENSON BEFORE THE INTERIOR SUBCOMMITTEE, COMMITTEE ON APPROPRIATIONS

Mr. Chairman, I appreciate the opportunity to appear before this Subcommittee to discuss the development of our vast coal reserves. It was my privilege to appear before this Subcommittee a year ago last March, then on the subject of funding for the development of a coal gasification process. Since that time, the fuel shortages predicted have developed, and we are in the throes of a genuine energy crisis.

This year my remarks cover the entire budget of the Office of Coal Research. I am joined by your colleague on the Appropriations Committee, Senator Schweicker. Our position is strongly supported by many other members of the Senate—and I ask that a partial list of their names be included in your record at the end of my remarks.

Mr. Chairman, as consumers we in the United States depend on natural gas and oil to supply 79 percent of all our energy needs. Yet natural gas constitutes only 9 percent of our total domestic fossil fuel resources, oil 8 percent, and uranium only 4 percent. The rest—almost 80 percent of our fossil fuel resources—is made up of our 3 trillion tons of coal. In short, we have come to rely on those fuels in shortest supply for the greatest part of our energy requirements, while our greatest single source of energy is relatively underutilized.

We are all aware of the increasing pressures on our oil and gas reserves, the more so after the frightening shortages of this relatively mild winter, the present shortages this spring, and the even greater shortages predicted for this summer. Given the present demand and domestic supply curves, if we continue our present policies, the situation will become much worse before it becomes any better. The demand for oil by 1985 may reach 10 billion barrels per year, and some experts say that upwards of two-thirds of this demand, given our present methods of producing oil, may have to be met by imports. Even a conservative estimate puts the figure at 50 percent.

Similarly, recent estimates of the natural gas situation predict a near doubling of the demand for natural gas between 1971 and 1985, from 22 trillion cubic feet per year to from 35 to 40 trillion. The gap between this demand and what our domestic reserves can supply in 1985 has been variously estimated at 13 to 17 trillion cubic feet—even with pipelines for Alaskan and Canadian imports. As of 1969, the United States had only 18 percent of the world's 1,550 trillion cubic feet of proven natural gas reserves while still producing well over half the world's supply of natural gas.

The implications of importing the 1985 differences in oil and gas are staggering—for our foreign policy, our balance of payments and domestic economy and ultimately for our way and quality of life. We are already seeing the first manifestations. This year's dollar figure for oil imports is expected to be about $6 billion.

One answer is to turn back to coal, but in new ways. Coal will not be a complete answer, and definitely will not be the final answer. But it is an answer with much potential for the next 30, 50, or even 100 or more years.

Under present technology coal burning can present environmental danger. But we have had the capability for some time now to transform our tremendous untapped coal reserves into environmentally sound fuels—clean burning gas and oil.

The idea of coal gasification is not new—indeed, as recently as the early 1940's, most of the gas being used in the United States was produced from coal. But this was relatively low-grade gas in terms of its energy qualities—400 to 500 BTU's—and with the advent of long distance pipelines which could bring in 1,000 BTU natural gas, coal gasification fell into decline. In addition to its inefficiency, in today's terms it was not, environmentally speaking, clean burning.

As early as 1946, the search was initiated at the Institute of Gas Technology in Chicago for an economical method of synthesizing gas of a quality equal to natural gas. The work proceeded slowly, but was given much impetus in 1964 following the signing of a contract between the Office of Coal Research and the IGT. This led to the HYGAS demonstration plant in Chicago which was dedicated in October of 1970. This plant recently achieved 53 hours of sustained operation.

The Office of Coal Research has funded other pilot plants to research and develop other coal gasifying technologies—in Rapid City, South Dakota; Tacoma, Washington; Princeton, New Jersey; and Homer City, Pennsylvania. At present, however, the HYGAS plant shows the most promise of early commercial application, perhaps by 1976 or 1977.

The HYGAS plant is for high-BTU coal gasification. It is aimed at producing gas for use in homes through the same pipelines which presently feed homes natural gas. With minimal time and funding low-BTU coal gasification could be utilized at electric power plants. Coal can also be converted into crude oil and then refined into oil's many other products. With a "fluidized bed" process it could be burned cleanly and used to power electric generating plants.

The implications of this work are staggering. Improved mining techniques, some of them also in the research stage, might make it environmentally feasible to recover about 2 trillion tons of our Nation's 3 trillion tons of coal. At a conversion rate of 2 barrels or more of synthetic oil per ton—a much better conversion rate than that expected per ton from oil shale—we would have over 4 trillion barrels of oil in the form of coal, or ten times the world's proven reserves. And if this coal were converted to pipeline quality gas, it would yield about 32,000 trillion cubic feet of synthetic gas. Our proven recoverable reserves of natural gas worldwide, as already mentioned, are about 1,550 trillion cubic feet.

These incredible prospects may be for naught if the funds and coordinated Federal policy for general energy research and development are not present. Industry can provide some of the funds, but to develop this potential in time the Federal Government must join in partnership with industry.

At the recent Democratic Governors Conference, a resolution sponsored by Governor Walker of Illinois was passed which called for "immediate and substantial federal funding for coal research." Governor Walker said that research on using coal to make gas and fuel oil should be "on the scale of the Manhattan Project and with the urgency of the Apollo Project."

Various bills have already been introduced in the 93rd Congress on the subject of energy research and development—such as S. 357 introduced by Senators Magnuson, Hollings, and others, and S. 1283, Senator Jackson's mammoth energy R & D bill. Senator Jackson's bill would set up an overall energy research coordinating body and five quasi-governmental corporations, including a Coal Gasification Corporation and a Coal Liquefaction Corporation.

There is no telling when such a mammoth program, as proposed in the Jackson or Magnuson bills, might get underway, however, and in the meantime there is neither time nor excuse for delay.

In his recent energy message, the President cited coal as "our most abundant and least costly domestic source of energy," and urged that the "highest national priority be given to expanded development and utilization of our coal resources." He did not, however, propose an increase in funds for coal research over the modest 1974 budget of $51.3 million. This figure exceeds the 1973 budget figure for coal research by only $8.9 million. It is far below that which can usefully be spent on coal research. Senator Bellmon put the question to OCR's Director, Dr. George Hill, when he appeared before this Subcommittee in March, as to whether, "considering the importance of energy to our Nation and the present energy crisis," OCR's budget was "sufficient to cope" with our energy problems. Dr. Hill replied that the OCR offered a "balanced program," but he went on to note that "The size of the program, however, is a policy determination."

Indeed, it is a policy determination, and I believe the Administration has set the wrong policy. Given the energy situation I have outlined, the OCR budget as submitted by the Administration is far out of line with our national energy priorities.

The budget for the Office of Coal Research can usefully be increased from the proposed $51.3 million to $103 million. We would allocate the increase to the following purposes:

Liquefaction of coal, $23,850,000.

Acceleration of low BTU, gasification research, $11,925,000.

Acceleration of fluidized bed combustion technology, $3,975,000.

Combined cycle technology research, $3,975,000.

Magneto hydrodynamics (MHD) research, $3,975,000.

Mining extraction technology research, $3,000,000.

Despite the great promise of coal liquefaction, for example, this year's OCR budget reduces the amount available for coal liquefaction projects from $9.7 million to $9 million. The distinguished majority leader, Senator Mansfield, spoke earlier today of the need for more funds for MHD research. Dr. Hill in his March 16 testimony said that MHD "has great promise in the long run." The MHD budget request is at a "balanced" but too low figure of $3.75 million.

Dr. Hill also said the fluidized-bed boiler combustion technology "offers promise of permitting the burning of high sulfur coal without pollution in the shortest period of developmental time." The OCR budget, however, requests only $2.7 million in fiscal year 1974 for this technology. I know myself from discussions with scientists at Argonne National Laboratory that twice this amount can be utilized profitably.

While we expand the research on coal utilization, we must simultaneously develop mining technology. Some experts believe that there can be developed a satisfactory technique midway between the labor-demanding but hazardous and costly technique of deep mining and the environmentally dangerous technique of strip mining. The authority for such research and development has been in the Office of Coal Research, but it has never been adequately utilized. The incredibly small figure of $500,000 was requested for such research in this year's OCR budget. We have proposed that this figure be vastly expanded, to a total of $3.5 million. It is possible that shallow coal can be extracted from beneath the surface—in other words, without strip mining.

The figures involved in Senator Jackson's proposed bill are on the order of $1.5 billion over the next 7 to 10 years for research into coal gasification and liquefaction alone. If the Congress should decide later on that such an expanded approach is necessary, the programs ongoing within the Office of Coal Research can be incorporated. But the OCR research programs can be expanded now. The OCR has the administrative capacity and has numerous worthy applications awaiting 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.

FEDERAL HOUSING FOR LOW AND MODERATE INCOME FAMILIES IN THE UNITED STATES

Mr. BROCK. Mr. President, this month marks the end of the 7 months during which no new commitments have been entered into to provide Federal housing for low- and moderate-income families in the United States. This national housing moratorium was declared so that a reasoned examination of publicly financed low- and moderate-income housing programs might be made. At the time the moratorium was declared I endorsed the need for such examination by the Secretary of Housing and Urban Development, Mr. Lynn, whose managerial talents make him eminently suitable for this task. I can endorse the responsive actions of the distinguished chairman of the Banking, Housing and Urban Affairs Committee, Senator SPARKMAN, in helping congressional responsibility reassert itself by holding hearings on legislative proposals in this area, and by setting aside time for further extensive housing hearings at the time of completion of the HUD study in September.

However, this moratorium was declared at a point in time when the supply of new housing was increasing, and when there were few barriers, especially financial ones, inhibiting access to all types of new and existing units in our housing stock. Today, regrettably, this is no longer true. For that reason, I see a clear and present need to lift this moratorium immediately. I am particularly concerned about section 235, the home ownership interest subsidy program, in view of the pressing backlog of unfilled need for homeownership at the present time. Additionally I believe action should be taken with regard to the section 236 multifamily interest subsidy rental program and public housing programs as well. All of these subsidized programs assisted in meeting housing needs since 1968. These last 7 months have indicated

just how important a function these types of programs can fulfill. We should not continue this moratorium on them into the coming months of fall and winter.

During the 7 months past, we have been witness to unprecedented increases in the costs of housing. Over 55 percent of American families in 1971 had incomes of $12,000 or less, and currently available financing terms would require $12,000 in income per year to purchase and carry a $25,000 home. The median price of a new home is $31,500—almost 15 percent higher than a year ago. New homes at this median price are beyond the financial capabilities of most Americans. In other words, the average American can no longer afford the average American home.

The situation is even more startling when we realize only 12 percent of new homes actually do sell at or below $25,000. In 1972, only 26 percent, or 186,000 out of 717,000 total housing units sold under government subsidy programs, were priced under this $25,000 figure.

What this shows is that Government-subsidized housing made up a substantial percentage of the moderately priced homes that most Americans can afford. With the curtailment or elimination of subsidized housing programs, this minimal supply of moderately priced housing has dried up.

Mortgage interest rates on new commitments for conventional mortgages are estimated by the Federal Home Loan Bank Board to be around 8.1 percent and rising at the present time. This fact has led to economic chaos in today's housing market and has destroyed the climate present in January. Elements of a new national program for new construction of low- and moderate-income housing have already drifted off to other enterprises.

This is a critical transitional period during which the Government must evolve new means of assuming opportunities for housing and homeownership for the American people. I am convinced, Mr. President, that responsible homeownership is one of the qualities in the moral backbone of this Nation. I am concerned that responsible and respectable people in some parts of our country are presently being denied this opportunity for homeownership in any form, because FHA mortgage interest rates are currently so high that they violate the provisions of some States usury laws. Actions must be taken by the President and by the Secretary of Housing and Urban Development to lift this moratorium on federally assisted housing, and thus, to make possible an alleviation of the adversities of this situation.

EXISTING PROGRAMS

There are several major programs legislated by Congress in the past, whose purposes have been assistance for low- and moderate-income families in obtaining housing. The Veterans' Administration has programs of VA direct loans and GI home loans under title 38 of the U.S. Code. The Farmers' Home Administration has programs such as rural housing loans and low-income housing repair loans under sections 501 through 504 of title 5 of the National Housing Act. Section 235 of the Housing and Urban Develpment Act of 1968 has in the past added to attaining the overall homeownership aims.

A homeownership assistance program could be extremely useful, if it were administered properly. Whatever past failures there may have been in this kind of program lay in HUD and in poor legislation—not in the inability of modest income people to take advantage of housing opportunities or in the disinterest of businessmen in making an earned profit on low-cost housing construction. The failures of homeownership programs are failures of managing, counseling, and inspecting. Ultimately, they must be corrected by better executive management over and beyond any legislation.

Congress has tried to do its part. It took action even in the area of executive management by establishing and funding the Center for Housing Management to correct management manpower deficiencies. It added to section 518 of the National Housing Act in 1964 to correct inequities to homeowners making purchases of defective 235 housing, as a result of bad counseling, managing, and inspecting on the part of HUD at the time of sale. Section 518 requires disbursements by HUD to homeowners in compensation for their losses. It is a program much commented on in the debate on Senate Joint Resolution 512. One would think that this indirect assessment of financial penalties upon HUD under section 518 would make the department better manage section 235 programs. Unfortunately, the opposite has been true.

Despite section 518, the mismanagement of section 235 has increased, not diminished. Despite the efforts to extend the provisions of section 518 to other programs, whatever the provisions of any legislation, it will fail if not carried out in a proper management atmosphere. This will be as true of new reform housing policies as it is for the ones currently under the administration's attack. Under any circumstances, HUD should act to improve its executive and administrative capabilities. These capabilities must be brought up to a topnotch level regardless of this moratorium and the permanent phasing out of any existing programs.

But it is difficult to create, or maintain, any high degree of management improvement without full play in managing these programs for top performance in the first place. In this regard, local HUD offices should reorient their work priorities away from project-by-project review and toward program evaluation, quality control, and minimization of processing. HUD should prepare to shift these local impact decisions back to the States and counties where they properly belong.

I question HUD's management performance if this moratorium is continued any longer.

HOUSING NEEDS

There is no question in my mind of the need to lift this moratorium. Total housing starts are estimated to be down this year by 300,000 to 400,000 units as compared to 1972. Whereas starts were up substantially in May, the Wall Street Journal recently reported last month's starts had declined 13.3 percent, so that June production was about 200,000 units below that of the year before. These decreases are roughly estimated to mean $6 to $8 billion in reductions in residential construction outlays.

According to the Home Builders Association of Tennessee, production of housing units under the suspended 235, 236 and public housing programs alone at the level authorized by fiscal 1973 appropriations would generate some $6.7 billion worth of new housing construction over a 12-month period. According to the association, since every dollar of government assistance for housing results in a multiplied effort of $15 to $20 of private investment in construction and land development, this could multiply out in a total economic impact of some $14 billion.

The Rural Housing Alliance says that, if the moratorium is allowed to run its full projected 18 months, it might result in the denial to nonmetropolitan areas alone of some $4.3 billion in housing investment. On Tuesday, July 17, both distinguished Senators from South Dakota elaborated on the tremendous need for better housing in the rural areas of our country especially. Their testimony before the housing subcommittee expresses a general concern I certainly share. In Tennessee, the rural counties in the State have been shown to be substantially inferior in their housing stock when compared to the most urban counties. Indeed, in the areas of kitchen and plumbing features, there is a tenfold disparity between urban/rural extremes. Mr. President, the housing needs of rural America are great and must be given very high priority.

In the face of this situation, there has still been a general failure to meet the housing goals adopted by Congress in 1949 and reaffirmed in section 1601 of the Housing Urban Development Act of 1968. As set forth in 1968, these goals called for 6 million units of subsidized housing to be built for low- and moderate-income families over 10 years. Annual figures for recent years have not even begun to approach the 600,000 units of newly constructed or rehabilitated housing per year, representing one-tenth of the decade's supposed total. I ask unanimous consent for inclusion on the RECORD at this point the following table showing the pronounced gaps between the 1968 stipulated goals and the actual degree to which they have been carried out so far. Our falling short reflects as much start up problems as it does bottlenecks brought about by Federal control of housing production.

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

PROGRESS TOWARD 1968 HOUSING GOALS FOR LOW- AND MODERATE-INCOME FAMILIES UNDER HUD PROGRAMS

[In dwelling units, starts, and rehabilitation]

HUD program	Original goal 1969–74	Actual housing units 1969–74	Estimated units fiscal year 1974	Gap in goals progress	
				Units	Percent
Public housing	995,000	386,000	60,000	−548,501	55
Sec. 235	695,000	400,883	17,100	−277,017	39
Sec. 236	865,000	517,921	136,600	−210,479	24
Rent supplements	360,000	80,463	19,400	−260,137	72
Rehabilitation loans and grants	135,000	53,865	6,855	−74,280	55
Total	3,050,000	1,439,631	239,955	−1,370,414	45

Source: Senate Subcommittee on Housing and Urban Affairs, oversight on housing and urban development programs, pt. I, p. 71 (Washington, D.C. 1973).

Original Source: For original housing goals, hearings before the subcommittee in March 1968 in submission by HUD of table 1-C in pt. 2, p. 1325; for actual starts, fiscal year 1969 through fiscal year 1971, President's 4th Annual Report on National Housing Goals (1972) pp. 44-5; for actual starts, fiscal year 1972 and 1973, HUD budget highlight tables for fiscal year 1974 (Jan. 29, 1973) table 9; for estimated units in fiscal year 1974, see same budget highlight tables above.

Mr. BROCK. Mr. President, starts in fiscal 1973 on all subsidized housing number only 378,475 units—or a mere 63 percent of the 600,000 units that an even rate of progress in each year would call for. Starts for subsidized housing in 1974, including Farmers' Home Administration programs, will probably be cut by another 90,000 to under 300,000 units—another decrease of 25 percent.

That the Department has not acted to evolve new policies in the housing area, even when it has a total of some $440 million available in unused contract authority from fiscal 1973 as of the end of last month, is understandable in light of its past failures and the absence of congressional committee budgetary realinements and mandates. The House HUD Appropriations Subcommittee has estimated the total economic impact of impoundments in assistance to be as much as $19.3 billion, and to mean as many as 2.2 million man-years lost. Meanwhile, the report of this subcommittee also shows $221 million of funds available in unused contract authority from fiscal 1973 for the section 235 program. Impoundments of more funds in the previous 2 fiscal years to 1973 result in additional $118 appropriated for section 235, but never used.

THE QUESTION OF TIME

This is too great a price to pay for suspension of these programs in view of current economic trends, and keeping in sight the Nation's housing needs. We must end this moratorium now. Scholarly study and comprehensive reevaluation of all our national housing programs is a continuing responsibility of Congress and HUD. But since the HUD study, now scheduled for release on September 7, must now be nearing a substantive completion, the real need of holding some of these programs in suspension has passed. The critical policy options are even now being examined and finalized in HUD and with the President. Reforms should be carried out right across the board and a beginning should be made on a symmetrical housing program, one whose elements are mutually reinforcing, rather than antagonistic. Additionally, as I have tried to indicate, the real changes must be in the direction of new management effectiveness, as well as in the progress of new legislation.

There should be a sweeping modernization of building codes to make low-income housing possible on a wider scale. S. 1188, a bill I have introduced both this year and last, would seek to remedy this situation from a legislative direction. I am hopeful that it can be included in a larger package of legislation to emerge from the Housing and Urban Affairs Subcommittee.

Mr. President, regardless of mine or any other opinion about the merits of the moratorium, I fear by the end of the year only one thing will matter and that will be a certain fact: the Congress will have failed to report to the President for his signature a new omnibus housing bill of 1973 to carry through whatever reforms the department and the committee may suggest. We are given the extremely complicated nature of housing issues just as we are given the rather brief period of time between HUD's release of its comprehensive study on September 7 and the Congress' projected adjournment.

What if there is no such omnibus housing bill? The Secretary himself gave his opinion in testimony in April of the time he thought it would take to implement any kind of new policies. He said that:

> Even if we put in tomorrow every management reform, how much time do you think it would take to put these reforms in? I think it would take 6 to 8 months with some 70 area offices and the like.

Mr. President, because of the current economic situation in housing and the Nation's real housing needs, I have tried to show why at least some aspects of this moratorium should be lifted at this crucial moment. All of my reasons finally result in this pressing matter of time—the time it will take under any circumstances for the Department to get back in action. It is of dire necessity that HUD get back in action on its subsidized housing programs, particularly homeownership programs, before its study is released in September.

ORDER OF BUSINESS

Mr. BROCK. Mr. President, I yield to the Senator from Texas.

Mr. BENTSEN. I thank the distinguished Senator from Tennessee.

PERSONAL STATEMENT

Mr. BENTSEN. Mr. President, I rise to a point of personal privilege because it is my personal privilege to be a friend and colleague of DANIEL INOUYE, and I am still seething with outrage at the insult cast on him yesterday afternoon during a recess of the Watergate hearings by H. R. Haldeman's counsel, Mr. John Wilson.

I will not quote Mr. Wilson. He has been abundantly quoted in the newspapers.

His words and voice have echoed through living rooms in all our 50 States—including the State that is fortunate enough to be represented in the U.S. Senate by DANIEL INOUYE; and in my State of Texas, where DANIEL INOUYE is a citizen, officially adopted a quarter century ago because of the gallant deeds of the 442d in which he served in World War II.

Mr. Wilson's vicious, ill-tempered remarks were reiterated in the presence of newsmen and for the benefit of network television. Those words are far more damaging to Mr. Wilson than they are to the Senator from Hawaii because they reveal the speaker in all his blatant bigotry and arrogance.

He reflected discredit on himself and his client in delivering a contemptuous ethnic slur on a fellow American.

There are those who, of small mind, seek to use national origin as a basis for epithets that are intended to demean.

Mr. Wilson belongs to that minority. He has attempted to demean a fellow citizen in the eyes of others by just such an epithet.

But he has only demeaned himself.

Mr. President, one might even excuse Mr. Wilson if he had uttered such a slur in a moment of anger or frustration.

But Mr. Wilson went well beyond that, and did it deliberately and with obvious forethought. It was done before television cameras, and repeated. And it was done with only one purpose in mind, to demean and slur an individual and to seek to create, through racial epithets, an atmosphere and climate of hostility toward Senator INOUYE.

It makes one wonder—is this part of some deliberate counterattack on the members of the committee? If so, it smacks of the lowest type of political and ethical slur, and such a tactic should be abandoned herewith.

Mr. President, we may well ask ourselves who is John Wilson? What has he done for this country?

I know who DANIEL INOUYE is. I know what he has done for this country.

John Wilson made the mistake of attacking the man who has earned an unassailable reputation as a citizen, a patriot, and a statesman.

Mr. President, we in Texas take a spe-

cial pride in DANIEL INOUYE, because we consider him and all of the Nisei who served with distinction in the renowned 442d Infantry Regimental Combat Team as Texans for their heroic deeds in helping in the rescue of a Texas division. That regimental combat team, one might remind Mr. Wilson, was made up entirely of those of Captain INOUYE's ethnic ancestry. It was a regimental combat team which suffered total casualties, including replacements, of three times its authorized strength, won 3,600 Purple Hearts with 500 Oak Leaf Clusters, 810 Bronze Stars, 342 Silver Stars, and 47 Distinguished Service Crosses.

Mr. President, I do not want to deliver a eulogy. DANIEL INOUYE does not need a eulogy from me or anyone else. His record speaks for itself, but I want to put this thing in perspective.

This man is a hero in a land that is in tragic need of heroes.

He risked his life and sacrificed an arm in defense of his country in World War II. He was decorated many times over for his distinguished service and valor.

His peacetime record is just as impressive. He has distinguished himself in service to his State and his country: in the House of Representatives and in the Senate.

And he deserves an added citation for his able performance on the Watergate Investigating Committee.

He does not deserve to be subjected to an uncivilized barrage of name-calling from a man like John Wilson.

Here are two men—both Americans, both lawyers—for the moment in an adversary position in this sorry mess.

I ask you Mr. President, which one of them brings credit to this country and to his profession

Is it John Wilson—who gives vent to his infantile rage and frustration by resorting to racial slurs?

No, it is not, John Wilson has discredited himself and his profession by his neolithic conduct.

He cannot even redeem himself by a public apology. But he owes that apology to DANIEL INOUYE and the American people. I hope that apology will be forthcoming from Mr. Wilson. He can do no less. And I pray we will hear no more such slurs from Mr. Wilson.

Mr. ALLEN. Mr. President, I had not intended to comment on the unfortunate remark made by Mr. Wilson with regard to the distinguished Senator from Hawaii (Mr. INOUYE), but I did not want my presence on the Senate floor at the time the remarks were being made by the Senator from Florida (Mr. CHILES), the majority leader (Mr. MANSFIELD), the assistant majority leader (Mr. ROBERT C. BYRD), the Senator from Nevada (Mr. BIBLE), and the Senator from Texas (Mr. BENTSEN) in a great and stirring speech to indicate that I condemned that remark any less than did they.

Mr. President, I can truthfully say that I have never made a slurring ethnic or racial remark in my entire life, and I shall never be guilty of that. I would like to state that that is not the order of the day in the southern section of our country. The relations between the races in Alabama and the South are most cordial. We get along extremely well. There are no slurring remarks made about the races in Alabama and the South, and I am proud of our attitude in that regard.

So I do feel that the remark was most unfortunate. It was an un-American statement for Mr. Wilson to make such a remark about the distinguished Senator from Hawaii (Mr. INOUYE), who is himself a great American, who put his life and his body on the line in fighting for our country, who is a great patriot, and who, by the way, has been doing an outstanding job on the Watergate Committee, for which I certainly commend him.

I repeat, it was most unfortunate that this slurring remark was made by Mr. Wilson. It will hurt Mr. Wilson; it will not hurt Mr. INOUYE. Certainly it did not make friends or influence people for Mr. Wilson or for any of Mr. Wilson's clients. If he thought he was doing a service to his clients, that is absolutely incorrect. He did them a great disservice.

Mr. President, I say again to my colleagues in the Senate that we in Alabama and the South are not guilty of that type of comment, and we do not condone it, no matter what race or heritage is involved. We condemn remarks such as this whether leveled at the race to which Mr. Wilson referred or at any other race or any other ethnic group. We are proud to be Alabamians, we are proud to be Southerners, we are proud to be Americans, and we do not approve of any such attack on the heritage or ancestry of any of our fellow citizens.

I yield back the remainder of my time and thank the distinguished Senator from New Jersey.

Mr. WILLIAMS. Mr. President, I was happy to yield to the Senator from Alabama, and certainly commend him for his heartfelt remarks and statement in response to the unbelievable and unfortunate occurrence of yesterday, the statement of Mr. Wilson.

ORDER OF BUSINESS

Mr. BENTSEN. Mr. President, I appreciate the distinguished Senator's yielding to me on this point of personal privilege,

The ACTING PRESIDENT pro tempore. Does the Senator from Tennessee yield the floor?

Mr. BROCK. I yield the floor, Mr. President.

TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 15 minutes, with statements therein limited to 3 minutes.

ORDER FOR SENATE TO CONSIDER, ON SEPTEMBER 5, 1973, TREASURY-POST OFFICE APPROPRIATION BILL

Mr. ROBERT C. BYRD. Mr. President, I have cleared this request with the other side.

I ask unanimous consent that when morning business has been completed on September 5, the Senate turn to the consideration of the bill making appropriations for the Treasury and Post Office Department. I believe the number is H.R. 9590.

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

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

(The remarks Senator McGOVERN made at this point on the introduction of S. 2322, the Vietnam Era Veterans and Dependents Psychological Readjustment Assistance Act, are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

COMMUNICATIONS FOR EXECUTIVE DEPARTMENTS, ETC.

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

REPORTS OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Study of Programs for Health Services in Outpatient Health Centers in the District of Columbia," 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 "Examination of Financial Statements Government Printing Office Fiscal Year 1972," dated August 1, 1973 (with an accompanying report). Referred to the Committee on Government Operations.

REPORT ON STATE OF THE DOMESTIC MINING, MINERALS, AND FUELS INDUSTRIES

A letter from the Secretary of the Interior, transmitting, pursuant to law, a report on the state of the domestic mining, minerals, and fuels industries (with an accompanying report). Referred to the Committee on Interior and Insular Affairs.

TEMPORARY ADMISSION OF CERTAIN ALIENS

A letter from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, reports relating to the temporary admission into the United States of certain aliens (with accompanying papers). Referred to the Committee on the Judiciary.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

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

The petition of Edward Rager, Blue Point, N.Y., praying for a redress of grievances. Referred to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HUMPHREY, from the Committee on Foreign Relations, with amendments to the preamble:

S. Res. 149. Resolution to express the sense of the Senate regarding diplomatic relations between the United States and Sweden (Rept. No. 93-374).

By Mr. LONG, from the Committee on Commerce, without amendment:

S. 1625. A bill to extend until November 1, 1978, the existing exemption of the steamboat *Delta Queen* from certain vessel laws (Rept. No. 93-375); and

H.R. 5649. An act to extend until November 1, 1978, the existing exemption of the steamboat *Delta Queen* from certain vessel laws (Rept. 93-376).

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

S. 2335. An original bill to amend the Foreign Assistance Act of 1961, and for other purposes (Rept. No. 93-377), together with additional views. Referred to the Committee on Finance by order of the Senate entered on July 27, 1973.

EXECUTIVE REPORTS OF COMMITTEES

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

By Mr. JACKSON, from the Committee on Armed Services:

William Keith Brehm, of California, to be an Assistant Secretary of Defense.

(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. MAGNUSON, from the Committee on Commerce:

James B. Gregory, of California, to be Administrator of the National Highway Traffic Safety Administration; and

Karl E. Bakke, of Virginia, to be general counsel of the Department of Commerce.

(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. EASTLAND, from the Committee on the Judiciary:

Leonard I. Garth, of New Jersey, to be a U.S. circuit judge, third circuit;

Joseph T. Sneed, of California, to be a U.S. circuit judge, ninth circuit; and

John A. Reed, Jr., of Florida, to be a U.S. district judge for the middle district of Florida.

By Mr. EASTLAND, from the Committee on the Judiciary:

Doroteo R. Baca, of New Mexico, to be U.S. marshal for the district of New Mexico;

Royal K. Buttars, of Utah, to be U.S. marshal for the district of Utah;

Victor Cardosi, of New Hampshire, to be U.S. marshal for the district of New Hampshire;

William F. Clayton, of South Dakota, to be U.S. attorney for the district of South Dakota;

Harold M. Fong, of Hawaii, to be U.S. attorney for the district of Hawaii;

Harold M. Grindle, of Iowa, to be U.S. marshal for the southern district of Iowa;

Doyle W. James, of Colorado, to be U.S. marshal for the district of Colorado;

Thomas K. Kaulukukui, of Hawaii, to be U.S. marshal for the district of Hawaii;

Ralph F. Keil, of Delaware, to be U.S. attorney for the district of Delaware;

Walter J. Link, of North Dakota, to be U.S. marshal for the district of North Dakota;

George K. McKinney, of Maryland, to be U.S. marshal for the District of Columbia;

Edward J. Michaels, of Delaware, to be U.S. marshal for the district of Delaware;

Bill Carnes Murray, of Georgia, to be U.S. marshal for the northern district of Georgia.

Charles E. Robinson, of Washington, to be U.S. marshal for the western district of Washington;

Donald J. Stohr, of Missouri, to be U.S. attorney for the eastern district of Missouri; and

George L. Tennyson, of South Dakota, to be U.S. marshal for the district of South Dakota.

(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. WILLIAMS, from the Committee on Labor and Public Welfare:

Alvin J. Arnett, of Maryland, to be Director of the Office of Economic Opportunity.

(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.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. McGOVERN:

S. 2322. A bill to amend chapter 17 of title 38, United States Code, to direct the Administrator of Veterans' Affairs to initiate and carry out a special psychiatric, psychological, and counseling program for veterans in the Vietnam era, especially former prisoners of war, and their dependents who are experiencing psychological problems as the result of the military service performed by such veterans. Referred to the Committee on Veterans' Affairs.

By Mr. COOK:

S. 2323. A bill to prohibit engaging in a parimutuel wagering enterprise using out-of-State gambling information or accepting wagers on out-of-State sporting events. Referred to the Committee on the Judiciary.

By Mr. DOMINICK:

S. 2324. A bill for the relief of Robert M. Donner. Referred to the Committee on Armed Services.

By Mr. JAVITS (by request):

S. 2325. A bill to transfer St. Elizabeths Hospital to the District of Columbia. Referred to the Committee on Labor and Public Welfare.

By Mr. NELSON:

S. 2326. A bill to take over a project in the State of Wisconsin pursuant to section 14 of the Federal Power Act. Referred to the Committee on Commerce.

By Mr. CHURCH:

S. 2327. A bill relating to acquiring of certain narcotics by force, violence, or intimidation. Referred to the Committee on the Judiciary.

By Mr. McINTYRE:

S. 2328. A bill to require that certain information about gasoline be disclosed to consumers. Referred to the Committee on Commerce.

By Mr. TOWER:

S. 2329. A bill to amend chapter 5 of title 37, United States Code, to revise the special pay structure relating to certain members of the uniformed services. Referred to the Committee on Armed Services.

By Mr. THURMOND:

S. 2330. A bill to provide for the increase of capacity and the improvement of operations of the Panama Canal, and for other purposes. Referred to the Committee on Armed Services.

By Mr. THURMOND:

S. 2331. A bill to transfer the functions of the Passport Office to a new agency of the Department of State to be known as the "U.S. Passport Service," to establish a Passport Service fund to finance the operations of the U.S. Passport Service, and for other purposes. Referred to the Committee on Foreign Relations.

By Mr. CRANSTON:

S. 2332. A bill to amend the Internal Revenue Code of 1954 to prescribe the income tax treatment of gifts, and bargain sales of property to provide financial assistance in political campaigns. Referred to the Committee on Finance.

By Mr. PACKWOOD (for himself, Mr. HATFIELD, and Mr. STEVENS):

S. 2333. A bill to amend the Tariff Schedules of the United States with respect to the rate of duty on certain types and uses of fish netting and fish nets. Referred to the Committee on Finance.

By Mr. INOUYE:

S. 2334. A bill to amend title 5, United States Code, to provide for travel and transportation expenses on the return of an employee who was a past resident of certain areas outside the Continental United States from a post of duty in the Continental United States. Referred to the Committee on Government Operations.

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

S. 2335. A bill to amend the Foreign Assistance Act of 1961, and for other purposes. Referred to the Committee on Finance by order of the Senate entered on July 27, 1973.

By Mr. JAVITS (for himself, Mr. BUCKLEY, Mr. CASE, and Mr. WILLIAMS):

S.J. Res. 145. Joint resolution granting the consent of Congress to the States of New Jersey and New York for certain amendments to the Waterfront Commission Compact and for entering into the Airport Commission Compact, and for other purposes. Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. McGOVERN:

S. 2322. A bill to amend chapter 17 of title 38, United States Code, to direct the Administrator of Veterans' Affairs to initiate and carry out a special psychiatric, psychological, and counseling program for veterans of the Vietnam era, especially former prisoners of war, and their dependents who are experiencing psychological problems as the result of the military service performed by such veterans. Referred to the Committee on Veterans' Affairs.

VIETNAM ERA VETERANS AND DEPENDENTS PSYCHOLOGICAL READJUSTMENT ASSISTANCE ACT OF 1973

Mr. McGOVERN. Mr. President, since the joyful homecoming of our prisoners of war 5 months ago, we have heard little about their lives and how they are adjusting to families and friends who became strangers because of a long and painful separation. But already two former POWs have taken their own lives and several more are involved in divorce proceedings.

It is a known fact among psychologists that individuals who undergo a traumatic experience requiring a drastic readjustment will not feel the greatest impact of the trauma for several months.

The warning signals are out and they are very clear. Unless we take positive steps to provide the needed assistance for the men who are now experiencing severe readjustment problems, there will be more suicides and more broken families. Now that the glow of the hero's welcome is fading, these men are finding it increasingly difficult to find a comfortable and satisfying place in what is to them a strange society.

The task of providing treatment and counseling for these men might seem a simple task. Of the 500 men who were released from prisons in North Vietnam, a sizable majority of them have remained in the service where they can benefit from the extensive facilities available through the Department of Defense. But those who have chosen to leave the service and are experiencing difficulty represent a small, although striking, example of a much greater problem that deserves no less attention.

Early last May I introduced a package of bills intended to aid Vietnam-era veterans to pursue a higher education and take advantage of what job opportunities there were available to them. At the time, I felt that extensive efforts to provide education and employment might be enough to heal the wounds of the war—that a full-scale commitment of that type would ease the burden carried by the young men who were caught in the tragic and sometimes violent controversy of our involvement. But it is becoming apparent that many of these men and their families are in need of the same readjustment assistance that must be made available to former prisoners of war.

For every suicide committed by a former POW, there are many more involving Vietnam veterans. For every home broken by the long years of separation between wife and former prisoner, there are hundreds of young families fathered by other veterans that are struggling to get along with only one parent. There are disillusioned parents, alienated brothers and sisters. And there are lonely veterans—separated from a life they once knew by a war nobody wanted.

The Washington Star-News recently published a three-part series, written by Michael Satchell, on the readjustment problems of Vietnam-era veterans. Mr. Satchell has done a brilliant job of bringing together the many facets of what he has recognized as a nationwide crisis. I ask unanimous consent that the articles be printed in the RECORD at this point, and I urge my colleagues in the Senate to give them their careful consideration.

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

[From the Washington Star-News, July 22, 1973]

OUR HIDDEN WAR CASUALTIES

(By Michael Satchell)

No one will ever be quite certain why Stephen Carl Gaylor killed himself . . . why Don Kemp, who loved his wife dearly, killed her with an automatic . . . why Dwight Johnson was shot to death in a nickel-and-dime stickup.

With four friends yelling for him to stop, Gaylor, a 21-year-old Oklahoman back from the Vietnam war, calmly slid a cartridge into his revolver, spun the cylinder, placed the barrel to his head and fired. He lost his personal game of Russian roulette on the third try.

Don Kemp, another Vietnam veteran, spent time in a Milwaukee hospital being treated for a psychosis. The first night after his discharge he awoke from a raving nightmare and killed his wife. He had been dreaming about fighting "gooks."

Dwight Johnson was a hero, a Medal of Honor winner. With a submachine gun and a .45 caliber pistol, he singlehandedly had killed between five and 20 enemy soldiers. Back in Detroit, he was idolized by raggedy black urchins in the ghetto and respected by the white junior executive crowd. A week before his 24th birthday, he tried to knock off a corner grocery store a mile from his home. In a shootout with the store manager, he was felled by five bullets.

The tragic incidents involving these three men are unrelated, but there are those who insist that Gaylor, Kemp and Johnson, along with unknown numbers of other veterans, are the hidden victims of the Vietnam war—a virtually unknown army of "psychiatric casualties."

About 2.6 million men served in Vietnam and a lot of them came home with mental wounds perhaps as damaging as the physical wounds of veterans who returned with missing limbs and mangled bodies.

The Veterans Administration has no firm statistics on the number of psychiatric casualties from the Vietnam war, but it cites studies to help a lower incidence of battlefield mental casualties than in other wars. This is not disputed by VA critics.

What is hotly disputed, and currently the subject of bitter debate between the VA and many private psychiatrists, is the number of vets who became ill a few months or even three or four years after their return from Southeast Asia—a condition called "Post-Vietnam Syndrome (PVS)"

VA officials tend to show anger when PVS is mentioned; officially, they insist, there is no such thing.

Dr. Marc J. Musser, chief medical director, and Dr. Charles A. Stenger, chief of psychology, in a technical paper on Vietnam vets, wrote: "Thus far, there has been no evidence of the delayed psychiatric illness that some experts have thought would result from the unique conditions of the Vietnam conflict.

"It has been predicted, for example, that guilt over participation in an unpopular war would create special emotional stress. Most servicemen . . . do find the hostile components of their reception upon returning home to be disturbing, but apparently it is not affecting their emotional stability to a significant extent."

That assessment was made a year ago. In a recent interview, Stenger and Dr. Eugene M. Caffey, deputy director of mental health for the VA, reiterated that PVS was little more than a phony issue dreamed up by VA critics, principally Yale psychiatrist Dr. Robert Lifton and Dr. Chaim Chatan of New York University.

"A lot of this talk is rooted in these people's antiwar feelings," Caffey insisted. Added Stenger: "Chatan and Lifton, these guys are really hung up on the war. They say we're playing the President's game."

Caffey refused to categorize PVS as an illness. "It's a frame of mind which is disturbing to them, and it affects no more than 5 percent of the veterans," he said.

Stratton Appleman, chief public relations spokesman for the VA, called the critics "self-styled experts" who make "derogatory remarks about veterans based on generalizations."

Appleman writes: "The persistence of this group in using their professional status to spread insidious theories about veterans while they pretend to feel concern for them is remarkable in view of the many times they have been discredited."

But a large body of psychiatric opinion, within and outside of the VA, challenges this view and offers evidence that PVS is widespread. This tended to be reinforced by Star-News interviews with VA psychiatric patients. Another indication of the problem's growth is self-help groups that have sprung up in about 25 cities across the country.

Dr. Guiseppe Scarscella, chief of psychiatric service at the Washington VA hospital, asked about the official VA position on PVS, suggested that the bureaucracy at national headquarters was out of touch with what has been happening in the hospitals.

"They are responsible to the Department of Defense and thus they look at problems from a political consideration," Scarscella said. "We look at them from a clinical aspect."

At an American Psychiatric Association meeting in Dallas, at which Musser presented the VA's views on PVS, several doctors countered his opinions.

"Recently it has become increasingly clear," said Dr. Carl Segal, a former Army psychiatrist, "that there have been delayed emotional and behavioral reactions to combat experiences." Dr. Marcus R. Stuen reported that his studies at the VA hospital in Tacoma, Wash., showed "a rather dramatic increase in the inability (of the Vietnam vet) to adjust to civilian life."

At the same meeting, Dr. Jonathan R. Borus, a psychiatrist at the Walter Reed Army Institute of Research here, wondered whether the Army was providing adequate psychiatric care for those who served without problems on the battlefield but broke down later.

Chatan, associate professor and clinic co-director of the New York University post-doctoral psychoanalytic training program, noted that psychiatric illness that begins two years after a man leaves the Armed Forces cannot be designated officially as "service connected" and thus receive priority treatment.

"VA is run mostly by World War II vets who have no understanding of the present Vietnam generation," he says. "It's a superannuated organization; it's understaffed; they don't have the men to treat these people, so they pretend there's no problem and thus avoid opening a psychiatric Pandora's Box."

Chatan offered this capsule description of "Post-Vietnam Syndrome":

"Nine to 30 months after demobilization, many veterans begin to 'go through changes.' They notice—often for the first time—growing apathy, cynicism, alienation, depression, mistrust and expectation of betrayal as well as the inability to concentrate, insomnia, nightmares, restlessness, uprootedness and impatience with almost any job or study."

What this translates to in everyday terms is the immense difficulty thousands of veterans find in "getting their heads together" after they come home from an unpopular war which they and the public rarely understood.

Instead of cheering crowds and welcome banners, they come home to discover problems. Many say they have difficulty holding jobs—if they can find them. They have trouble in their personal relationships, and that usually means marital difficulties.

"I was a nice, easy-going guy before I went to the Nam," one Washington VA psychiatric patient said. "When I came back, I was an impossible son of a bitch to live with—and my wife couldn't. It's as simple as that."

There are those who feel obsessed with the brutality of the conflict, carrying massive guilt feelings. Some return hostile and fight with strangers, with their best friends, with their wives.

They can't stand crowds or attention, and many seek solitude or even have subconscious wishes to commit suicide—by taking the

"Easy Rider" motorcycle trip through the Deep South, or constantly wrecking cars or picking fights.

And, as Chatan points out, perhaps the most poignant feature of their alienation is the nagging uncertainty about their continued ability to love and trust others, and to accept affection.

"You paid the high price for trusting other people in the 'Nam," he quotes one returnee as saying. "Every time you acted human, you got screwed."

The VA is currently making psychiatric disability payments to 65,000 vets from the Vietnam era, 13,000 of them with 100 percent disability. But that is not an accurate measure of the problem because many veterans—mostly those from middle-class backgrounds—tend to seek private treatment for their illness. Some seek no treatment at all.

Many are simply suspicious of the VA, seeing it as little more than an extension of the government establishment that sent them to war. The VA, worried about not reaching vast numbers of Vietnam vets, is producing films featuring hip, hirsute VA counselors in an effort to create a new image.

The VA's Stenger and Caffey estimate that "not more than 5 percent" of those who served in Vietnam—in combat or in support missions—suffered psychiatric illness ranging from severe psychosis to mild symptoms not requiring hospitalization or intensive treatment.

But this estimate is challenged by others, including the Washington VA hospital's Scarscella.

Said Scarscella: "Five percent sounds low to me. Not to be too controversial, but I would say twice that number is more accurate although 10 percent is a very conservative figure.

"If there was such a small number of (psychiatric) casualties, why is the VA putting so much emphasis on this program? I think it's because a low percentage of Vietnam vets are seeking treatment in VA hospitals—they are suspicious of the VA establishment."

Others have suggested that the total of Vietnam returnees needing psychiatric help is much higher. Dr. Cherry Cedarleaf, senior staff psychiatrist at the Minneapolis VA hospital, said he believed half of the veterans "need some form of professional help to overcome the problems of adjustment."

[From the Washington Star-News, July 23, 1973]

VETS: THE POSTWAR SYNDROME

(By Michael Satchell)

With his scuffed truckin' boots, faded denim jeans, outrageous beard and flowing ponytail, the skinny young hippie named Paul could have been plucked from any Georgetown "head shop" or Dupont Circle bench minutes before and deposited in the room he now occupied.

For over an hour, he rapped about his troubles—hassles with the law, problems with his old man, his lonely, mixed up personal life, the difficulty of getting his head together. He had just returned from a court hearing; he had been caught smoking marijuana, an offense committed not in his rented pad in Rockville but at the Veterans Administration Hospital in Washington where he had been a psychiatric patient for the past month.

Ten years ago, a young hospitalized veteran like Paul would have been stripped, shorn, censured and ordered to shape up. But that was before Vietnam, one result of which is that veterans like him are doing their "thing" in the regimented drab world of the VA hospital.

"What do you do with a guy like this—throw him out?" asked one staffer who, along with the other hospital psychiatrists, agreed that surreptitious pot smoking would be better dealt with by them than the police. "We've got to face it—times have changed."

The unique character of the Vietnam war has produced a different breed of veteran, men who are angry, resentful, who question orders, who make demands, not requests. It has left VA with a legacy of new problems in caring for the conflict's casualties—a huge portion of them vets who survived their year in Vietnam physically intact but who crumbled mentally when they returned home.

Every war has had its psychiatric casualties. In World War I, the doughboys who broke down were called "shell shock" victims.

In the second World War—Gen. George S. Patton notwithstanding—having the chronic jitters had become more acceptable; it was termed "combat fatigue." Although the symptoms may have been anything from backache to blackouts, the problem was still mental.

Then came Vietnam, a conflict that the VA's medical hierarchy has contrasted with other wars in these terms:

"The World War II GI knew why he fought, had the unequivocal support of his countrymen, returned with pride and received extensive recognition and appreciation. In stark contrast, the Vietnam serviceman is ambivalent and uncertain about the war he has fought, knows that the cause for which he fought is controversial and unpopular with many at home, lacks a sense of patriotic accomplishment, and neither expects nor receives a hero's welcome when he returns home."

Add to that assessment the opinions of doctors such as Dr. Guiseppe Scarscella, chief of psychiatry for the Washington VA hospital, and Dr. Robert J. Lifton, Yale psychiatrist, and the views of men such as John Kerry, the former Navy lieutenant and Silver Star winner who was a founder of Vietnam Veterans Against the War.

Said Scarscella: "First look at the type of war it was. When you go from North Africa to Berlin, you accomplish something; but these boys in Vietnam went nowhere. The VA has pointed to the one-year limit on the tour of duty in Vietnam as being of considerable help in lowering psychiatric casualties, but I think this was very destructive—very stressful because they served their 365 days one day at a time.

"Vietnam deprived the soldier of the mythology of winning a war. Some have told me they felt like missionaries rather than soldiers, others that they were fighting as unwilling mercenaries. There was the constant emphasis on killing—on body counts. There was no question of defense of their country.

"The Department of Defense says that it has had a low incidence of psychiatric problems in Vietnam, but this is a false situation. Some men were treated over there, on the battlefield, and the result was a delaying mechanism. When the vet came back home, he returned a full-blown psychotic.

"It looks to me like the Vietnam psychiatric casualties are more severe than in World War II. When they are sick, they are really sick."

Lifton, the author of the recently published book "Home From The War"—a study of Vietnam veterans—sees the cause of their myriad mental problems buried in what he considers the "extraordinarily cruel" nature of the conflict.

"The enemy they were fighting in terrible ways often turned out to be the women and children they theoretically were sent there to save," Lifton states. "To survive, to make these experiences endurable, to remain physically and psychologically intact, the GI's had to become dehumanized."

The day before 700 Vietnam veterans astounded Congress and the country by tossing their medals and combat ribbons into a heap on the Capitol steps on April 21, 1971, their leader, Kerry, summed up the sentiments of his group for members of the Senate Foreign Relations Committee.

"The country doesn't know it yet," he said, "but it has created a monster . . . in the form of millions of men who have been taught to deal and trade in violence . . . men who have returned with a sense of anger and betrayal which no one has yet grasped."

Any fears of large urban gangs, skilled in killing and guerrilla warfare, taking out their revenge on the populace, have not materialized. But the results of the complex Vietnam conflict are showing up in the high incidence of mental illness and related problems among returned veterans.

A recent check of patients at the Washington VA hospital showed 101 Vietnam veterans. Thirty were being treated for medical and surgical conditions and 10 for neurological problems. The remaining 61 men were in the psychiatric wards.

In fiscal 1972, the VA discharged 68,901 physically wounded Vietnam era veterans from its hospitals and 45,788 psychiatric, psychotic and neurological patients. The latter group is not counted in Pentagon totals of Vietnam casualties.

One VA study by psychologist Cecil Peck estimates that about one in four Vietnam era veterans who end up as psychiatric patients in VA hospitals have attempted suicide.

Readjustment problems have also shown up in other ways: In the high incidence of Vietnam vets in prison populations, in the high unemployment rate, and perhaps most visible of all, in the use of drugs.

Estimates vary considerably on just how many servicemen use drugs in Vietnam, how many brought the habit home, how many got into dope heavily after returning.

It is generally agreed, though, that drug dependency is a symptom of psychological trauma, that a lot of vets used dope in Vietnam, and that VA is only attracting a tiny percentage of users and addicts to its treatment programs—8,300 men, to be precise.

Accustomed to heavy drinking by men who were psychiatric casualties in previous wars, the VA found itself facing an entirely new situation with its Vietnam patients.

"It was about a year or so ago when the population suddenly changed," said Dr. Paul Barnes, director of training and education at the Washington Veteran's Hospital.

"We found a high incidence of drug usage and it was a whole new thing. Our patients had been exposed in Vietnam to a whole range of drugs—amphetamines, marijuana, heroin—and they posed a real barrier and a challenge to us.

"They had turned to drugs for relief and it made our job more difficult . . . how to relate to them? Many patients dated their psychotic breaks in Vietnam to drugs. We had long experience with booze . . . now we had to learn about drugs and I think we have started to make progress with them."

Any discussion of the psychiatric fallout from the Vietnam war, observers say, must be considered in the light of what has happened in this country in the past decade, and of the type of soldier who served. There are some who see the mental casualties as victims of the turbulent times in general, not simply of the war.

They also point out that the average Vietnam serviceman was a draftee from the lower end of the social scale. This group, apparently less equipped to handle the stresses that produce mental crackups, returned from Vietnam with high expectations. They had served their country, done their duty, and they wanted repayment from society in the form of education and jobs.

"A lot of them come back and say they want to go to college . . . to learn computer programming . . . to get high paying jobs,"

Scarscella noted. "They have these high expectations and they are told they deserve these things. But many are high school dropouts or were hard-core unemployed before they went to Vietnam. They just can't get these jobs . . . it is impossible for them . . . they become disillusioned . . . they turn to drugs, crime . . . they cannot adjust."

Added a colleague, the VA hospital's Paul Barnes: "When they come home, they find the welcoming committee is just not there, and then the problems begin. We are simply going to have to devote more attention to re-integrating these men into society."

[From the Washington Star News, July 24, 1973]

NOBODY CARED MUCH THEN—OR NOW

(By Michael Satchell)

A few weeks ago, John Gambino, on vacation in San Francisco, was strolling through Chinatown. It was dark and it was raining.

"All of a sudden," he recalled, "I couldn't see anything but Oriental faces. Gooks. Then there was a clap of thunder and I dived 20 feet and threw myself down behind some trash cans. People looked at me like I was crazy."

About the time Gambino was on the West Coast, Paul Jackson found himself preoccupied with a strange and frightening new pastime.

"I was drawing designs of the Man—pigs (policemen) and stuff like that—taking them out in the woods and shooting at them, seeing if I could hit them in the kill zone," Jackson said. "I've got a 9mm Chinese pistol, a .380 automatic and a .308 semi-automatic stashed away. I bury 'em and pick 'em up, bury 'em and pick 'em up. . ."

On a morning when Jackson might have been digging up his weapons near his Rockville home, Andy Howard left his house in the District to take a bus to his printing job.

"I walked out of the house and I felt dizzy," Howard remembers. "The next thing I knew I was lying on the bedroom floor sobbing. I was shouting 'why is the world sof—d up today.' My wife came home from work and found me."

Gambino, Jackson and Howard (not their real names) today are psychiatric patients at the Washington Veterans' Administration Hospital. They are suffering from mental illness that has lain dormant for months or years after their return from the Vietnam war, a condition called "Post-Vietnam Syndrome."

Interviews with mental patients at the hospital revealed each man's personal problems to be different. However, several common threads ran through their wartime experiences: The brutality they say they witnessed, the high incidence of drug usage in Vietnam, the confusion over their role as soldiers or airmen in a war they didn't understand.

Each man talked of the difficulties he faced when he came home—getting jobs, picking up the threads of personal affairs, having marital difficulties, finding himself withdrawn, hating crowds, having nightmares, being unable to trust people, experiencing vivid flashbacks and numbing depression.

A common approach among these men was the fixing of blame. Each man interviewed thought that if he hadn't been to Vietnam, he would not have become mentally ill.

Jerord Cook (the name is fictitious) is a 22-year-old vet from Hampton, Va. He enlisted in the Army because he wanted to travel, went to Vietnam a curious, wide-eyed 19-year-old, and came home a junkie. Today, he says, he has a bleeding ulcer, is a paranoid schizophrenic and gets so scared of people that when his sister traveled to Washington recently to visit him in the hospital, he was unable to talk to her. "She frightened me," he said.

Cook's first problems in Vietnam came with the cultural shock of being transported there—from one world to another—in 13 hours.

"I was in Seattle one minute—next minute I was in Cam Ranh bay," he said. "The first night I was there, I stood guard. The next day, I met some guys on the beach and we smoked pot and drank beer all day. I thought 'this is the life.' We did that for three days.

"Then I got sent to Quang Tri City. It was hot, sweaty. There was no running water. It was filthy."

From that point on, as Cook describes it, everything was downhill. He began buying pills from the Vietnamese—"BT's" he called them. "I don't know what was in them," he said. "They gave you a nice secure feeling and they made you mean," he said. "You could get in a firefight and not be scared. I was popping about 12 a day."

Cook also began using a variety of other drugs, fighting with other soldiers, running afoul of the military police. "I got to Saigon four or five times and every time I ended up in jail," he said.

Today, Cook spends most of his time sleeping and worrying about his bouts of paranoia, trying to fend off the devils in his head that signal their coming when he gets a light, floating feeling and then starts tightening up, his body balling like a clenched fist.

"I hear a lot of sounds," he murmurs.

John Gambino, a 28-year old District Heights resident, also traces part of his mental illness to drug problems in Vietnam—but from an entirely different perspective. Gambino, a third-generation Italian-American is a graduate of the University of Maryland, has been accepted as a predental student at Howard University, and has been hospitalized for three weeks after suffering recurrent flashbacks.

He went to Vietnam in 1971 as a first lieutenant and took charge of a 225-man company. "The first thing I discovered was that roughly 75 percent—yes, 75 percent—of the men were using hard drugs," he said. "It was incredible. I spent most of my time in Vietnam bottled up with my men and their personal problems and though I didn't realize it at the time, I can see now that this is what caused my present troubles. Combat was a minor problem compared to the drugs.

"I get flashbacks and they are terrifying. Usually it is seeing one of my men blowing his brains out with a .45 when he got a Dear John letter from his wife. I see two of my friends who were blown up when the VC rigged a grenade in the gas tank of their truck. I find myself walking through a Vietnamese marketplace."

Gambino says he was being treated for the flashbacks as an outpatient but as they increased in intensity and frequency, he checked into the hospital.

"I don't think I'll ever get rid of them," he said. "I just hope I can keep them to minimum."

Davis Smith, 26, from Capitol Heights, Md., displays his "Death Before Dishonor" and skull-and-dagger tattoo and recalls that he was the original 'gung ho, meanest mutha in the valley" Marine that ever graduated from boot camp and set off to kill the VC. He didn't return that way.

When he arrived in Vietnam in July 1966, Smith says he immediately volunteered for reconnaissance patrol, a tough, dangerous mission in which five men spend five or six days in the field, scouting the enemy.

"My whole recon outfit was shaky and nervous," he remembers. "For five days you're out among them (the enemy). You can sit and hear your own heartbeat. You can't cough, sniff, talk, do nothing. Your nerves get wrecked."

Smith did one tour of duty and signed up for a second. He arrived back in the States on a July 4 after his first tour and recalls somebody letting off a firecracker close by. "I hit the ground," he said. "That first night home, I went to a drive-in movie. I couldn't stand it—I felt like everybody was looking at me."

Unaware that he might be having symptoms of psychiatric illness, Smith returned to Vietnam and ended up on recon again. But he caught malaria after a few months and was sent to Bethesda Naval Hospital, where, for the first time, he suddenly realized that he was becoming mentally ill.

"I was in a reception lounge waiting to be admitted," he said. "I stared and stared at this man's wife, saying nothing. He came up and asked me if I had a light. I shook my head and continued staring. He got nervous and left, and I continued staring, for no reason. That was the first time I knew I had changed."

Since then, Smith's marriage has collapsed, he has drifted in and out of jobs and he has attempted suicide twice by taking pill overdoses—most recently on June 1.

"My nerves are gone," he admitted. "I just got tired of losing all the time."

Finally, there is Bruce Coble, a hulking 27-year-old former Air Force enlistee who blames not only his experiences in Vietnam for his present condition, but also what he found when he returned.

After nearly eight years in the Air Force, he has been unwillingly discharged, his alcoholism licked but his nerves frayed. His marriage is on the rocks and he has attempted suicide.

"Not too much bothered me in Vietnam," he said, "except seeing the little kids suffer. I remember once going into a village to try and help after the VC had been in and butchered a lot of people because the men wouldn't join them. All these kids were running around with no parents and I couldn't stand it. I was an orphan until I was eight years old.

"What really distressed me was when I got home. People didn't care about what was happening over there . . . they didn't seem to want to get involved. I believed in what America was doing in Vietnam, I cared about serving my country, about helping these people over there.

"Those hippie sons-of-bitches weren't over there to see what was going on, and I couldn't stand it. I remember going to support Carl McIntyre (the fundamentalist conservative preacher) and getting into a fight with some hippie protesters.

"That was what was wrong with this goddamm war. Nobody cared except those that went over. And now nobody cares about us."

Mr. McGOVERN. Mr. President, it is not difficult to diagnose a critical need shared by a large number of Americans and then pinpoint a corresponding shortcoming in one of our Federal-aid programs. But even in the most obvious cases it is not at all easy to convince the administration that the need outweighs budgetary concerns. Time and again we are told that the need for a given program is not sufficient to justify the cost. While we continue to pour billions of dollars into military overkill and unfair tax concessions, the pressing needs of millions of Americans are being overlooked. Consequently, I was somewhat surprised and very much pleased when I read the following memorandum which was circulated within the Department of

Medicine and Surgery of the Veterans' Administration.

After every war the great majority of veterans are young adults who must go through a critical period of transition from military to civilian life. The impact of absence from home, of exposure to different living conditions, life styles, and cultures, and of personal physical and psychological trauma, is such that readjustment is a highly complex process. The difficulty of this process has been markedly greater for the Vietnam veteran because of the controversial nature of the Vietnam conflict and of the rapid social-economic changes that occurred in his absence. Reliable surveys and studies conducted by the military and by VA indicate serious and prolonged readjustment problems exist in approximately one out of five new veterans but, to a lesser degree, were experienced by all.

Since current statutory provisions governing DM&S health care services are tied to an illness rather than preventative health models, only a small proportion of veterans have sought or received these critically needed mental health psychosocial readjustment services. The consequence includes major economic and social cost to society stemming from the failure of these veterans to make effective readjustments, as well as the personal adverse psychological effects on the veterans and their families who served their country during a long and difficult conflict.

There are several telling points in this memorandum that need to be elaborated. First, that "reliable surveys and studies conducted by the military and by VA indicate serious and prolonged readjustment problems exist in approximately 1 out of 5 new veterans but, to a lesser degree, were experienced by all." That is an incredible revelation. Somewhere in the area of 2.6 million young men served in Vietnam. If 1 in 5 are experiencing serious readjustment problems, that means there are over half a million young men in need of readjustment counseling.

Another crucial point is the reference made to "current statutory provisions" which do not provide for preventative health care. In other words, Mr. President, the Veterans' Administration lacks the authority to deal with the problem effectively. And because they lack the authority, veterans are not receiving these critically needed mental health psychosocial readjustment services.

Finally, mention is made of the "major economic and social cost to society stemming from the failure of the veterans to make effective readjustments." I think the memo is very clear on this point. Not only is there a critical need, but our continued neglect of that need stands to cost us much more than the funding for a comprehensive program geared to the readjustment needs of millions of young Americans.

In order to meet this quite obvious need, I am today introducing the Vietnam-Era Veterans and Dependents Psychological Readjustment Assistance Act of 1973. The bill directs the Administrator of Veterans' Affairs to initiate and carry out a special psychiatric, psychological, and counseling program for veterans of the Vietnam era, especially former prisoners of war, and their dependents who are experiencing psychological problems as the result of the military service performed by such veterans.

The bill authorizes the VA Administrator to contract for readjustment services from public or private sources when he determines that such services would be more beneficial for the veteran or if for any reason such services are unavailable or inadequate in VA facilities. This contract authority is absolutely essential since we know for a fact that the VA has never dealt in preventive health care and thus is not equipped to do so.

Furthermore, it has the effect of circumventing one of the major problems we encountered in all our veterans programs. In a bureaucracy the size of the Veterans' Administration, a certain amount of standardized procedure and assembly line treatment is to be expected. It has grown to the point where a great number of veterans, particularly younger veterans, simply do not trust an institution of that size or are unwilling to believe that the services available will be of any benefit to them. Because participation in a readjustment program must be entirely voluntary on the part of the veteran seeking assistance, the program must be set up in such a way that he will not be discouraged for any reason from seeking the help he needs. If the service is provided by competent professionals from the public and private sectors who have no intrinsic ties to the Veterans' Administration, it seems to me that the program will have a much greater chance of success.

There is one other provision of this bill which I consider to be crucial if we are to make an effort to solve the full proportions of the problem. The bill would extend eligibility for the readjustment services to dependents of Vietnam veterans, which includes dependents of former POWs. The precedent for this expansion of services is contained in the Veterans Health Care Extension Act which I understand the President will sign today. But it goes even further than that. It would extend the care to dependents of members of the Armed Forces presently in a missing in action status. The families of our MIA's have suffered more anguish and frustration than we can possibly make up for. The very least we can do is provide services that might help them to deal with a very unpleasant and uncertain situation. Finally, eligibility would be extended to any member of the immediate family or to any person who lives with the veteran provided the Administrator determines that providing services to such a person is necessary or appropriate to the successful treatment of the veteran.

Mr. President, 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. 2322

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 "Vietnam Era Veterans and Department Psychological Readjustment Assistance Act of 1973".

SEC. 2. Chapter 17 of title 38, United States Code, is amended by adding after section 620 a new section as follows:

"§ 620A. Special psychological readjustment assistance program

"(a) As used in this section—

"(1) The term 'veteran' means any person who served in the active military, naval, or air service during the Vietnam era, regardless of the nature of his discharge, and who is in need of the services provided for under this section because of the performance of such service or because of a service-connected disability.

"(2) The term 'dependent' means—

"(A) the spouse or child of a veteran;

"(B) the spouse or child of a veteran who died while in service or who died as the resul of a service-connected disability;

"(C) the spouse of child of a member of the Armed Forces in a missing status (as defined in section 551(2) of title 37); or

"(D) any member of the immediate family of a veteran or dependent (including a legal guardian), or, in the case of a veteran or dependent who has no immediate family (or legal guardian), the person in whose household the veteran or dependent certifies his intention to live, if the Administrator determines that providing services under this section to such member is necessary or appropriate to the successful treatment and rehabilitation of the veteran or dependent.

"(b) The Administrator shall initiate and carry out a special program for the treatment and rehabilitation of veterans, especially former prisoners of war, and their dependents who are experiencing psychological problems as the result of the active military, naval, or air service performed by the veteran. Such program shall include, but shall not be limited to, such psychiatric, psychological, and counseling services (in addition to those services otherwise authorized by this chapter) as may be necessary or appropriate for the successful treatment and rehabilitation of the veteran or dependent.

"(c) In carrying out the special program provided for in subsection (b) of this section, the Administrator shall, under such rules and regulations as he may prescribe, contract for psychiatric, psychological, and counseling services from public or private sources whenever the Administrator determines that—

"(1) such services are necessary or appropriate to the successful treatment and rehabilitation of the veteran or dependent and such services are unavailable or inadequate in Veterans' Administration facilities;

"(2) an undue hardship would be placed upon the veteran or dependent because of the distance the veteran or dependent would have to travel in order to obtain such services at a Veterans' Administration facility;

"(3) the hours at which such services are available at a Veterans' Administration facility are incompatible with the time available to the veteran or the dependent and would result in a financial or other hardship on the veteran or dependent to receive such services at the Veterans' Administration facility; or

"(4) such services provided outside Veterans' Administration facilities would, for any reason, be more beneficial to the treatment and rehabilitation of the veteran or dependent.

"(d) The participation of any veteran or dependent in the program provided for under this section shall be wholly voluntary and shall not be a prerequisite to eligibility for or receipt of any other service or assistance from, or participation in, any other program under this title."

SEC. 3. The table of sections at the beginning of chapter 17 of title 38, United States Code, is amended by adding immediately below

"620. Transfers for nursing home care."

the following:

"620A. Special psychological readjustment assistance program."

SEC. 4. There are authorized to be appropriated such sums as may be necessary to carry out the amendments made by section 2 of this Act.

By Mr. COOK:

S. 2323. A bill to prohibit engaging in a pari-mutuel wagering enterprise using out-of-State gambling information or accepting wagers on out-of-State sporting events. Referred to the Committee on the Judiciary.

Mr. COOK. Mr. President, in recent years many States have sought novel ways to supplement their revenues. One of the methods under increasing study is revenue from various forms of gambling, including off-track-betting on horse races.

I certainly have no objection to any State making a determination that such operations are in its best interests. However, there is an alarming possibility that these operations may seek to expand their activities into adjacent and neighboring States, in a form of fiscal piracy. For example, nothing now prevents New York OTB from taking wagers on Monmouth Park or Garden State in New Jersey. New York OTB already accepts bets on the Kentucky Derby and the Preakness so further expansion outside of New York State would pose little difficulty for them.

Especially in those adjacent States situations, interstate incursions could seriously diminish the "live" gate, and therefore, the total betting handle of the track in question. Consequently, the "host" State's income would be reduced. A State authorizes horse racing because it can be a source of substantial revenue to the State treasury, as well as a valid entertainment form for its citizens. Under present law, we face the potential of interstate larceny at the pari-mutuel window— under the auspices of State governments.

Although this situation has not yet manifested itself, there are compelling reasons to preclude the type of interstate conflicts which otherwise will most certainly develop. As more and more States authorize off-track-betting, the possibilities of abuses increase dramatically. I believe the Congress should take swift and positive preventive action so that this fearful situation will never occur.

I, therefore, am introducing legislation which will prohibit any pari-mutuel wagering enterprise organized under a law of any State from accepting wagers on sporting events conducted in any other State, and I ask unanimous consent that the full text of the legislation be printed in the RECORD.

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

S. 2323

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Title 18 of the United States Code is amended by adding the following new section:

"SEC. 1085. Engaging in a pari-mutuel wagering enterprise:

"(a) Offense—It shall be unlawful to own, control, manage, supervise, direct, conduct, finance, or otherwise engage in a pari-mutuel wagering enterprise using gambling information which is sent, carried, or transmitted by any means into a State from any place outside such State.

"(b) It shall be unlawful for any pari-mutuel wagering enterprise organized by authority of any law of any State to accept wagers on any sporting event conducted in any other State.

"(c) Definitions—as used in this section:

"(1) 'Gambling information' means information which assists in the placing, receiving, laying-off, or paying off bets or wagers on sporting events.

"(2) 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

"(d) Penalties—Whoever violates subsection (a) of this section shall be fined not more than $10,000 or imprisoned not more than two years, or both."

SEC. 2. Section 1084(b) of Title 18 of the United States Code is amended to read as follows:

"Nothing in this section shall be construed to prevent the transmission in interstate or foreign commerce of information for use in news reporting of sporting events or contests."

By Mr. JAVITS (by request):

S. 2325. A bill to transfer St. Elizabeths Hospital to the District of Columbia. Referred to the Committee on Labor and Public Welfare.

Mr. JAVITS. Mr. President, I introduce by request on behalf of the administration a bill that would authorize the transfer of St. Elizabeths Hospital to the District of Columbia.

In the letter of transmittal of the bill from the Secretary of the Department of Health, Education, and Welfare, it states in pertinent part:

Although the hospital still serves some use as a national facility, the composition of its population has changed over the course of its 118 year history. More than 85 per cent of its inpatients and virtually all of its outpatients are now from the District of Columbia.

Therefore, it would appear appropriate for the District rightfully to assume direction and control the hospital, which represents their principal resource for the mentally ill.

The bill, which I understand was prepared in consultation with officials of the government of the District of Columbia, would enable the District of Columbia to assume rightful control of a health care facility which provides services to the District's mentally ill.

Mr. President, there are, however, provisions in the bill about which I and Senator MATHIAS have serious reservations and for that reason, I am recommending a referral of the bill to the Labor and Public Welfare Committee—on which I am ranking minority member—and then to the District of Columbia Committee—of which Senator MATHIAS is ranking minority member—since both committees are properly concerned with this measure. I believe these concerns can be resolved in the best interests of the citizens of the District of Columbia and the Federal Government by the Labor and Public Welfare Committee and the District of Columbia Committee.

First, among my concerns is the question of the appropriateness of the transfer of the facility to the District of Columbia and leaving it to their good offices to change over from the State mental health hospital concept to the provision of alternative programs of community care for the mentally ill. This is particularly relevant when we recognize that the Federal Government, with all of its power and influence, has not to date been successful in this desirable goal despite its stewardship of the St. Elizabeths Hospital since it was first established by the Congress in 1885 as the Government hospital for the insane.

Second, the bill provides where there is disagreement between the Secretary and the District of Columbia Commissioner, and I cite the provision: "the matter shall be decided by the Director of the Office of Management and Budget." I am not convinced that the Director of OMB is the appropriate impartial arbitrator between the Federal Government and the District of Columbia.

Third, the bill seeks to protect the status of hospital employees; however, the retention of individual rights, benefits, and privileges appears to be tied to "so long as he remains continuously employed in that position." I believe this provision should be modified to express what I understand from meetings with the Department of Health, Education, and Welfare is their intention to protect employee status.

Fourth, the Federal support levels for the first year—to which the remaining 9 years are "keyed"—states that support is limited to not exceeding 63 per centum of the costs of the hospital. A strict interpretation of this provision would permit, at the Secretary's discretion, this per centum to be zero. I believe this provision should be modified to permit some floor, as well as the 63 per centum ceiling, for Federal support.

Fifth, the bill authorizes an adjustment in Federal support to take into account the rate of inflation. This is appropriate, but unfortunately, the adjusted amount is determined by the Secretary without reference to any specific criteria. I believe that it would be, at a minimum, reasonable to have the Secretary's discretion in this matter set in accordance with changes in, for example, the consumer price index.

Sixth, the authorization of appropriations of $43 million is, I understand from discussions with the Department of Health, Education, and Welfare, not based upon any recent concrete information. Therefore, I believe that the authorization of appropriations should be tied to some study of need for renovation.

The legislation provides:

First. That the support provided the hospital by the Department of Health, Education, and Welfare, subject to certain limitations, would continue for a transitional period of 10 years.

Second. That after the initial 5-year period, HEW support would gradually

decrease for the remainder of the transitional period. Thereafter, the hospital would be operated and financed completely by the District.

Third. Adequate assurances that the hospital would be reimbursed for costs incurred in providing continuing care to the small number of Federal beneficiaries who would remain there.

Fourth. Employees at the hospital at the time of the transfer would be transferred with the hospital, and those with competitive status would retain the protection of that status so long as they occupied the same positions. In addition, all positions at the hospital would continue to be or would be established in the competitive service unless excepted as provided by title 5 of the United States Code or other statutory law.

Fifth. Amounts that would otherwise become due and payable to the Department for the District of Columbia's share, about $12.7 million, of prior construction at the hospital would be forgiven.

Sixth. An authorization of appropriations in the amount of $43 million for facilities renovation.

Mr. President, I ask unanimous consent that the entire text of this bill and the letter of transmittal from the Secretary of Health, Education, and Welfare be printed in the RECORD.

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

S. 2325

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

DEFINITIONS

SECTION 1. As used in this Act—

(1) the term "Secretary" means the Secretary of Health, Education, and Welfare;

(2) the term "Commissioner" means the Commissioner of the District of Columbia; and

(3) the term "Hospital" means Saint Elizabeths Hospital.

TRANSFER OF THE HOSPITAL, AND THE SECRETARY'S FUNCTION RESPECTING IT, TO THE COMMISSIONER

SEC. 2. (a) (1) TRANSFER OF FUNCTION. The Secretary's function of supervising the administration of the Hospital, including the authority delegated by section 3(2) of Executive Order 11609, 36 F.R. 13747 (July 24, 1971) (pertaining to the establishment of per riem rates for care), is transferred to the Commissioner effective on the ninety-first day after the date of the enactment of this Act. To the extent necessary or appropriate to perform this function, the Commissioner may exercise, after its transfer, any authority available by law to the Secretary prior to the transfer.

(2) ADDITIONAL DISTRICT OFFICES. The Commissioner may establish such additional offices as he deems necessary to administer the functions, authorities, and property transferred by or pursuant to this Act.

(b) STATUTES AFFECTED. For the purpose of effectuating the transfer of function under subsection (a) (hereinafter in this Act referred to as "the transfer"), the Commissioner shall, upon the transfer, succeed to the authority of the Secretary under the laws governing the Hospital, which shall include, but not be limited to—

(1) sections 4839, 4851, 4852, and 4858 of the Revised Statutes (24 U.S.C. §§ 165, 211, 211a, and 170, respectively);

(2) the Act of June 23, 1874, 18 Stat. 251 (24 U.S.C. 212);

(3) the Act of June 30, 1906, 34 Stat. 697, 730 (24 U.S.C. 177);

(4) section 1 of the Act of June 12, 1917, 40 Stat. 105, 179 (24 U.S.C. 196);

(5) the Act of Oct. 6, 1917, 40 Stat. 345, 373 (24 U.S.C. 200);

(6) the Act of March 6, 1920, 41 Stat. 503, 513 (24 U.S.C. 176);

(7) the Act of June 5, 1920, 41 Stat. 874, 920 (24 U.S.C. 166);

(8) the Act of July 18, 1940, 54 Stat. 766 (24 U.S.C. 196b);

(9) the Joint Resolution of May 9, 1941, 55 Stat. 186 (24 U.S.C. 180);

(10) the Act of Nov. 7, 1941, 55 Stat. 760 (24 U.S.C. §§ 181, 182, 183, and 184); and

(11) the Act of August 4, 1947, 61 Stat. 751 (24 U.S.C. §§ 169a, 185, and 195a).

(c) (1) TRANSFER OF PROPERTY.—Effective upon the effective date of the transfer, there are also transferred to the District of Columbia all right, title, and interest of the United States in certain lands in the District of Columbia, together with all buildings and improvements thereon and, except as provided pursuant to paragraph (2)(E), all personal property used in connection therewith (as determined by the Secretary), known as Saint Elizabeths Hospital.

(2) IMPLEMENTING AGREEMENT.—Prior to the effective date of the transfer, the Secretary and the Commissioner shall enter into an agreement containing—

(A) a description of the boundaries of the land transferred by paragraph (1);

(B) an inventory (in such detail as the Secretary and the Commissioner may agree) of the other property transferred by paragraph (1);

(C) a specification of the financial obligations of the Hospital respectively assumed by the Secretary and the District of Columbia upon the transfer;

(D) the agreement of the Commissioner to receive at the Hospital beneficiaries of the Federal Government on a basis that would reimburse the Hospital for its costs in connection with such beneficiaries;

(E) the terms and conditions upon which the Secretary may conduct research (not in furtherance of the functions of the Hospital) in the William A. White Building, and an inventory of any property that, after the transfer, the Secretary will continue to hold in such Building, as property of the United States, for use in such research; and

(F) such other terms and conditions, consistent with this Act, as the Secretary and the Commissioner deem appropriate.

If the Secretary and the Commissioner are unable to agree on any matter required to be set forth in the agreement (other than a matter of amendment to such agreement after the transfer), the matter shall be decided by the Director of the Office of Management and Budget. For purposes of the portion of the agreement made pursuant to clause (D) of the first sentence of this paragraph, the provisions of section 2 of the Act of August 4, 1947, 61 Stat. 751 (24 U.S.C. 168a) shall continue to apply with respect to the Hospital to the same extent as it applied prior to the effective date of the transfer of the Hospital, except that the District of Columbia (or the official designated by the District) shall be substituted for the Superintendent of the Hospital.

(d) TRANSFER OF UNEXPENDED BALANCES.—Effective upon the effective date of the transfer, all unexpended balances of appropriations, allocations, and other available funds of the Hospital, including funds appropriated for construction of buildings and facilities thereof, are transferred to the District of Columbia for use as provided by law in the operation of the Hospital, except to the extent (determined by the Director of the Office of Management and Budget) required to meet obligations already incurred and not assumed by the District.

PROVISION FOR EMPLOYEES OF THE HOSPITAL

SEC. 3. (a) TRANSFER OF EMPLOYEES; COMPETITIVE STATUS RETAINED. Each person employed by the Hospital on the day before the effective date of the transfer shall be transferred in his position, and shall retain all of the rights, benefits, and privileges pertaining thereto held prior to such transfer so long as he remains continuously employed in that position, wherever located in the Government of the District of Columbia.

(2) HOSPITAL POSITIONS TO BE COMPETITIVE SERVICE. All positions at the Hospital shall be in the competitive service on and after the effective date of the transfer unless exceptions thereto were or are authorized under 5 U.S.C. § 3302 or other statutory provision. This paragraph does not extend the applicability of title 5 of the United States Code to the District of Columbia government in its operation of the Hospital beyond the requirements of that title which relate to employment in the competitive service.

(b) WAIVER OF LICENSURE. The Commissioner shall prescribe regulations establishing the period or periods during which the licensing and registration requirements of the laws set forth in title 2 of the District of Columbia Code shall not apply to a retained employee engaged, in the course of his employment with the Hospital after the transfer, in an occupation in which he was engaged, in the course of such employment, prior to the transfer. Such period or periods shall be reasonably sufficient to permit a retained employee to qualify under such laws in such occupation.

(c) DETAIL OF COMMISSIONED OFFICERS. The Secretary may, after the transfer, detail to the Commissioner, for service at the Hospital, commissioned officers of the Public Health Service, on like terms and conditions as are prescribed for details authorized by section 214(a) of the Public Health Service Act. For purposes of paragraph (2) of section 6(a) of the Military Selective Service Act of 1967 (50 U.S.C. App. 456(a)(2)), a commissioned officer so detailed shall be deemed to be assigned to a bureau of the Public Health Service.

TRANSITIONAL PAYMENTS

SEC. 4. APPROPRIATION AUTHORIZED. There are authorized to be appropriated to the Secretary, to enable the Secretary to pay to the District of Columbia part of the cost of operating and maintaining the Hospital during the period of its integration into the programs of the District for the protection of mental health—

(1) for the first fiscal year beginning after the fiscal year of the transfer, an amount not exceeding 63 per centum of the costs of the Hospital, not otherwise met, for the preceding fiscal year (adjusted, to the extent determined by the Secretary to be appropriate, to take account of the rate of inflation) in (A) providing care in the Hospital in such preceding year to persons eligible therefore by reason of their residing or being found in the District of Columbia, and (B) training and scientific research conducted by the Hospital during such preceding year;

(2) for each of the next four fiscal years, the amount determined under paragraph (1), adjusted, to the extent determined by the Secretary to be appropriate, to take account of the rate of inflation; and

(3) for each of the second five fiscal years beginning after the transfer, an amount not exceeding the following percentages of the amount determined under paragraph (2) for the last year referred to therein:

(A) 84 per centum for the first such fiscal year,

(B) 68 per centum for the second such fiscal year,

(C) 52 per centum for the third such fiscal year,

(D) 36 per centum for the fourth such fiscal year, and

(E) 20 per centum for the fifth such fiscal year.

AUTHORIZATION OF CONSTRUCTION OF HOSPITAL FACILITIES; FORGIVENESS OF UNACCRUED CONSTRUCTION DEBT

SEC. 5. (a) RENOVATION OF HOSPITAL. For the fiscal year of the transfer, and for each fiscal year thereafter, there are authorized to be appropriated to the Secretary, for transfer to the District of Columbia for expenditure under the direction of the Commissioner to renovate the Hospital, such sums as may be necessary for the construction of buildings and facilities, including the purchase or fabrication of equipment, and for remodeling of existing buildings (including repair and replacement of equipment), except that the aggregate of such appropriations and the amounts transferred for these purposes under section 2(d) may not exceed $43,000,000.

(b) FORGIVENESS OF PRIOR DEBT. Upon the effective date of the transfer, the proviso to the item captioned "Saint Elizabeths Hospital" in the Department of Health, Education, and Welfare Appropriation Act, 1955, 68 Stat. 443, is repealed. Obligations that would accrue, and be payable by the District of Columbia, under such proviso for the fiscal year of the transfer and for fiscal years beginning thereafter, are forgiven. Amounts paid by the District of Columbia in full or partial discharge of any such obligation in the fiscal year of the transfer shall be refunded to the District.

SAVINGS PROVISIONS

SEC. 6. (a) CONTINUITY OF PRIOR AGENCY ACTION. All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective in the performance of the function transferred by section 2(a); and

(2) which are in effect upon the effective date of the transfer;

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked by the Commissioner or other authorized official, or a court of competent jurisdiction, or by operation of law.

(b) CLAIMS AND PENDING PROCEEDINGS. No suit, action, or administrative proceeding to which the Secretary is party, nor any claim against the Secretary, respecting the function transferred by section 2(a), shall abate by reason of the transfer. Such suit, action, or administrative proceeding shall be continued as though this Act has not been enacted, but with the District of Columbia substituted for the Secretary. Such claim, if in contract and if filed after the transfer, shall be brought against the District, in lieu of the Secretary, and shall be governed by such procedures as may then apply to claims against the District in like cases. Such claim, if in tort and if arising before the transfer, shall not be brought against the District.

REPEALER

SEC. 7. Effective upon the date of the transfer, any provision contained in a District of Columbia Appropriation Act prescribing the inpatient rate for services rendered by the Hospital for patient care for the fiscal year of the transfer is repealed with respect to services rendered on or after that date.

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C., June 21, 1973.

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

DEAR MR. PRESIDENT: We enclose for the consideration of the Congress a bill "To transfer Saint Elizabeths Hospital to the District of Columbia".

Originally established by the Congress in 1855 as the Government Hosiptal for the Insane, having as its objects "the most humane care and enlightened curative treatment of the insane of the army and navy of the United States, and of the District of Columbia", Saint Elizabeths Hospital (so renamed in 1916) was transferred from the Interior Department to the Federal Security Agency in 1940, and has been administered by our Department since it was organized in 1953.

Although the hospital still serves some use as a national facility, the composition of its population has changed over the course of its 118 year history. More than 85 per cent of its inpatients and virtually all of its outpatients are now from the District of Columbia, and are partially supported at the hospital by per diem payments annually established by the District of Columbia Appropriation Act and paid on behalf of these patients by the municipal government.

We therefore propose enactment of the enclosed draft bill to transfer the hospital to the District of Columbia. The bill is in keeping with the spirit of the President's Message to the Congress of April 28, 1969, which declared:

"Full citizenship through local self-government must be given to the people of this city: The District Government cannot be truly responsible until it is made responsible to those who live under its rule. The District's citizens should not be expected to pay taxes for a government which they have no part in choosing—or to bear the full burdens of citizenship without the full rights of citizenship."

Employees at the hospital at the time of the transfer would be transferred with the hospital, and those with competitive status would retain the protection of that status so long as they occupied the same positions. In addition, all positions at the hospital would continue to be or would be established in the competitive service unless excepted as provided by title 5 of the United States Code or other statutory law.

The transfer would not alter the hospital's relationship to its Federal beneficiaries, provision for whom would still be made there on a basis that would reimburse the hospital for its costs.

The statutory per diem rate for persons committed to Saint Elizabeths Hospital from the District of Columbia is $21.99, an amount which represents only 42 percent of the actual cost of treatment. Under the existing financing structure, the Department funds make up the remaining 58 percent. Our appropriations also support the full cost of training and research at the hospital, and the full cost of treating patients who are not bonafide residents of the District of Columbia but who are eligible for admission by reason of their having been found in the District. In 1974, the total cost of the activities just described is estimated at $55.2 million, of which the Department's appropriations would support $34.6 million, or 63 percent. The draft bill would continue the Department's support, subject to certain limitations, for a ten-year transitional period. During the first year beginning after the fiscal year of transfer we would maintain our proportionate Department-financed share of 63 percent of the total cost (for the preceding year) of the activities enumerated above. For the next four years we would pay the same amount as was determined for the first year. However, for each of these first five years the amounts so determined would be adjusted to take account of the rate of inflation. During the last five years, we would decrease our contribution by about 16 percent annually until, by the eleventh fiscal year after the fiscal year of transfer, we would phase it out entirely.

The draft bill would also forgive amounts that would otherwise become due and payable to the Department for the District of Columbia's share, about $12.7 million, of prior construction at the hospital, and would in addition, authorize appropriations to the Department (up to an aggregate of $43 million) for transfer to the District Government for renovation of the hospital. We do not intend that the transfer add unreasonably to the tax burdens of District residents. These provisions will enable us to discharge our obligation to transfer to the municipal government a facility that is modern and in satisfactory operating condition.

We urge that the draft bill receive prompt and favorable action.

We are advised by the Office of Management and Budget that enactment of this draft bill would be in accord with the program of the President.

Sincerely,

CASPAR WEINBERGER,
Secretary.

By Mr. CHURCH:

S. 2327. A bill relating to acquiring of certain narcotics by force, violence, or intimidation. Referred to the Committee on the Judiciary.

FEDERAL PENALTY FOR THE ROBBERY OR ATTEMPTED ROBBERY OF A CONTROLLED SUBSTANCE FROM A PHARMACY

Mr. CHURCH. Mr. President, on a January evening in 1972, Mr. Kent Dean, the owner-manager of Dean's Drug Center in Lewiston, Idaho, received a telephone call from a man who claimed that he was in need of some medicine for his sick child. Dean agreed to meet the man at his store, and Mrs. Dean and their two children accompanied him. When the alleged customer arrived, he was wearing a gas mask and carrying a brown paper bag containing a homemade bomb. It was not medicine for a sick child, but rather amphetamines and syringes he demanded. In the awful aftermath, a young Lewiston police officer lost his life, and two other officers were injured.

This tragic episode is not an isolated case in the files of drug store crimes. The increased use of narcotic drugs—coupled with the high cost of these drugs on the black market and the poor quality of the street product—have resulted in the rising incidence of drug store robberies. It is not uncommon now to learn of pharmacists wearing bullet-proof vests to work or hiring armed guards to police the premises. In an article that appeared in the Washington Post earlier this year, several pharmacists stated that they have reverted to keeping guns within easy reach, in addition to installing added alarm measures.

The increase in this type of burglary is frightening. Boston, Mass., reported 138 such robberies in 1972, with about 100 of the city's 208 pharmacies hit. Sixteen of 20 drugstores in Boston's Roxbury section have closed because of the high crime rate.

In Georgia, drug store robberies and burglaries are occurring at the rate of one a day. In 1968 there were not more than 10 robberies of this type, but in 1972 there were 312 and during the first three weeks of 1973, 26 were reported. In my own State of Idaho, the burglarizing of drug stores has reached unprecedented proportions.

The recognition of this problem leads me to introduce legislation which would

impose a Federal penalty for the robbery or attempted robbery of a controlled substance from a pharmacy. My bill would provide for a maximum fine of $5,000 and/or 10 years imprisonment for persons acquiring drugs covered by the Controlled Substance Act from a pharmacy, by force, violence, or intimidation.

In addition to serving as a tool for the crackdown on this type of crime, my bill would allow local law officers to enlist the aid of Federal authorities on drugs and to draw upon their expertise. I am hopeful that Congress will act favorably on this legislation before we witness the loss of other lives—and the eventual forced-closing of many more pharmacies across the Nation. The druggists and pharmacists are dedicated professionals who dispense the necessary medicines and drugs which, when used with proper precaution, save millions of lives each year. We should now offer them this added protection to insure that we are not deprived of their vital service.

Mr. President, I ask unanimous consent that the text of this bill, along with an article from the Lewiston Tribune, an article from the Washington Post, and a listing of recent Idaho pharmacy hold-ups compiled by the Idaho Board of Pharmacy, be printed at this point in the RECORD.

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

S. 2327

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 103 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 2118. ROBBERY OF PHARMACY AND INCIDENTAL CRIMES.

"(a) Whoever, by force and violence, or by intimidation, takes or attempts to take, from the person or presence of another, any material, compound, mixture or preparation containing any quantity of a narcotic controlled substance set forth in a schedule of controlled substances under the Controlled Substances Act and belonging to, or in the care, custody, control, management, or possession of any pharmacists, shall be fined not more than $5,000 or imprisoned not more than ten years, or both.

"(b) Whoever takes and carries away, with intent to steal or purloin, any material, compound, mixture or preparation containing any quantity of a narcotic controlled substance set forth in a schedule of controlled substances under the Controlled Substances Act and belonging to, or in the care, custody, control, management, or possession of any pharmacists, shall be fined not more than $5,000 or imprisoned not more than five years, or both.

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

"(1) 'pharmacists' means any person registered in accordance with the Controlled Substances Act for the purpose of engaging in commercial activities involving the dispensing of any controlled substance to an ultimate user pursuant to the lawful order of a practitioner;

"(2) 'dispensing' shall have the same meaning as that provided under section 102 (10) of the Controlled Substances Act;

"(3) 'practitioner' shall have the same meaning as that provided under section 102 (20) of the Controlled Substances Act;

"(4) 'controlled substance' shall have the same meaning as that provided under section 102 (6) of the Controlled Substances Act."

SEC. 2. The section analysis of chapter 103 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"2118. Robbery of pharmacy and incidental crimes.".

DRUGSTORE HOLDUPS UP SHARPLY IN UNITED STATES

(By Celia J. Doremus)

David Brothers says some of his fellow pharmacists wear bullet-proof vests to work.

"It's a tough way to run a business," he said.

Brothers, who owns the Blue Hill Pharmacy in Boston's orchestra section, was robbed of money or drugs eight times in the past year. He and two competitors on the same street have chipped into pay for armed guard on duty from 3 p.m. to 7 p.m.

"These robbers have never manhandled me," he said, "but I give them what they want."

Drugstore robberies have become an increasing problem in urban areas, across the nation. In many of these holdups, the objective is narcotics and other drugs.

Pharmacists, who are licensed to distribute lifesaving drugs to the public, are rapidly becoming the targets of addicts and narcotics pushers, in cities from Boston to San Francisco.

"There is no question that theft and holdups are a serious problem in the Commonwealth of Massachusetts," said Romulus Denicola, secretary of the Massachusetts State Board of Pharmacy. He said persons who hold up drugstores "are either drug addicts or pushers, and they are a different type. They are desperate."

Boston reported 138 such robberies in 1972, with about 100 of the city's 203 pharmacies hit. At least 80 per cent of the robberies were for control substances (narcotics and dangerous drugs).

Several drugstores in Boston's Roxbury section are employing armed guards to keep open, Denicola said. "If the guards don't show up, the stores don't open."

He said that 16 out of 20 drugstores in Roxbury have closed because of the high crime rate. This "leaves that section devoid of adequate pharmaceutical accommodations," he added.

The story repeats around the country.

Atlanta's chief drug inspector, Joe Weldy, said drugstore robberies and burglaries in Georgia, the Southeast pharmacy distribution center, occur at a rate of one a day. He said in 1968 there were not more than 10 robberies of this type, but in 1972 there were 312 and during the first three weeks of 1973, 26 were reported.

In cities such as Pittsburgh and Los Angeles, drugstores have gone out of business because of the rash of holdups.

And in many cities druggists are using a variety of devices to protect themselves and their stores—with differing results.

San Francisco pharmacist David Bonelli, 53, has double-barred doors, cross bars on the vents, a wire screen over the window, a new safe and a sonic alarm system. However, last Dec. 7 someone poked through a side wall and escaped without touching off the alarm.

In Pittsburgh, Robert Botser, owner of a pharmacy in the Carrick-Brentwood area, said he locks most of his narcotics in a safe and in drawers in the store.

At the University Pharmacy in Spokane, Wash., all the drugs are locked up and a security agency handles safekeeping. One clerk said, "There is no way in—unless they want to blow up the sides of the building."

Ken Schaefer, manager of Cosmopolitan Drug Store in Chicago, said, "We limit the quantities of narcotics on hand so we are never a really big and attractive target.

"There are so many different types of drugs and so many buyers for them that it is impossible to operate a store and keep the drugs somewhere else, like at a police station.

"There are three druggists under me and each is armed with a .38 pistol. I carry a .38 and another smaller gun.

"We are all psychologically prepared to use them because drug addicts run rampant around here. We also have a good alarm system, but no matter what you do, when they want what you've got, they're going to find a way to get it."

In Spokane, Paul Picket, manager of East Mission Pharmacy, keeps a hand gun in his desk drawer.

"Ive got this place wired in pretty good," Picket said. He said his store has not been robbed since he installed a burglar alarm. "They have hit all around us since I put in my system."

Robert Pattison, 57, a pharmacist near the low-income Fillmore district of San Francisco, has been robbed twice and is dubious about guns.

"I expect to be held up again," he said, "and I don't know of any form of real protection. If you use a pistol, I doubt if you will come out alive."

Dave Cohen, owner of the West Bridgewater Pharmacy in West Bridgewater, Mass., said the answer is not alarms. He said the problem is with the judicial system.

"The police are disgusted because they bring these cases in and some are even thrown out of court," Cohen said.

Many druggists agreed the courts are merely "giving the offender a slap on the wrist and saying go home and be a good boy."

In Chicago, druggist Schaefer said the federal Food and Drug Administration should be stronger in the drug fight.

"City police here are ill-equipped to do the job. What they need is officers who know more about drugs. Police often come in here with tablets they've found on a suspect and they don't know what they've got."

Albert Sherman, president of the Boston Association of Retail Druggists, had a different idea about the police.

"We have received remarkable cooperation from the city and state police regarding the problem of drugstore robberies," he said.

Sherman, who owns the Charles River Pharmacy in Boston, said the association was responsible for instituting the Boston police department drugstore surveillance squad last March, which minimized the increasing holdup problem in Boston.

"The problem still exists but the police cannot be everywhere," Sherman said. "As long as the quality of narcotics on the streets is poor, the junkies will continue to turn to the drugstores for drugs."

COURT TOLD BOMB-CARRIER'S NOTE DEMANDED DRUGS, VIALS, SYRINGES

(By Jack Marshall)

A 26-year-old Lewiston man was bound over to Second District Court by Magistrate Eli B. Ponack yesterday after a preliminary hearing on a charge of first-degree murder in the bomb death of a Lewiston policeman last Thursday.

Fred W. Hokenson, 2029 Powers Ave., sat silently with no visible signs of emotion as four witnesses called by Nez Perce County Prosecutor Roy E. Mosman recalled events leading up to the bomb blast at Dean's Drug Center, 1624 Main St., which killed Ross D. Flavel during an alleged robbery attempt.

NOTES FOUND

Kent Dean, owner-manager of the drug store, testified that two notes were presented during the alleged robbery attempt and had gone unnoticed until Friday morning when Lewiston police and a team of Federal Bureau of Investigation and Tobacco, Tax and Firearms agents began a detailed investigation.

Dean said that on Friday morning he re-

turned to the store, which had been boarded up during the night because many of the windows and glass doors had been shattered by the blast, and found the notes. "One of the notes was laying on a pop cooler and the other was on the floor directly beneath it," he said.

On one note Dean recalled scratchy printing which he said read, as near as he could recall, "Give me all your amphetamines, meth-amphetamines, methadone, vials, some syringes and all your money." The other note read "Don't try anything. I've got a bomb and my partner has your family. Don't try to be a hero."

Mosman said the notes have been sent to the FBI laboratory at Washington, D.C., for fingerprint checks.

Mrs. Dean testified she was behind the drug counter and first noticed the intruder when he appeared behind a pop machine to the right of the pharmacy counter. She said he was wearing a gas mask and holding a brown paper sack under his right arm with his hand clutched over it. He said, "Don't anyone move and no one will get hurt. I have a bomb," she testified.

At that point, she said, her husband, who had been sitting in a chair in front of the drug counter "rushed toward the man and put his arms around him." They struggled and Dean pulled and pushed the man toward the rear door, she said.

During the struggle, Dean told her to call the police and to get a gun he kept in the pharmacy. She said she called the operator to get the police and watched the struggle by leaning out over the counter. She also looked for the revolver, but could not find it right away, she said.

Dean told her it was behind a pediatrician's reference book and she found it.

"I then went to the back of the store where I could see three arms and hands sticking out with a knife in one of them," Mrs. Dean said. "I asked who had the knife. Kent said. 'I do.' I had the revolver cocked and let the hammer down then."

The police arrived in about two minutes, she said. "I stepped over the man's feet (who was pinned to the floor by Dean in front of the rear exit) and opened the door for the officer." She said Flavel then arrived and she let him in.

Mosman then asked about the contents of the paper bag.

"I saw what looked like an Eveready battery," Mrs. Dean said. "It was red and blue anyway like they are. It had two terminals on top. I saw three cylinders in the sack that I thought in my mind to be sticks of dynamite."

Hokenson sat at the defense table with his court-appointed attorney, Owen L. Knowlton, and Manderson Miles, a University of Idaho law student from Oklahoma City, Okla.

She said Flavel went to the sack. At about that time, she said, the man on the floor said, "You only have 30 seconds. I set the fuse."

"Flavel went over, bent down and picked up the sack and turned slightly. He said something that I didn't completely hear and the word bomb. I turned and ran for my children."

Mosman asked what happened next.

She said, "It went off—There was an explosion."

Mosman then called Lewiston patrolman Thomas E. Saleen who had a small scratch above his left eye, showing evidence of the injuries he received during the explosion.

Saleen said he was standing at the window of Flavel's patrol car at 14th and Main Sts. when the call from the dispatcher about the robbery attempt was received. He said Flavel responded to the call and that he ran to his patrol car, which was parked nearby, and left for the scene.

He said he drove his car up on the sidewalk in front of Bullwinkle's, a tavern next to Dean's Drug, and peered through the front window at the drug store for two or three minutes.

"I could see someone through the window and I tapped on the window," he testified. "Mrs. Dean let me in. She had a revolver and I asked if it was involved in the robbery attempt. She said that it was hers," he said.

Saleen said he went to the back of the store and saw someone with something over his head lying on the floor. Flavel and Dean were struggling with the man. Saleen helped put handcuffs on him.

He said he recalled telling Flavel to get the patrol car and back it to the back door of the store. "I had a knee on the back of the subject's neck, holding him down," he said. "I looked for Mr. Dean. He was by the prescription counter. I called him over and asked him some questions about what had happened." He said Dean mentioned something about a bomb.

SAYS JOKE MENTIONED

"The subject said something about it was a joke, there wasn't any bomb, the joke was on us," Saleen said. "Then Ross (Flavel) returned."

"Dean pointed out the paper sack," Saleen said. "Flavel jumped around to the sack and bent over it. He lifted up a corner of the sack. I could see wiring and some sticks of dynamite. He started to pull wires out of the sack. I told him not to do it because it might explode."

Saleen said the subject on the floor said, "It wouldn't do any good now. I set the time delay."

"I jumped up and started dragging the subject out the door," Saleen said.

The bomb exploded.

Mosman asked Saleen what he experienced during the blast.

"I felt myself fly through the air. I hit the floor east of where I was standing," he said. "I was at the back of the store when officer Whittington arrived."

Lewiston police Cpl. Henry Whittington was next on the stand. He testified he was blown down as he approached the rear door and that he saw Saleen stagger from the smoke and radioed for an ambulance and assistance. He said he returned to the store and went in to search for Flavel. Upon entering the store, he said, he saw a man lying about three to five feet inside, wearing a gas mask.

Mosman asked Whittington if the man was in the court room.

Whittington pointed to Hokenson.

Whittington said he continued to look for Flavel and found him 10 to 15 feet from the rear door.

Mosman asked about the condition of Flavel. Whitting answered, "Badly mutilated."

Whittington said both legs were gone and his left arm appeared to be gone—he indicated the part from the forearm down. He said he had no way of knowing whether Flavel was alive at the time. He said he believed him to be dead.

LIST OF RECENT IDAHO PHARMACY HOLD-UPS

July, 1970. Rockland Pharmacy. Break-in. Took entire stock of Amphetamines.

August, 1970. Lorton Drug Store, Cambridge. Large amount of controlled substances, two typewriters, a television set, money, cigarettes.

September, 1970. Bi-Rite Drug, Sandpoint. Break-in. B & O Superettes (1 gr. Opium), Demerol, etc. was taken.

November, 1970. Dixon's Drug Store, Rathdrum. Night break-in. Taken: large quantity of Phenobarbital, Nembutal, Seconal, Darvon and other drugs.

March, 1971. Hy-Way Drug in Idaho Falls. Entry was made via the roof. Taken was a large quantity of Seconal, Desoxyn, Dexamyl, Desbutal and Dexedrine.

April 12, 1971. Seely Super Thrift, Parma. Night burglary. Taken a large quantity of Cocaine Hydrochloride, Dolophine, Morphine Sulfate, and Numorphan.

April 19, 1971. Owl Drive In, Lewiston. Night break-in. Taken: Eskatrol.

April 18, 1971. Katz Pharmacy, Idaho Falls. Night break-in. Taken was Nembutal, Seconal, Desbutal, Dezerex, Desoxyn, Dicumeral and Diamax.

May 4, 1971. Red Cross Pharmacy, Kendrick. Taken: Demoral, APC w/Demerol, Codeine Phosphate, Dolophine, Leritine, Mepergan, Tethadone, Morphine Sulfate, Numorphan, Opium Tinc., Percodan and Perc. Demi.

May 11, 1971. Osco Drug, Pocatello, Taken: large quantity of Biphetamines, Desoxyn, Dexampyl, Dexedrine, Doriden, Nembutal, Ritalin, Tuinal, Seconal and other drugs.

May 10, 1971. Perkin's Pharmacy, Lewiston. No drugs, just money.

April 23, 1971. Ketchum Drug, Ketchum. Burglar hid in store until after closing. A quantity of narcotics and other drugs were stolen as well as empty gelatin capsules, syringes and needles.

June 3, 1971. Owl Drug, Lewiston. Large quantity of Dexedrine.

June 5, 1971. Skaggs Drug Center, Nampa, Dilaudid taken.

June 5, 1971. Red Cross Pharmacy, Kendrick, Darvon, Phenobarbital and TH&C taken.

June 14 and June 17. ISU College of Pharmacy. Large quantity of stimulant and depressant drugs taken in these two burglaries.

June 12, 1971. Super-Save Drugs, Pocatello. Early morning break-in. Taken: Desbutal and Desoxyn.

June 25, 1971. Super-Save, Pocatello. Taken: Desbutal and Desoxyn.

August, 1971. Owl Drug, Lewiston, Night break-in. Taken: Dexedrine, Dexamyl.

August 21, 1971. Arnell Pharmaceutical Center, Blackfoot. Large quantity of Demerol, Desarex, Desbutal, Desoxyn, Dexedrine, Nembutal, Placidyl, Ritalin and Tuinal.

September 1, 1971. Arnell Pharm. Center, Blackfoot. Large quantity of Demerol, Desarex, Desbutal, Desoxyn, Dexedrine, Numbutal, Placidyl, Ritalin and Tuinal.

October 14, 1971. Armed robbery. Sherman Drug, Coeur d'Alene. Pharmacist forced to give robber large quantity of Dexedrine and Biphetamines.

October 25, 1971. Owl Drug Drive In, Lewiston. Night break-in. Taken: quantity of Emperin Compound #1, #2, #3, #4.

November 1971. White Pine Pharmacy, Potlatch. don't have a list of stolen drugs.

November 5, 1971. Rockland Pharmacy, American Falls. Taken, entire stock of Amphetamines.

December 7, 1971. Irwin Drug, Grangeville. no drugs taken. just money.

December 30, 1971. Sav Mor Drug, Twin Falls. Taken: Desbutal, Desoxyn, Nembutal.

December 30, 1971. Johnson Sav On Drug, Twin Falls. Taken: Quantity of Nembutal, Desoxyn, Desbutal.

December 30, 1971. Don Wilson Skyline Drug, Idaho Falls. Quantity of Dexedrine, Dexamyl and Desoxyn and Nembutal taken.

January, 1972. Rockland Pharmacy, American Falls. Entry gained through front door. Taken was disposable syringes and needles and some controlled substances. Woman thief apprehended.

January 4, 1972. Crowley Pharmacy, Twin Falls. Quantity of Nembutal taken.

January 4, 1972. Johnson Sav On Drug, Twin Falls, 800 Ritalin tabs.

January 29, 1972. Halliwell Drug, Pocatello. Taken: 1100 Carbrital FS.

February 8, 1972. Magic Valley Drug, Inc., Twin Falls. Quantity of Desbutal and Desoxyn taken.

March 19, 1972. Osco Drug, Twin Falls. Taken: Large quantity of Desbutal and Desoxyn.

March 23, 1972. Don Wilson Skyline Drug, Idaho Falls. Quantity of Mebaral, Nembutal, Phenobarbital, Bontril and Benadryl.

April 7, 1972. The Prescription Shop, Couer d'Alene. Large quantity of controlled substances taken: Dolophine, Pehaphen, Morphine Sulfate, Codeine, Demerol, etc.

April 14, 1972. White Pine Drug, Potlatch. Night burglary. Taken: Benzedrine, Amphetamine, Dexamyl, Demerol, Dexedrine, Eskabarb, Obedrin.

June, 1972. White Pine Pharmacy, Potlatch. Attempted burglary.

August, 1972. White Pine Pharmacy, Potlatch. Another attempted burglary.

August, 1972. Maag Prescription Center, Pocatello. Night break-in. Taken: Phenobarbital, Nembutal, Tuinal, needles and other drugs.

September, 1972. Owl Tri State Drug, Lewiston. $600 worth of drugs. No list.

October, 1972. Halliwell Drug Co. Pocatello. Break-in burglary. No list.

October 19, 1972. Cook Drug, Pocatello. Forced entry from adjoining building. Taken: Ritalin, Nembutal, Morphine Sulfate, Desoxyn, Dexedrine, Dilaudid.

January, 1973. McCreery Drug, Jerome. Night break-in. Very large quantity of controlled substances taken: Nembutal, Equanil, Darvon, Phenaphen w/Codeine, Carbrital, Cocaine, Demerol, Meperegan, Percobarb, Morphine Sulfate, Perc. Dimi, Biphetamines, Dextro-ampetamines

January 7, 1973. Dixon's Drug, Rathdrum. Taken: Dexamyl, Ritalin, Eskatrol, Leritine, Obedrin-LA, Percodan, Biphetamines, Preludin, syringes and needles.

January, 1973. Rod's Drug, Orofino. 2500 pills. (not known what).

January 29, 1973. Kamiah, Drug, Kamiah. Opium, Tinc. Opium, Tuinal, Seconal, syringes and needles taken.

February 10, 1973. Amos Idaho Drug, Boise. Darvon and other drugs taken.

July 21, 1973. Halliwell Drug Company, Pocatello. Large quantity of Desarex, Desbutal, Desoxyn, Dexendrine, Morphine, Ritalin, Nembutal, and other drugs taken. Night break-in.

By Mr. McINTYRE:

S. 2328. A bill to require that certain information about gasoline be disclosed to consumers. Referred to the Committee on Commerce.

CONSUMER FUEL DISCLOSURE ACT OF 1973

Mr. McINTYRE. Mr. President, today I am introducing legislation that will eliminate confusion among motorists about the quality of the gasoline needed in their cars, help lessen the depletion of a precious national resource, and result in savings for the gasoline consumer.

The Consumer Fuel Disclosure Act of 1973 will require the following:

The posting of octane ratings and other information concerning gasoline additives on all gasoline pumps.

The posting of minimum recommended octane requirements in all automobiles.

The disclosure of octane ratings and additive information in all gasoline advertising, coupled with substantiation of performance claims by gasoline manufacturers.

Mr. President, the need for this legislation is clear.

First, there is a pressing need to eliminate confusion among motorists. Automotive gasoline is a mixture of various chemicals, composed of varying amounts of 3,839 possible olefins, 661 possible parafins, numerous aromatics, and about 800 naphthenic compounds. The resulting formulas possibilities are endless. As one writer has put it:

No consumer item confuses the American public as does gasoline. The average motorist spends $300 a year to fuel his car and yet he knows very little about this smelly chemical mixture . . . There is a hidden curtain of secrecy about gasoline which frustrates him.

How safe are the additives used in gasoline? Will lead-free gasoline hurt my engine? What brand should I use in my car? . . . How can I judge a better grade of fuel or blend of fuel? . . . Answers to these questions and many similar questions are not easily found.

These are extremely important questions, Mr. President, because their answers may lead to improved performance of an individual's automobile, and substantial savings for the motorist. A recent article in the Washington Post estimated that motorists pay between $50 and $75 too much each year for gasoline merely because they buy gas with a higher octane rating than is needed for their cars.

Every motorist knows that the higher the octane, the more a particular gasoline will cost. But how many know that using so-called premium gasoline in a car that will run on regular adds nothing to the car's performance. The extra expense is pure waste.

Using extra, unnecessary octane does not not only result in a waste of dollars to the consumer. Perhaps more significant in these times of energy crisis, the overuse of octane contributes directly to the fuel shortage in our Nation. High octane gasoline requires a greater amount of basis crude oil than does a gasoline with a lower octane rating. The Oil Daily states that lowering the octane rating by a single number enables oil refiners to produce up to 5 percent more gasoline.

Mr. President, the implementation of this legislation is feasible and should manifest no problems of compliance. Octane numbers are already posted, for instance, on standard and premium gasoline pumps in the State of Maryland and under phase 4 regulations in every State. Other posting requirements related to the Economic Stabilization Act were promulgated by the Price Commission during phase 2, that is, Price Commission Regulations, section 300.13, which required much more detail to be provided by regulated firms, yet which have been substantially complied with by retailers throughout the economy. This has occurred without any substantial inconvenience to any industry and resulted in a net benefit to the consumer. The result in case of this legislative proposal should be no different.

In fact, this legislation proposed today will only seek to continue a program of octane posting already initiated under phase IV regulations. Under phase IV the proposed regulations would require:

SUBPART L—PETROLEUM AND PETROLEUM PRODUCTS

§ 150.353 *Ceiling price rule: Retail sales.*

c) Posting. Each retailer of gasoline shall post on each pump that he uses to dispense gasoline the ceiling price and the minimum research octane rating (as described in the American Society for Testing Materials (ASTM) "Standard Specifications for Gasoline" (D439–70) of the gasoline sold from that pump.

To be sure, though, today's legislative proposal does go further by providing posting of the octane requirements in cars as well as on gasoline pumps. Logically, it does little good to inform the consumer of gasoline quality without informing him also of his engine needs.

The consumer's difficulties in making an intelligent choice among the many gasolines on the market are compounded by excessive and not always informative advertising. Since advertising plays such a vital role in the consumer's choice of brand of gasoline, the oil companies spend a considerable amount of money on advertising.

Six major oil companies are among the top 100 major advertisers in the country. They include:

Rank	Company	Total spent	Network television
42	Shell Oil Co	$27,741,200	9,647,400
53	Texaco Inc	21,435,000	893,300
58	Exxon	20,257,400	8,971,600
77	Standard Oil of Indiana	16,788,400	6,697,800
81	Gulf Oil Co	16,241,700	10,761,700
87	Mobil Oil Corp	14,491,300	5,932,400

Source: Advertising Age, June 25, 1973, the Top 100 National Advertisers of 1972, p. 51.

Such high advertising expense constitutes an almost insurmountable barrier for new competition to challenge effectively. Consequently, there is no pressing desire among these companies to alter their advertising strategy from image advertising to a more consumer oriented approach.

This is exactly what the legislation I am proposing today will do. It will mandate certain information be carried in all gasoline advertising. Since one major characteristic of gasoline is its antiknock factor, this bill specifically requires information about octane to be included in all advertising. Such a requirement will help prevent the confusion caused by such vague terms as "regular," "super regular," "premium," "economy," and so forth.

There can be no question that this legislation covers an appropriate area for Federal regulation. The subject is at the heart of interstate commerce itself. Furthermore, although many States currently regulate the quality and purity of gasoline, only one, Maryland, requires posting of octane information.

The FTC has made a commendable attempt to require posting of octane ratings.

The FTC rulemaking was first proposed after 4 days of hearings in October 1969. The rule was promulgated in January 1970, but rehearing was granted to consider the type of octane number to employ. The industry successfully argued to the FTC that any posting requirement should employ the R+M/2 method of calculating the octane number which more accurately describes the octane levels possible to achieve with current refineries, instead of the research octane number, which is useful for laboratory purposes but not practical in application to the industry, despite the industry's use of these numbers in their advertising for years. After rehear-

ing, the rulemaking was reissued in modified form by the FTC on December 16, 1971, to become effective March 15, 1972. Prior to its effective date, the industry obtained a permanent injunction against the enforcement of the rule from Judge Aubrey Robinson of the U.S. District Court, District of Columbia. Judge Robinson found that the FTC had overstepped its statutory authority in promulgating such a rule. *National Petroleum Refiners Association* v. *Federal Trade Commission* (340 F. Supp. 1343).

This decision was reversed and remanded on June 27, 1973, by the Circuit Court of Appeals for the District of Columbia—slip opinion No. 72–1446. It is likely that the industry will further appeal the decision to the Supreme Court of the United States, but such a Consumer Fuel Disclosure Act appeal has not yet been taken. In any event the issue will probably be tied up in courts for another few years. This is why we must act now on Federal legislation. In addition to this, the Federal Trade Commission's regulations were much more narrow in scope than what is presently envisoned in the legislation being introduced today.

Mr. President, from the consumers' standpoint, a requirement that gasoline stations post octane numbers and other information is a worthwhile law. A corresponding requirement that automobile manufacturers identify the optimum octane rating for their engines is a necessary corollary. If the consumer knows the recommended fuel for his vehicle, and can easily determine at the gas station which pump to select, he will neither pay too much by selecting a higher octane, more expensive fuel than he needs, nor will he risk damage to his engine by using lower octane gasoline than is necessary.

The legislation I introduce today, while costing very little, will result in important savings to the consumer, and more efficient use of our petroleum resources.

I ask unanimous consent that the text of the bill and a section-by-section analysis be printed in the RECORD.

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

S. 2328

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 "Consumer Fuel Disclosure Act of 1973."

SEC. 2 The Purposes of this Act are—

(1) To assist consumers in avoiding the purchase of automotive gasoline with octane ratings unnecessarily high for the proper operation of their automobiles;

(2) To assist consumers in avoiding the payment of unnecessarily high prices for automotive gasoline due to a lack of ability to evaluate performance claims advertised for that product and due to a lack of objective, positive information regarding the quality and performance of automotive gasoline;

(3) To enhance competition in the sale to consumers of automotive gasoline.

SEC. 3. As used in this Act, the term—

(1) "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Canal Zone, and American Samoa;

(2) "interstate commerce" means commerce between any place in a State and any place in another State, or between places in the same State through another State;

(3) "octane rating" means the measurement of the anti-knock characteristics of gasoline for use as an automotive fuel, measured in accordance with regulations prescribed by the Federal Trade Commission;

(4) "additive" means any chemical ingredient added to gasoline for use as an automotive fuel to improve the combustion characteristics of such fuel, to reduce the malfunctioning or maintenance or extend the useful life of the engines in which it is used or to achieve any other additional or asserted combination of functions;

(5) "consumer" means any person who purchases gasoline for an automobile for purposes other than resale;

(6) "retail distributor of gasoline" means a person who sells gasoline to an ultimate consumer;

(7) "gasoline" means gasoline used in automobile engines, but does not include fuel dispensed for use in airplane engines, boat engines, or other engines used in non-automotive forms of transportation; and

(8) "Commission" means the Federal Trade Commission.

PROVISION OF FUEL INFORMATION

SEC. 4(a)(1) After the effective date of this Section, the shipment, transportation, or sale of gasoline in interstate commerce, or the shipment, transportation, or sale of gasoline which has been shipped in interstate commerce, is prohibited unless the person offering such gasoline for shipment, transportation or sale to one other than a consumer has certified in writing at or prior to the time of delivery of such gasoline to the person receiving such gasoline for resale or distribution (A) the octane rating, and (B) such other product information pertaining to such gasoline as the Commission shall by regulation require.

(2) After the effective date of this section, the sale to a consumer of gasoline which has been shipped, transported or sold, or is offered for sale, in interstate commerce, is prohibited unless the person offering such gasoline for sale to consumers has affixed to the unit from which gasoline is dispensed to the consumer a label clearly stating the octane rating and such other information pertaining to such gasoline as the Commission shall by regulation require.

(3) After the effective date of this section, no gasoline which has been shipped or transported in interstate commerce shall be sold or offered for sale to consumers unless all advertising and other promotional information about such gasoline clearly discloses the octane rating and such other information about such gasoline as the Federal Trade Commission shall by regulation prescribe.

(b) No automobile manufactured after the effective date of this section which has been manufactured, shipped, or transported in interstate commerce shall be sold or offered for sale to a consumer unless the manufacturer of such automobile provides written information to the consumer of such automobile stating the octane or octanes of gasoline appropriate for use in the engine of such automobile, and such other information relating to gasoline appropriate for use in the engine of such automobile as the Commission shall by regulation prescribe.

(c) The information required to be disclosed under subsection (a) shall meet such requirements as to form and content, and any label required to be displayed shall be affixed in such location on the unit from which gasoline is dispensed, as the Commission shall by regulation prescribe. The information required to be disclosed under subsection (b) shall be posted in or on the automobile or included in literature furnished by the manufacturer to the consumer of the automobile, or both, as the Commission shall by regulation prescribe.

PENALTIES

SEC. 5. (a)(1) Violation of the provisions of section 4(a)(1) of this Act or any regulation promulgated pursuant to such section is a misdemeanor punishable by a fine not in excess of $5,000 for each day in which any delivery of such gasoline is made.

(2) Violation of the provisions of Section 4(a)(2) of this Act or any regulation promulgated pursuant to such section is a misdemeanor punishable by a fine not in excess of $100 for each day on which any sale of such gasoline is made.

(3) Violation of the provisions of Section 4(a)(3) of this Act or any regulation promulgated pursuant to such section is a misdemeanor punishable by a fine not in excess of $5,000 for each publication of an advertisement.

(4) Violation of the provisions of Section 4(b) of this Act or any regulation promulgated pursuant to such section is a misdemeanor punishable by a fine not in excess of $300 for the sale of an automobile by a manufacturer, and not in excess of $100 for the sale of an automobile by a person other than the manufacturer.

(b) Violation of any provision of this Act or any regulation promulgated under this Act is an unfair or deceptive act or practice in commerce under Section 5(a)(1) of the Federal Trade Commission Act [15 U.S.C. 45 (a)(1)].

COMMISSION STANDARDS, STUDIES AND ENFORCEMENT

SEC. 6 The Commission shall—

(1) establish standard methods to measure octane and to establish other methodologies and testing procedures to insure the purity and content of gasoline;

(2) conduct a full and complete study of the quality of performance of various brands of gasoline of which substantial sales in interstate commerce are made, the impact of such gasoline on automobile deterioration, and the feasibility of standardizing gasoline formulae, and report the findings of such study to the Congress;

(3) require manufacturers of gasoline which has been moved or is intended to be moved in interstate commerce or in commerce affecting interstate commerce to provide adequate substantiation of any claim advertised with respect to the performance of such gasoline or any additive, and

(4) perform spot tests of the quality of various brands of gasoline which has been moved in interstate commerce or in commerce affecting interstate commerce and provide semi-annual reports on the testing procedure and the results disclosed by such tests.

EXEMPTION FROM FEDERAL REPORTS ACT

SEC. 7. The requirements of the Federal Reports Act of 1942 (44 U.S.C. 3501 et. seq.) shall not apply to any forms issued by the Commission in connection with this Act. Should the Commission issue any public use forms to ten or more companies the Commission shall seek the advice of the Comptroller General as to the formulation of the form and collection methods prior to issuance.

TIME FOR ISSUANCE OF REGULATIONS

SEC. 8. The Commission shall issue regulations prescribing the form, content, and location of the information required under Section 4 not later than one year after the enactment of this Act.

EFFECTIVE DATE

SEC. 9. This Act shall take effect one year after the date of enactment, except that Sections 6 and 7 shall take effect on the date of enactment.

AUTHORIZATION OF APPROPRIATIONS

SEC. 10. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

SECTION-BY-SECTION ANALYSIS OF THE CONSUMER FUEL DISCLOSURE ACT OF 1973

Sec. 2 *Purposes*—To assist consumers in the purchase of automobile gasoline by providing necessary information regarding octane and additives.

Sec. 3 *Definitions.*

Sec. 4 *Disclosure Provisions*—(a) (1) & (2) This section provides a system whereby the octane rating of automotive gasoline is required to be disclosed to each party in the wholesale-retail marketing and distribution chain. Also to be disclosed is such other information about additives and content as the FTC may require. All sales other than to the ultimate consumer must be accompanied by a certificate in writing of the octane rating and other necessary information regarding the gasoline. Similar information must be posted on the gasoline pump. The FTC is authorized to enact standards regarding the manner and form of the disclosures.

(3) All advertising concerning gasoline must disclose the octane rating and other information the FTC may require.

(4) Requires automobile manufacturers to notify the consumer of the appropriate octane rating for gasoline to be used in the engine of each new automobile produced, according to regulations to be promulgated by the FTC.

Sec. 5 *Penalties*—Violations are misdemeanors punishable by fines varying from $100 to $5000, depending on the offender. FTC and Justice Department can enforce the Act.

Sec. 6 *Commission Standards, Studies & Enforcement*—

(a) Authorizes and requires the FTC to establish standards to measure octane and other additives to gasoline.

(b) Authorizes an FTC study of gasoline formulae and the feasibility of standardization.

(c) Authorizes the FTC to require advertising substantiation of gasoline performance claims.

(d) Authorizes the FTC to conduct spot tests of gasoline and provide semi-annual reports to Congress on the results of the tests.

Sec. 7 *Exemption From Federal Reports Act*—This section exempts forms produced by the FTC in connection with this Act from the requirements of the Federal Reports Act of 1942.

Sec. 8 *Issuance of Regulations*—Requires the FTC to issue regulations under Sec. 4 not later than one year from enactment.

Sec. 9 *Effective Date*—The Act takes effect one year from date of enactment, except that Sections 6 and 7 shall take effect on the date of enactment.

Sec. 10 *Authorization of Appropriations*—Authorizes such sums as are necessary to carry out the provisions of the Act.

By Mr. TOWER:

S. 2329. A bill to amend chapter 5 of title 37, United States Code, to revise the special pay structure relating to certain members of the uniformed services. Referred to the Committee on Armed Services.

Mr. TOWER. Mr. President, during the past year, the Department of Defense has moved toward an all-volunteer Army with commendable expediency and with a minimum of disruption. Vigorous recruitment, pay raises, and changes in personnel policies have enabled the services to approach their enlistment goals in terms of numbers as well as quality. However, we may still anticipate difficulties in meeting critical manpower needs, such as health professionals; therefore, I rise to introduce a bill which would provide special pay for physicians, dentists, and other health professionals for which the Secretary found there to be a critical need.

Although it is true "that an army moves on its stomach," I feel that the provision of medical services is no less essential. We must take any and all necessary steps to insure that our Nation's armed services are served by healthy men and women. Special pay, and other programs, are all designed to provide sufficient health manpower, which if properly deployed, can meet the health care needs of members of the armed services.

During the 92d Congress, we passed H.R. 2, which provides for the establishment of the health university of the uniformed services capable of producing 100 medical students per year by 1982. To provide health personnel during the interim years and to supplement the efforts of the university when it is established, the law provides for 5,000 health scholarships. The scholarships pay for tuition, laboratory fees, books, and a monthly stipend. In return, the student accepts an obligation of 1 year of service for each year or portion thereof during which he receives a subsidy. During the first year, the interest in the scholarship program has been high. The willingness of students to commit themselves, at least for a minimum number of years, will greatly assist the armed services in meeting its health manpower needs during the seventies.

Nevertheless, in order to provide the armed services with senior medical officers capable of providing leadership and continuity, we must also address the issue of retention. A health professional considers many things when deciding whether or not to remain in the service. These include continuing education, duty assignments, methods of practice, and salary. If we are to retain experienced medical personnel, we must address these concerns. The establishment of the university should enhance the quality of medicine practiced in the service. Programs to expand the opportunities for continued education will greatly enhance the attractiveness of a career in the Armed Forces. Longer tours of duty and duty assignments consistent with a physician's specialization are other improvements which should be undertaken wherever possible. Freeing health professionals from clerical and administrative chores as well as providing them with the support of well-trained allied health manpower teams will greatly enhance the attractiveness of a medical practice in the military. Finally, pay must be considered in order to reduce the great disparity which exists between the pay for military officers and that of civilian practitioners.

We can no longer correct deficencies in the delivery of health care in the Armed Forces by drafting an additional number of physicians as cheap, temporary, professional help. We must undertake those programs necessary to assure an experienced, competent and dedicated corps of health professionals.

By Mr. THURMOND:

S. 2330. A bill to provide for the increase of capacity and the improvement of operations of the Panama Canal, and for other purposes. Referred to the Committee on Armed Services.

Mr. THURMOND. Mr. President, I am today introducing a bill for the major modernization and improvement of the Panama Canal. This bill is identical to H.R. 1517, introduced in the House by Mr. FLOOD of Pennsylvania, and similar to the measures for the enactment of the Terminal Lake-Third Locks plan which I have introduced in previous Congresses. I ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks, and that it be referred to the Armed Services Committee as were its predecessors.

The advantages of this proposal are primarily twofold. On the technical side, it would increase the capacity both in regard to the size of vessels and the number of transits, and on the diplomatic side, it would provide an opportunity to strengthen our present troubled relationship with Panama.

Mr. President, the advantages of the Terminal Lake-Third Locks plan are such that it has been strongly endorsed this month by the largest organization of American flag shipowners, the American Maritime Association. I have also received a lengthy letter endorsing the plan from Constantine G. Gratsos, executive vice president of Victory Carriers of New York. Victory Carriers is the American flag line of the Aristotle Onassis worldwide shipping interests, and thus the letter carries with it in the maritime field the prestige of Mr. Onassis' expertise.

Mr. President, I ask unanimous consent that the letter from Mr. Gratsos also be printed in the RECORD at the conclusion of my remarks.

Before I go into detail about the technical improvements proposed in my bill, I would like to touch briefly upon its impact on international affairs. As everyone knows, our relationship with Panama has been aggravated by uncertain and dubious policies pursued by the U.S. State Department, and by calculated anti-Americanism on the part of certain elements in Panama. A massive undertaking such as this would afford many opportunities to work closely with constructive elements in Panama and improve the standard of living for every level of Panamanian society. Moreover, when completed, the plan would maximize employment of Panamanian citizens in Canal operations.

The question of new treaties with Panama is largely irrelevant to the undertaking of the improvements proposed in my bill. The juridical history clearly shows that such improvements would not change the basic alinement of the Canal Zone boundaries and thus would require no new treaties for construction to begin. In fact, the State Department has recently reiterated that the United States interprets the Treaty of 1903 as granting the United States by implication the right to expand the Panama Canal within the boundaries of the Canal Zone. The State Department went on to point out that this right was asserted and accepted by Panama in 1939 when construction was started on the earlier Third Locks project, a project which was stopped by World War II.

In my judgment, it would be rash in the extreme to disturb our historic sovereign rights in the Canal Zone. On the other hand, the guidelines for the present negotiations include the stipulation that any final treaty would have to contain permission to implement the Terminal Lake-Third Locks plan. When the major modernization program goes forward, Congress would merely be adding this new factor to its overall consideration of the merits of a new treaty.

The Terminal Lake-Third Locks plan has two closely related basic features: The increase of lock capacity; and operational improvement. The two aims are achieved hand in hand.

As those familiar with the Panama Canal know, the canal consists of a fresh water channel 87 feet above mean sea level. This channel was created by the damming of the Chagres River near its outlet into the Caribbean. On the Atlantic end, a vessel rises to the summit level by three lifts of locks grouped together. There are two lanes of these triple lifts. The vessel then crosses Gatun Lake, the artificial lake, until it comes to Gaillard Cut. This is a narrow channel, originally 300 feet wide, but recently widened to 500 feet, cut through the rock of the continental divide.

This narrow channel ends in the bottleneck of the Pedro Miguel locks. At Pedro Miguel, there is a one-lift lock, down to the level of Miraflores Lake. The vessel crosses this small lake to the Miraflores locks, which consist of two steps down to sea level.

This arrangement was a major flaw in the design of the original canal. As the vessel approaches the narrow bottleneck of the Pedro Miguel locks, it may experience navigational problems slowing down or stopping in a narrow channel. Studies have shown that there is a disproportionate number of accidents in this area. Only a few months ago, a Republic of China registry vessel, the *Shozan Maru* was removed after having been sunk near the bank near Pedro Miguel for nearly 2 years. Because of legal and engineering problems, the vessel remained a hazard to navigation during that period.

Moreover, once a vessel gets past Pedro Miguel, it must go through the operational procedures for locking once more at Miraflores locks. At the Atlantic end, the three lifts can be done in one coordinated operation, but at the Pacific end, the operation must be done twice.

The major feature of the Terminal Lake-Third Locks plan is that it would raise the level of Miraflores Lake to the summit level, and reconstruct the locks in triple-lift fashion near Aguadulce. The Pedro Miguel locks—and the bottleneck—would be removed. The vessel could pass into a terminal lake for anchorage or maneuvering preparatory to entering the locks, and then pass through the triple-lift locks in one coordinated operation. This would speed up operations and reduce navigational hazards.

Two lanes of the new Pacific locks would be the same dimensions as at present—110 feet by 1,000 feet. A third lane—the so-called Third Locks—would be added with dimensions 140 feet by 1,200 feet. At the Atlantic terminal, the present locks would remain, while a third lane would be constructed with dimensions of 140 feet by 1,200 feet. Thus the arrangement at each end would be symmetrical.

The new locks would be constructed in the excavations which were begun in 1941 for the earlier Third Locks project at each end of the canal and upon which $76 million was spent. The excavations, as I pointed out earlier, were halted as a result of developments in World War II, a fortunate circumstance, since further study revealed important errors in overall design. All of the work done in these excavations would be usable in the revised Terminal Lake-Third Locks plan.

These new dimensions were arrived at after years of study as the best compromise between economy in construction, prudent use of water resources, and the toll structure. While it would not allow the passage of the big supertankers, it must be recognized that most of these vessels were designed for trade routes for which no transit of the Canal would be required. For example, the large crude oil carriers which we are now building, all in excess of 225,000 tons, will be used to bring oil from the Persian Gulf area to deep water facilities off the U.S. east coast. Moreover, the economies of scale with the big supertankers are such that tolls at any reasonable level—and even in a sea level canal—would be so high per transit that it would be cheaper to pay the costs of sailing around the capes rather than to transit the canal.

The proposed dimensions would accommodate virtually all ships in the U.S.-flag merchant fleet today, and most in the world fleet. At present the canal dimensions limit transits to ships of a maximum of 60,000 to 80,000 tons. The proposed dimensions would limit transits to ships of 120,000 tons laden, and 100,000 tons lightened. This would enable the use of 120,000-ton ships to carry liquified natural gas from Siberia and Alaska to the east coast. It would also allow any crude oil from the Alaska pipeline which is in excess of the west coast requirements to be carried efficiently to refiners in gulf ports, east coast, or Puerto Rico.

It has been estimated that the present capacity of the canal will be reached by the end of this century. But present estimates are now being rapidly downgraded because of a new shipping phenomenon that has emerged in the past year—the rapid increase of ships being built to fit the present canal maximum dimensions. These new vessels, referred to as Panamax ships, have been engineered to take advantage of the maximum benefits obtained through canal passage. The first of these, the *Tokyo Bay*, which made its maiden transit last year, has a clearance of only 18 inches on each side in the locks. The Panama Canal Co. handles these transits with consummate skill and safety, but they take infinitely more care and attention.

Moreover, the proposed new dimensions would undoubtedly stimulate the construction of what might be called Panamax II ships. Panamax II ships would change the patterns of shipping to more efficient configurations that do not show up in current projections and estimates. In combination with containerization, the net advantage to the U.S. consumer would be significant.

I would also like to mention briefly that the Terminal Lake-Third Locks plan would preserve the existing ecology of the Isthmus. The fresh water of the canal maintains the centuries-old barrier between the Atlantic and Pacific oceans. The development of salt water species in each ocean has proceeded independently, and scientists are convinced from observation and experiment that the mixture of the species, as would occur with a sea level canal, could have a devastating effect on valuable species that are not used to coping with predators from another ocean. This topic was covered not long ago in a major symposium at the Smithsonian Institution—which has a research station in the Canal Zone working on the problem. More recently, the biological hazards of the sea-level canal proposal were discussed at length last September at the International Scientific Congress at Monaco.

The disappearance of even one species which is an important protein supply to world food needs could be tragic. As an example, the American housewife is already feeling the effects of the disappearance of Peruvian anchovies, apparently from overfishing, which were a major source of cheap fishmeal for chicken feed. Opening up the isthmus to a sea-level passage could well be opening up a Pandora's box for the world's food supply.

The Terminal Lake-Third Locks plan would provide needed improvements in the canal's capacity without disturbing the ecology of the region. For this reason, major environmental groups look upon the Terminal Lake-Third Locks plan as a positive step in averting ecological disaster.

Mr. President, the energy crisis is not the only situation that is causing us to revise the estimates of future world shipping. The food crisis is also going to be an important factor in U.S. trade. It now appears that the United States will be the largest exporter of food in the world. Already most cargoes that either enter or leave U.S. ports pass through the canal going or coming. The importance of the canal to our future export economy will bring about a new appreciation of its role in enhancing our national security.

The Terminal Lake-Third Locks plan was developed in the Panama Canal organization as a result of World War II experience, and has won the support of important maritime interests, experienced navigators and engineers. It is still recognized as the only practical alternative to proposals for a sea-level canal, and is the only feasible economic improvement plan, period. In commenting on the advantages of the Terminal Lake-Third Locks plan, Canal Zone Gov. David S. Parker summarized its advantages from an engineering point of view:

> It would cost considerably less than a sea-level canal. Navigation through such a canal would be relatively simple because it would make use of the existing Gatun Lake, avoiding the currents and initially narrow channel of a sea-level canal. It would not alter materially the ecology of the area, Gatun Lake would be retained in its present

form, and there would be a barrier to the movement of biota from one ocean to another.

The letter of Mr. C. G. Gratsos, which I mentioned earlier, is also specific, from a navigational point of view. Mr. Gratsos says:

Ever since the opening in 1914 of the canal, thoughtful mariners have often asked why the Atlantic end of the Canal has only one group of 3-lift locks to raise vessels from sea level to the Gatun Lake level, about 85 feet high, while at the Pacific end of the Canal there are two groups of locks separated by a small intermediate level Miraflores Lake, 54 feet above mean sea level.

These experienced navigators generally recognize the differences between the two ends of the canal and have often reported to their operating companies about the double set of difficulties experienced when transiting the Pacific Locks. I have observed these difficulties from personal observation during transit of the Canal.

Mr. Gratsos concludes as follows:

The recommended modernization program involves much work; two years for planning and about eight years for construction. Prompt passage of the bill is recommended.

Mr. President, my bill would provide for the construction of the project as described, for the appointment of a Panama Canal Advisory and Inspection Board to review and approve all plans for construction, and for the authorization of $950 million, of which $45 million would be the initial appropriation.

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

S. 2330

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 "Panama Canal Modernization Act."

SEC. 2. (a) The Governor of the Canal Zone, under the supervision of the Secretary of the Army, is authorized and directed to prosecute the work necessary to increase the capacity and improve the operations of the Panama Canal through the adaptation of the Third Locks project set forth in the report of the Governor of the Panama Canal, dated February 24, 1939 (House Document Numbered 210, Seventy-sixth Congress), and authorized to be undertaken by the Act of August 11, 1939 (53 Stat. 1409; Public Numbered 391, Seventy-sixth Congress), with usable lock dimensions of one hundred and forty feet by one thousand two hundred feet by not less than forty-five feet, and including the following: elimination of the Pedro Miguel Locks, and consolidation of all Pacific locks near Agua Dulce in new lock structures to correspond with the locks capacity at Gatun, raise the summit water level to its optimum height of approximately ninety-two feet, and provide a summit-level lake anchorage at the Pacific end of the canal, together with such appurtenant structures, works, and facilities, and enlargements or improvements of existing channels, structures, works, and facilities, as may be deemed necessary, at an estimated total cost not to exceed $950,000,000, which is hereby authorized to be appropriated for this purpose: *Provided, however,* That the initial appropriation for the fiscal year 1974 shall not exceed $45,000,000.

(b) The provisions of the second sentence and the second paragraph of the Act of August 11, 1939 (53 Stat. 1409; Public Numbered 391, Seventy-sixth Congress), shall apply with respect to the work authorized by subsection (a) of this section. As used in such Act, the terms "Governor of the Panama Canal", "Secretary of War", and "Panama Railroad Company" shall be held and considered to refer to the "Governor of the Canal Zone", "Secretary of the Army", and "Panama Canal Company", respectively, for the purposes of this Act.

(c) In carrying out the purposes of this Act, the Governor of the Canal Zone may act and exercise his authority as President of the Panama Canal Company and may utilize the services and facilities of that company.

SEC. 3. (a) There is hereby established a board, to be known as the "Panama Canal Advisory and Inspection Board" (hereinafter referred to as the "Board").

(b) The Board shall be composed of five members who are citizens of the United States of America. Members of the Board shall be appointed by the President, by and with the advice and consent of the Senate, as follows:

(1) one member from private life, experienced and skilled in private business (including engineering);

(2) two members from private life, experienced and skilled in the science of engineering;

(3) one member who is a commissioned officer of the Corps of Engineers, United States Army (retired); and

(4) one member who is a commissioned officer of the line, United States Navy (retired).

(c) The President shall designate as Chairman of the Board one of the members experienced and skilled in the science of engineering.

(d) The President shall fill each vacancy on the Board in the same manner as the original appointment.

(e) The Board shall cease to exist on that date designated by the President as the date on which its work under this Act is completed.

(f) The Chairman of the Board shall be paid basic pay at the rate provided for level II of the Executive Schedule in section 5313 of title 5, United States Code. The other members of the Board appointed from private life shall be paid basic pay at a per annum rate which is $500 less than the rate of basic pay of the Chairman. The members of the Board who are retired officers of the United States Army and the United States Navy each shall be paid at a rate of basic pay which, when added to his pay as a retired officer, will establish his total rate of pay from the United States at a per annum rate which is $500 less than the rate of basic pay of the Chairman.

(g) The Board shall appoint, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, a Secretary and such other personnel as may be necessary to carry out its functions and activities and shall fix their rates of basic pay in accordance with chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates. The Secretary and other personnel of the Board shall serve at the pleasure of the Board.

SEC. 4. (a) The Board is authorized and directed to study and review all plans and designs for the Third Locks project referred to in section 2(a) of this Act, to make on-the-site studies and inspections of the Third Locks project, and to obtain current information on all phases of planning and construction with respect to such project. The Governor of the Canal Zone shall furnish and make available to the Board at all times current information with respect to such plans, designs, and construction. No construction work shall be commenced at any stage of the Third Locks project unless the plans and designs for such work, and all changes and modifications of such plans and designs, have been submitted by the Governor of the Canal Zone to, and have had the prior approval of, the Board. The Board shall report promptly to the Governor of the Canal Zone the results of its studies and reviews of all plans and designs, including changes and modifications thereof, which have been submitted to the Board by the Governor of the Canal Zone, together with its approval or disapproval thereof, or its recommendations for changes or modifications thereof, and its reasons therefor.

(b) The Board shall submit to the President and to the Congress an annual report covering its activities and functions under this Act and the progress of the work on the Third Locks project and may submit, in its discretion, interim reports to the President and to the Congress with respect to these matters.

SEC. 5. For the purpose of conducting all studies, reviews, inquiries, and investigations deemed necessary by the Board in carrying out its functions and activities under this Act, the Board is authorized to utilize any official reports, documents, data, and papers in the possession of the United States Government and its officials; and the Board is given power to designate and authorize any member, or other personnel, of the Board, to administer oaths and affirmations, subpena witnesses, take evidence, procure information and data, and require the production of any books, papers, or other documents and records which the Board may deem relevant or material to the performance of the functions and activities of the Board. Such attendance of witnesses, and the production of documentary evidence, may be required from any place in the United States, or any territory, or any other area under the control or jurisdiction of the United States, including the Canal Zone.

SEC. 6. In carrying out its functions and activities under this Act, the Board is authorized to obtain the services of experts and consultants or organizations there in accordance with section 3109 of title 5, United States Code, at rates not in excess of $200 per diem.

SEC. 7. Upon request of the Board, the head of any department, agency, or establishment in the executive branch of the Federal Government is authorized to detail, on a reimbursable or nonreimbursable basis, for such period or periods as may be agreed upon by the Board and the head of the department, agency, or establishment concerned, any of the personnel of such department, agency, or establishment to assist the Board in carrying out its functions and activities under this Act.

SEC. 8. The Board may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

SEC. 9. The Administrator of General Services or the President of the Panama Canal Company, or both, shall provide, on a reimbursable basis, such administrative support services for the Board as the Board may request.

SEC. 10. The Board may make expenditures for travel and subsistence expenses of members and personnel of the Board in accordance with chapter 57 of title 5, United States Code, for rent of quarters at the seat of government and in the Canal Zone, and for printing and binding as the Board deems necessary to carry out effectively its functions and activities under this Act.

SEC. 11. All expenses of the Board shall be allowed and paid upon the presentation of itemized vouchers therefor approved by the Chairman of the Board or by such other member or employee of the Board as the Chairman may designate.

SEC. 12. There are hereby authorized to be apropriated to the Board each fiscal year such sums as may be necessary to carry out its functions and activities under this Act.

SEC. 13. Any provision of the Act of August 11, 1939 (54 Stat. 1409; Public Numbered 391, Seventy-sixth Congress), or of any

other statute, inconsistent with any provision of this Act is superseded, for the purposes of this Act to the extent of such inconsistency.

CONSTANTINE G. GRATSOS,
New York, N.Y., July 16, 1973.

Senator STROM THURMOND,
U.S. Senate,
Washington, D.C.

DEAR SENATOR THURMOND: As Executive Vice President of Victory Carriers, Inc., a New York based carrier, operating ships which utilize the Panama Canal, I would like to share some views with you which may be helpful in the consideration of legislation for the major modernization of the Panama Canal.

The value of having a waterway across the Isthmus has been recognized since the age of discovery. Saving about 8000 nautical miles for intercoastal voyages, its continued efficient operation is a manner of prime importance. Interoceanic commerce is concerned primarily with its continued safe, expeditious and convenient transit.

Ever since the opening in 1914 of the canal thoughtful mariners have often asked why the Atlantic end of the canal has only one group of 3 lifts locks to raise vessels from sea level to the Gatun Lake level, about 85 feet high, while at the Pacific end of the Canal there are two groups of locks separated by a small intermediate level Miraflores Lake, 54 feet above mean sea level.

These experienced navigators generally recognize the differences between the two ends of the canal and have often reported to their operating companies about the double set of difficulties experienced when transiting the Pacific Locks. I have observed these difficulties from personal observation during transit of the canal.

For more than half a century every vessel that has passed through the Pacific Locks has had to make two approaches, make fast twice to towing locomotives, and let go twice as compared to only once for these operations at Gatun. The Pacific arrangement has involved not only loss of transit time but has also added to the danger of marine accidents. Our ship masters have often stressed the marine operational benefits that would accrue from the consolidation of the Pacific Locks in three lifts as close to the seas as possible so as to correspond with the layout at Gatun.

The crucial tests of World War II and marine operational studies incident thereto made in the Panama Canal organization inspired the development by the personnel in that agency of a proposal for the future canal based upon navigational experience, known as the Terminal Lake-Third Locks Plan.

Because of its inherent advantages, which are perfectly obvious, it makes a strong appeal to thoughtful mariners and their principals as the only logical solution of the Canal question when all its main aspects are considered. In this connection, I would emphasize that any plan that does not eliminate the bottle neck locks at Pedro Miguel does not merit the support of the Merchant Marine and from our point of view would be useless.

The problem of increasing the capacity of the Panama Canal has two elements of great interest to the merchant marine; locks and transit capacity.

The usable dimensions of the present locks are 110 feet by 1000 feet by 41 feet. While these dimensions are sufficient for a majority of the vessels that transit, the number of larger ones is steadily increasing to such a point that even Panama Canal pilots have publicly complained about the locks being too small for some of the traffic.

The fact that the transit capacity can be increased by certain improvements is not enough. With the exception of the widened Gaillard cut the Canal is essentially what it was when opened to traffic 59 years ago. Specifically, many ship masters have complained that the location of the Pedro Miguel Locks squarely across the mouth of Gaillard cut causes problems and loses time. Those who have studied the subject almost uniformly urge the elimination of these locks for an adequate modernization. As previously indicated, any plan that does not provide for the physical removal of these locks cannot solve the marine problems of the Canal. Instead it would perpetuate what experience has shown to have been the fundamental error in the design of the Panama Canal—the separation of the Pacific Locks.

What is needed for the Panama Canal is a two way ship channel through the continental divide with a traffic reservoir in the summit level at each end.

The reservoir at the Atlantic end is supplied by Gatun Lake; the needed basin at the Pacific end would be provided by the elevated Miraflores Lake. And such a canal would be the best canal for the transit of vessels and it would be provided by your bill. The recommended modernization program involves much work: two years for planning and about eight years for construction. Prompt passage of the bill is recommended.

In addition to the increase in capacity and safety provided by the Terminal Lake-Third Locks Plan ships would obtain the added benefit of an increase of the water supply which would reduce the present problems caused by seasonal shortages of water.

Major modernization of the Panama Canal would be expensive, of course. But as time goes on costs would inevitably increase so that it is mandatory to undertake the project at the earliest moment. Panama Canal tolls can be raised within reason, and I believe that any increase in tolls should be allocated toward the improvement of the canal, not only for the benefit of American shipping but for the commerce of the entire world.

Sincerely,

C. G. GRATSOS.

By Mr. THURMOND:

S. 2331. A bill to transfer the functions of the Passport Office to a new agency of the Department of State to be known as the "United States Passport Service", to establish a Passport Service Fund to finance the operations of the United States Passport Service, and for other purposes. Referred to the Comittee on Foreign Relations.

Mr. THURMOND. Mr. President, the bill which I am introducing today would provide three much needed changes in the structure of a vital public service organization, the Passport Office of the Department of State.

The bill provides first for an organizational change which recognizes the importance of this public service in the hierarchy of the State Department. It would establish a U.S. Passport Service within the Department of State with a Director responsible directly to the Secretary of State for the administration of the service. The structure of the service would be comparable to the Immigration and Naturalization Service in the Department of Justice and it would clear away some of the bureaucratic deadwood which has consistently impeded the progress of the Passport Office. The Passport Office is presently a constituent office of the Bureau of Security and Consular Affairs which is responsible through the Under Secretary for Management to the Secretary for its administration. This bureau, which is largely foreign service oriented, is not equipped to manage a growing public service organization. It has, for the most part, duplicated functions and snarled progress in endless redtape. The value of this Bureau can be judged by the fact that in 1970, a committee appointed by the Secretary of State headed by former Senator Leverett Saltonstall and composed of high ranking officials, both public and private, recommended that it be abolished as unnecessary.

Two previous in-house surveys of the Bureau of Security and Consular Affairs have come to the same conclusion. Since the Bureau was established by Congress, it can and should be abolished by Congress as a costly duplication of work performed by other areas of the Department of State.

My bill would provide that the Director of the new U.S. Passport Service would be appointed by the Secretary at the GS–18 level. What is most important about this proposal is that it would not subject the Service to the vagaries of either politically oriented Schedule C appointees or itinerant Foreign Service officers neither of which are equipped to provide the kind of continuity which a business type, technically oriented public service requires. It is a known fact the Passport Office citizenship attorneys, fraud detectors, and adjudicators require years of precedent experience to rate as experts in their fields.

The next major change which my bill would effect is to provide the Service with the authority to establish and maintain passport agencies and service offices where there is a need for convenient and efficient public service. My bill provides, with one exception, that any such agency or office must be self-sustaining within 1 year of its establishment. This means, in essence, that the fees which it collects must exceed the direct cost of its operation. At the present time, the Passport Office, in addition to its own facilities in Washington, operates 10 agencies located strategically around the United States. Each of these facilities returns revenue in excess of the direct cost of their operation.

In recent years, our Nation has grown rapidly and has become increasingly involved in international travel. The tremendous growth in air travel has created international ports of entry in areas never envisioned even 10 to 15 years ago. There is an urgent need for the establishment of additional facilities in various parts of the country to meet the growing passport, travel, and citizenship requirements of the public.

The third major provision of my bill would establish a passport service fund. This is essentially a revolving fund which would permit the Passport Service to use some of the revenue which it returns each year to the Treasury to provide the more efficient and convenient service to the public. The Passport Office has for years returned millions of dollars to the Treasury over and above its direct costs. In fiscal year 1972, for example, the Passport Office collected $25,955,783 in passport fees in the United States. Its direct domestic operating cost was $11,382,548. An excess or revenue of $14,573,235 was returned to the U.S. Treasury. To charge

up the high cost of the Foreign Service to this revenue in order to show a loss is absurd and deceptive.

So-called revolving funds are neither new nor unusual in the Federal Government. In 1968 there were 127 such revolving fund accounts in the Treasury Department. Of these, 89 were so-called public revenue enterprise funds such as established by my bill. A public enterprise fund is one which derives its revenue from sources totally outside the Government.

It is important to point out here that the establishment of this fund does not provide the Passport Service with authority for unbridled expenditures. My bill also provides for elaborate accounting procedures, an annual business-type budget and periodic audits by GAO with reports to the President and the Congress. The fund would simply provide much needed flexibility in financing the Passport Service which the outmoded budget procedures of the State Department simply cannot do.

In summary, Mr. President, I think that this bill will provide the organizational and financial flexibility needed in the passport operation to provide the kind of service to the public advocated by U.S. Presidents from both parties and, indeed, by a great many of my colleagues on both sides of the aisle in both Houses of the Congress. In this regard, I do not want to leave the impression that my bill is unique. Over the years since 1955 some 30 bills have been introduced in the House and the Senate containing some provisions similar to my proposal. Each one in turn has been objected to by the Department of State. However, I believe that the bill which I am introducing today contains a composite of the best from all of these bills and provides a vehicle which can command the bipartisan support required to pass this much needed reform, which already is several years too late.

The need for legislation of this type is urgent and requires expeditious action by Congress. I ask my colleagues to demonstrate the ability of Congress to respond quickly and effectively when the situation demands.

Mr. President, I am sending the bill to the desk, and I ask unanimous consent that it be printed in the RECORD following my remarks.

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

S. 2331

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby established in the Department of State the United States Passport Service (Hereinafter referred to as the "Service") which shall have as it purpose the administration of the laws and regulations relating to nationality, documentation, protection, and control of international travel of nationals of the United States.

SEC. 2. All functions, powers, duties, and authority of the Passport Office of the Department of State, together with those funds, liabilities, commitments, authorizations, allocations, personnel, properties, and records of the Department of State which the Secretary of State shall determine to be primarily related to, and necessary for, the exercise of such functions, powers, duties, and authority, are hereby transferred to the Service.

SEC. 3. The Service shall be headed by a Director, who shall be appointed by the Secretary of State and responsible directly to him for the administration of the Service. The Director shall be appointed in accordance with the civil service laws in the grade of GS–18 of the General Schedule as prescribed in the Classification Act of 1949, as amended. The Director—

(a) shall be responsible for the administration of the Service, the supervision of all personnel, including personnel of the Foreign Service, who are engaged in carrying out the laws and regulations administered by the Service, and shall possess such other powers and authorities as may be necessary to carry out the provisions of this Act;

(b) may appoint and fix the compensation of passport agents and such other officers and employees as may be necessary to carry out the provisions of this Act. Such appointments shall be under the Civil Service laws. Passport agents and such other officers and employees of the Service as may be designated in writing by the Director for that purpose may, in connection with their official duties, administer to or take from any person an oath, affirmation, affidavit, or deposition.

(c) is hereby authorized and empowered to establish, staff, and maintain passport agencies and Passport Service offices at such locations in the United States as the need for efficient and convenient public service may from time to time require: *Provided,* That all such agencies and offices shall within one year of the date of initial establishment be self-sustaining. The funds necessary for the establishment and operation of such agencies and offices shall be drawn from the fund authorized and established by section 4 of this Act: *Provided,* That nothing contained in this section shall prevent the establishment of agencies or offices which are not self-sustaining where geographic necessity or the needs of public service require. The need for such offices or agencies shall be justified to the satisfaction of the Secretary of State and the Congress.

SEC. 4. In order to carry out the provisions of this Act, the Director is authorized—

(a) to adopt, amend, and repeal rules and regulations governing the operations, organization, and personnel of the Service, and the performance of the powers and duties granted to or imposed upon him by law;

(b) to obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code;

(c) to acquire by purchase, lease, condemnation, or in any other lawful manner, any real or personal property, tangible or intangible, or any interest therein; to hold, maintain, use, and operate the same; and to sell, lease, or otherwise dispose of the same at such time, in such manner, and to the extent deemed necessary or appropriate;

(d) to construct, operate, lease, and maintain buildings, facilities, and other improvements as may be necessary;

(e) to enter into contracts or other arrangements or modifications thereof, with any government, any agency or department of the United States, or with any person, firm, association, corporation, and such contracts or other arrangements, or modifications thereof, may be entered into without legal consideration, without performance or other bonds, and without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5) or any other provision of law relating to competitive bidding;

(f) to make advance, progress, and other payments which the Director deems necessary under this Act without regard to the provisions of section 3648 of the Revised Statutes, as amended (31 U.S.C. 529).

SEC. 5 (a) There is hereby established a fund for the Service (hereinafter referred to as the "fund"). The fund shall be capitalized on the basis of—

(1) an initial appropriation by the Congress to the fund of a sum of at least $20,000,000 which sum is hereby authorized to be appropriated out of any money in the Treasury not otherwise appropriated;

(2) any unexpended balances of appropriations, the inventories, and other physical assets of the Passport Office (exclusive of buildings occupied and land), such inventories and other physical assets to be capitalized at their fair and reasonable value; and

(3) assumption by the fund of all obligations, commitments, and liabilities of the Passport Office as of the effective date of this Act.

(b) The fund shall include all property and other physical assets of the Passport Office (except buildings and land), and there shall be deposited into the fund all amounts received by the Service from whatever source derived, including all proceeds arising from the disposition of any property or other assets acquired by the fund.

(c) The fund shall be available without fiscal year limitation for financing the direct costs and expenses of operating and maintaining the Service.

(d) Any surplus accruing to the fund in any fiscal year shall be deposited into the general fund of the Treasury as miscellaneous receipts during the ensuing fiscal year: *Provided,* That any such surplus shall be applied first to restore any impairment of the capital of the fund.

SEC. 6. In accordance with the provisions of existing law—

(a) there shall be prepared and submitted annually a business-type budget program for the Service;

(b) there shall be installed and maintained in the Service an integrated system of accounting, including proper features of internal control, which will (1) assure adequate control over all assets and liabilities of the fund, (2) afford full disclosure with respect to the financial conditions and operations of the fund according to the accrual method of accounting, and (3) supply on the basis of accounting results and data for the annual budget of the Service with respect to the last completed fiscal year. The system of accounting shall conform to principles and standards prescribed by the Comptroller General of the United States so as to accomplish the purposes of this section, and shall be subject to such review by the Comptroller as may be necessary to assure its conformance with the principles and standards prescribed and its effectiveness in operation; and

(c) the financial transactions, accounts, and reports of the fund shall be audited annually by the General Accounting Office and a copy of each report or audit shall be furnished promptly to the President and the Congress.

SEC. 7. Section 1 of the Act of June 4, 1920, as amended, (41 Stat. 750; 22 U.S.C. 214), is amended by striking out the figures "$2.00" and "$10.00" wherever they appear and by inserting in lieu thereof the figures "$5.00" and "$15.00", respectively.

SEC. 8. All other laws, or parts of laws, in conflict or inconsistent with this act are, to the extent of such conflict or inconsistency, repealed.

By Mr. CRANSTON:

S. 2332. A bill to amend the Internal Revenue Code of 1954 to prescribe the income tax treatment of gifts, and bargain sales of property to provide financial assistance in political campaigns. Referred to the Committee on Finance.

Mr. CRANSTON. Mr. President, I introduce today a combined tax and political campaign reform proposal which is designed to close an existing loophole in our tax laws and to increase revenue into the U.S. Treasury.

The announcement yesterday by the IRS that contributions of appreciated assets to political parties would be subjected to capital gains tax represents a totally unnecessary intrusion of the Federal Government into our free political system. I am very concerned that the requirement of an IRS audit could, in the hands of an unscrupulous administration, become a device for harrassing and possibly intimidating opposition political parties.

It makes much more sense that the capital gains tax—which I agree should be collected—be paid by the contributor. I am introducing today a bill which would do just that. It would require that any gift of an appreciated asset to a political candidate or party be considered as a sale of that property for income tax purposes. This would place the tax liability on the donor—and not the donee.

Let me give a hypothetical example of the tax loss that is involved and of how my solution compares with what the IRS is proposing.

A wealthy contributor gives 10 shares of stock with a fair market value of $3,000 to a political party. He originally paid $2,000 for the stock. The $1,000 increase in value under present practices escapes capital gains tax. The Federal Treasury may lose as much as $250 on the transfer. Under the IRS proposal, when the political party sells the stock for $3,000, it would be required to pay a tax on the $1,000 difference. Under my proposal, the contributor would be required to pay a capital gains tax on the $1,000 increase in value at the time he makes the contribution.

I believe my proposal makes much more sense for the following reasons:

First, it keeps the IRS out of politics. Under the present system, political parties are required to file income tax returns only if their assets earn interest. For example, if there are campaign funds in a savings account, the interest would be subject to income tax. Otherwise there is little, if any, need for the IRS to concern itself with the conduct of our political parties or candidates.

Second, it would recover the tax losses just as effectively as would the IRS proposal. Based on the estimate that $40 to $50 million in appreciated assets were contributed to political campaigns generally in 1972, the U.S. Treasury could have lost as much as $5 million on uncollected income tax on the appreciated value. Clearly, that money should be going into the U.S. Treasury.

In fact, my proposal would probably produce more revenue than the IRS plan. Political parties, since they earn relatively little income would probably be in a low tax bracket. Wealthy contributors to political parties would be in a higher tax bracket. Thus taxing the contributor should lead to more tax revenue than taxing the political parties.

Third, my proposal would tend to discourage the contribution of appreciated assets much more than the IRS plan. The potential contributor would think twice about giving an appreciated stock on which he had to pay a tax and would be more apt to write a check payable to the campaign. This would be more consistent with our national concern that political funds be easily accountable.

Mr. President, the Internal Revenue Service proposal would, for the first time, get the IRS into the activities of political parties on a large scale. The revelations of Watergate have clearly demonstrated the dangers that the mechanisms of our Government pose to people holding opposing ideas. We must be working to lessen, not increase, governmental power over the political process. Since the bill I am introducing today would help keep that wall between Government and our political freedom, I sincerely hope that it will be enacted.

Mr. President, 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. 2332

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) part II of subchapter 8 of chapter 1 of the Internal Revenue Code of 1954 (relating to items specifically included in gross income) is amended by adding at the end thereof the following new section:

SEC. 84. CERTAIN TRANSFERS, LOANS, AND LEASES OF PROPERTY TO ASSIST POLITICAL CAMPAIGNS.

(a) TRANSFERS OF PROPERTY.—In the case of any transfer of property described in subsection (b), there shall be taken into account, in computing taxable income for the taxable year in which the transfer is made, the gain or loss which would have been realized and taken into account in computing taxable income if the transferor had sold the property at its fair market value on the date of the transfer.

"(b) Transactions to Which Section Applies—

TRANSFERS.—Subsection (a) shall apply to any transfer of property (other than money) by gift, or by sales or exchange at less than its fair market value, if one of the purposes of such transfer is to provide financial assistance to any candidate for elective public office, or any political party or committee, in connection with any political campaign (including a primary election).

"(c) REGULATIONS.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the purposes of this section."

"(d) The table of sections for such part II is amended by adding at the end thereof the following new item:

"Sec. 84. Certain transfers, of property to assist in political campaigns."

SEC. 2. (a) Part II of subchapter O of chapter 1 of the Internal Revenue Code of 1954 (relating to basis rules of general application) is amended by renumbering section 1023 as 1024, and by inserting after section 1022 the following new section:

"SEC. 1023. CERTAIN PROPERTY ACQUIRED TO ASSIST IN POLITICAL CAMPAIGNS.

"In the case of property acquired by a transfer to which section 84(a) applies, the basis of the property in the hands of the transferee is the fair market value on the date of transfer."

(b) The table of sections for such part II is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 1023. Certain property acquired to assist in political campaigns.

"Sec. 1024. Cross references."

SEC. 3. The amendments made by this Act shall apply to taxable years ending on or after the date of the enactment of this Act, but only with respect to transfers of property on or after such date.

By Mr. PACKWOOD (for himself, Mr. HATFIELD, and Mr. STEVENS):

S. 2333. A bill to amend the Tariff Schedules of the United States with respect to the rate of duty on certain types and uses of fish netting and fish nets. Referred to the Committee on Finance.

FISH NET TARIFF

Mr. PACKWOOD. Mr. President, today I am reintroducing legislation to eliminate the discriminatory tariffs on synthetic fish nets which are not produced in the United States. This bill would amend the Tariff Schedules of the United States with respect to the rate of duty on certain types of fish nets and nettings.

The American fishing industry is the third largest in the world, and a vital touchstone of our own economy. Yet, it has always been an orphan child, abandoned by the Government, shackled by archaic laws and musty regulations, suffering low returns to both labor and capital. One of the most crippling restrictions on commercial fishermen is the duty on synthetic fibers used in netting. The current duty is approximately 50 percent ad valorem—32.5 percent ad valorem plus 25 cents per pound. This far exceeds the duty on any other item of fishing gear presently being imported into this country. I consider this duty blatantly biased, discriminatory and unfair. It is just one more example of the many ways in which this Government, whether consciously or through sheer ignorance, is strangling the American commercial fishing industry.

Previously, the vast majority of material used in the manufacture of nets and netting was cotton, both here and abroad. However, beginning in the mid-1950's, there was a shift from vegetable to synthetic material. Between 1956 and 1970, the domestic production of cotton fiber nets and netting declined from 70 percent of the total to a mere 2 percent.

One example of the new type of synthetic net is a web called polynylon which is composed of polythene and nylon. It will open higher, last longer, and is easier to tow than nylon. It does not absorb fish, water, mud or slime. In every respect it would be a vast improvement over the earlier materials and a boon to commercial fishermen. And they must either deny themselves this equipment or pay exorbitant tariffs to acquire it because it is not produced in America.

If this amendment I propose becomes law, the effect on Oregon's commercial fishing industry alone would be tremendous. Last year, when this measure was first proposed, Prof. Barry Fisher of Oregon State University's Marine Science Center estimated that if it were approved the average gillnet fisherman would save between $300 and $400 a year. This would mean a total savings for the State as a whole of roughly between $210,000 and

$280,000 a year. These are not figures to be taken lightly.

Traditionally, the domestic net industry has been protected by relatively high tariffs. Representatives of this industry argue that domestic nets of the synthetic variety are not substantially different from imported items, although there may be a few small technical variances. They dismiss the few voices raised to question this position. The fact that these few voices are those of men who know what they are talking about at firsthand, the men who operate the equipment, the fishermen themselves, does not seem to alter that stance at all.

Let me emphasize, though, that my intention is not to destroy the American net manufacturing industry with this legislation. The bill I propose would only affect types of netting not currently being produced in this country. It does not infringe on domestic goods in any way. In fact it is my hope that this action might stimulate the net manufacturers to improve their product to fulfill the needs of their customers.

I have no doubt that it will be a long arduous fight to secure passage of this legislation. It is time, however, for the U.S. Government to realize that it cannot pamper one industry while crippling another without running the risk of destroying both.

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

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

S. 2333

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Schedule 3, Part 4, subpart C of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by inserting after item 355.42 the following new item:

"355.43 Of synthetic fiber, and of a type not commercially produced in the United States, to be used for research purposes by an accredited research institution or for commercial fishing purposes---------- Free---Free.".

SEC. 2. The amendment made by the first section of this Act shall apply with respect to articles entered, or withdrawn from warehouse, for consumption after the date of enactment of this Act.

By Mr. INOUYE:

S. 2334. A bill to amend title 5, United States Code, to provide for travel and transportation expenses on the return of an employee who was a past resident of certain areas outside the continental United States from a post of duty in the continental United States. Referred to the Committee on Government Operations.

Mr. INOUYE. Mr. President, today I am introducing legislation identical to that recently introduced in the U.S. House by my colleague, Representative PATSY T. MINK. The purpose of this bill is to provide equity for Federal employees from Hawaii who are separated from Government service in the continental United States, by authorizing their reimbursement for transportation and travel expenses back to Hawaii.

Under current law, an employee transferred to a tour of duty outside the continental United States may be returned upon completion of his tour to the place of residence indicated in the travel agreement at the time of assignment. This means that persons who are from mainland United States areas and sent on assignments to Hawaii may be returned to the mainland United States on completion of their tours. There is not statutory authority, however, to return employees to Hawaii upon completion of their assignments in the continental United States.

My legislation is designed to correct this inequity by authorizing the payment of travel and transportation expenses on the return of an employee who was a past resident in Hawaii to Hawaii on completion of an assignment in the continental United States. Similar authority would be provided for employees whose actual place of residence prior to such assignment was Alaska, the U.S. territories and possessions, Puerto Rico, or the Canal Zone.

By Mr. JAVITS (for himself, Mr. BUCKLEY, Mr. CASE, and Mr. WILLIAMS):

S.J. Res. 145. Joint resolution granting the consent of Congress to the States of New Jersey and New York for certain amendments to the Waterfront Commission Compact and for entering into the Airport Commission Compact, and for other purposes. Referred to the Committee on the Judiciary.

JOINT RESOLUTION ON AIRPORT AND WATERFRONT COMMISSION COMPACTS

Mr. JAVITS. Mr. President, on behalf of Senators BUCKLEY, CASE, WILLIAMS, and myself and for the States of New York and New Jersey, I introduce a joint resolution authorizing the States of New York and New Jersey to enter into an airport commission compact and to make certain amendments to the existing waterfront commission compact.

Mr. President, the intent of this airport commission compact is to help prevent air cargo thefts at the major airports in the New York City metropolitan area by authorizing the existing Waterfront Commission of New York and New Jersey to regulate the air freight industry in this area. The commission would be renamed the "Waterfront and Airport Commission of New York and New Jersey." The commission's primary function at the airports would include the promulgation of regulations to provide physical security for air freight; the licensing of trucking firms which transport air cargo, their truck personnel, the operators of air freight terminals, the airport employees handling air freight, and the labor relations consultants in the air freight industry; and the designation and protection of air freight security areas at which access would be granted only to those with commission approval. Under the provisions of the compact the program would be financed by assessments levied upon the air freight industry—the immediate beneficiary of improved conditions at the airports—rather than from Federal or New York or New Jersey State taxes.

This compact admittedly grants significant powers to the commission. It would be given discretion to determine who is and who is not permitted to handle freight. Ordinarily, I would be loathe to grant any government agency such power over the jobs of workers. But, I feel Congress should give its consent to this agreement; first, because the deplorable problem of cargo theft at the New York area facilities has so far not been resolved by the best efforts of government and private business using the ordinary tools afforded by the law; and second, because this compact represents the will of two sovereign States and, as such, deserves our consent—unless we have something better to offer in the way of Federal law. We do not have such a substitute now—perhaps we may later. Under the circumstances, we cannot, in good conscience, repudiate the expressed will of two State legislatures and the request of Governors Rockefeller and Cahill.

The waterfront commission, after which the airport commission has been modeled has been substantially successful insofar as it was called upon to put an end to racketeering on the docks. All evidence points to the fact that it has not abused its discretion to license people to work. It has been trustworthy in exercising its discretion properly and there is no reason to believe that extension of its authority to the airports would produce different results. The waterfront commission, however, was not designed to combat theft per se, as is this airport commission extension.

As I stated on the floor in introducing the joint resolution at the last session of Congress and in previous testimony before the Committee on Commerce, evidence submitted to the States of New York and New Jersey and at hearings before the Senate's Small Business Committee, on which I serve as ranking minority member, makes it clear that legislation such as this is urgently needed.

Witnesses describing the extensiveness of this theft and citing the pervasive existence of criminals and corrupt practices in the handling of aircargo, especially in the New York-New Jersey metropolitan area, have pleaded for governmental intervention and assistance, but until now little has been done. Reported airfreight thefts at Kennedy Airport in 1963, for example, amounted approximately to $45,000. In 1967, these known and reported thefts soared to $2,000,000 and in 1969 to $3,387,317. The airlines have reported thefts of $1,834,000 for 1970. The 1969 estimate for the Nation's aircargo theft was somewhere between $50 million and $100 million, I am told. The airlines have asserted that cargo losses have dropped from the 1969 level to $615,079 in 1972. However the Waterfront Commission of New York Harbor in a report on April 25, 1973, stated that cargo theft losses at the New York-New Jersey Airports can reasonably be expected to exceed $10,000,000 per annum.

It should be emphasized, however, that these theft figures represent only known losses as reported by the airlines. They do not represent the extent of airfreight thievery. They do not include the estimated $65,000,000 in postal thefts from 1967 through 1969 at Kennedy Airport, for example, nor do they represent losses that are unreported as thefts merely because the place or the cause of the loss cannot be determined. One witness told

the Small Business Committee, to cite a related example, that the identified thefts in 1968 on the New York waterfront amounted to $1,451,000 but that the more realistic amount should be closer to $20 million.

The problem is growing tremendously not only at our Nation's airports. Our piers, truck routes, and as we now discover, our railroads have been struck by this thievery. Both the petty theft and the organized syndicates find cargo easy pickings. The lead story in Life magazine's February 12, 1971, issue described this presence of organized crime and labor racketeers at the airports, for example, and the concomitant rise in air-cargo thefts. The total estimated cargo loss for the Nation in 1969 reportedly reached $1,200,000,000.

In 1969 Kennedy Airport handled more than $9½ billion worth of cargo, 22 percent more than in 1968, and with the coming of the mammoth cargo aircraft, air cargo traffic is expected to quadruple during this decade. Certainly some regulatory control is needed. This cargo pilferage in the New York-New Jersey area must be stopped. Because shipments from throughout the country, and indeed throughout the world filter through the New York-New Jersey center, businessmen worldwide are affected and, ultimately, it is the consumer who pays the crime inflated price of this unchecked pilferage.

The commission would have jurisdiction to safeguard not only international cargo but also domestic cargo flowing through the New York-New Jersey metropolitan airports and its program could become operative almost immediately.

It should be noted also that the commission's authority is intended to be entirely consistent with the Treasury Department's efforts in this area. Of course, to the extent any valid Federal regulation of law subsequently were found to be inconsistent, the Federal initiative would prevail.

Mr. President, there is no question that we need a national program, one which can be marshaled whenever and wherever we are faced with a high incidence of cargo theft and I am most hopeful that the Congress will enact some legislation that will help stem this criminal threat at our airports as soon as possible. It appears that industry and business have been unable to cope with this problem alone. In the meantime, however, the problem is too acute in the New York-New Jersey area to wait even another year for a national program. The States of New York and New Jersey have agreed upon and enacted a program which can be put into effect immediately if the Federal Government gives the plan its consent.

The Committee on Commerce recognizing the need and support for a national program for cargo security, specifically stated when favorably reporting the joint resolution to the Senate in 1970:

Nevertheless, with respect to the present legislation (the joint resolution) there is a presumption in favor of State action, unless it can be shown conclusively that the interstate compact is in conflict with existing Federal law; or that it would be detrimental to interstate and foreign commerce; or that there is imminent Federal legislation which would conflict with the interstate compact. On the basis of the hearing record, such a showing has not been made.

To the best of my knowledge this is still the case.

Mr. President, this is an excellent initiative taken by two States in the best tradition of our Federal structure. I urge that the Congress consider it expeditiously in order to permit the States of New York and New Jersey to deal quickly with this extremely serious condition at the New York-New Jersey metropolitan area airports.

We are acting here at the request of the two States and the Governors of the two States and I hope the measure receives expeditious action. As I had mentioned if there is Federal action or if Federal law of any character covers the situation, naturally, to the extent that would be inconsistent with this compact, that would preempt the respective bi-State regulation.

Mr. President, I ask unanimous consent that the joint resolution be printed in the RECORD.

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

S.J. RES. 145

Joint resolution granting the consent of Congress to the States of New Jersey and New York for certain amendments to the Waterfront Commission and for entering into the Airport Commission Compact, and for other purposes

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That

a. The consent of Congress is hereby given to the States of New Jersey and New York for entering into certain amendments to the Waterfront Commission Compact between the States of New Jersey and New York for which compact the consent of Congress was given by the Act of August 12, 1953 (67 Stat. 541), which amendments result in articles II and III of said Waterfront Commission Compact reading substantially as follows:

ARTICLES II AND III OF WATERFRONT COMMISSION COMPACT AS AMENDED

"ARTICLE II

"DEFINITIONS

"As used in this compact:

" 'The Port of New York district' shall mean the district created by Article II of the compact dated April 30, 1921, between the States of New York and New Jersey, authorized by chapter 154 of the laws of New York of 1921 and chapter 151 of the laws of New Jersey of 1921.

" 'Commission' shall mean the waterfront and airport commission of New York and New Jersey established by Article III hereof.

" 'Pier' shall include any wharf, pier, dock or quay.

" 'Other waterfront terminal' shall include any warehouse, depot or other terminal (other than a pier) which is located within 1,000 yards of any pier in the Port of New York district and which is used for waterborne freight in whole or substantial part.

" 'Person' shall mean not only a natural person but also any partnership, joint venture, association, corporation or any other legal entity but shall not include the United States, any State or territory thereof or any department, division, board, commission or authority of one or more of the foregoing.

" 'Carrier of freight by water' shall mean any person who may be engaged or who may hold himself out as willing to be engaged, whether as a common carrier, as a contract carrier or otherwise (except for carriage of liquid cargoes in bulk in tank vessels designed for use exclusively in such service or carriage by barge of bulk cargoes consisting of only a single commodity loaded or carried without wrappers or containers and delivered by the carrier without transportion mark or count) in the carriage of freight by water between any point in the Port of New York district and a point outside said district.

" 'Waterborne freight' shall mean freight carried by or consigned for carriage by carriers of freight by water.

" 'Longshoreman' shall mean a natural person, other than a hiring agent, who is employed for work at a pier or other waterfront terminal, either by a carrier of freight by water or by a stevedore.

"(a) physically to move waterborne freight on vessels berthed at piers, on piers or at other waterfront terminals, or

"(b) to engage in direct and immediate checking of any such freight or of the custodial accounting therefor or in the recording or tabulation of the hours worked at piers or other waterfront terminals by natural persons employed by carriers of freight by water or stevedores, or

"(c) to supervise directly and immediately others who are employed as in subdivision (a) of this definition.

" 'Pier superintendent' shall mean any natural person other than a longshoreman who is employed for work at a pier or other waterfront terminal by a carrier of freight by water or a stevedore and whose work at such pier or other waterfront terminal includes the supervision, directly or indirectly, of the work of longshoremen.

" 'Port watchman' shall include any watchman, gateman, roundsman, detective, guard, guardian or protector of property employed by the operator of any pier or other waterfront terminal or by a carrier of freight by water to perform services in such capacity on any pier or other waterfront terminal.

" 'Longshoremen's register' shall mean the register of eligible longshoremen compiled and maintained by the commission pursuant to Article VIII.

" 'Stevedore' shall mean a contractor (not including an employee) engaged for compensation pursuant to a contract or arrangement with a carrier of freight by water, in moving waterborne freight carried or consigned for carriage by such carrier on vessels of such carrier berthed at piers, on piers at which such vessels are berthed or at other waterfront terminals.

" 'Hiring agent' shall mean any natural person, who on behalf of a carrier of freight by water or a stevedore shall select any longshoreman for employment.

" 'Compact' shall mean this compact and rules or regulations lawfully promulgated thereunder.

"ARTICLE III

"WATERFRONT AND AIRPORT COMMISSION OF NEW YORK AND NEW JERSEY

"1. There is hereby created the waterfront and airport commission of New York and New Jersey, which shall be a body corporate and politic, an instrumentality of the States of New York and New Jersey.

"2. The commission shall consist of four members, two to be chosen by the State of New Jersey and two to be chosen by the State of New York. The members representing each State shall be appointed by the Governor of such State with the advice and consent of the Senate thereof, without regard to the State of residence of such members, and shall receive compensation to be fixed by the Governor of such State. The term of office of each member shall be for 4 years; provided, however, that the two present members of the commission heretofore appointed shall continue to serve as members until the expiration of the respective terms for which they were appointed, that the term of the two new members shall expire on June 30, 1975, and that the term of the successors to the present members shall expire on

June 30, 1977. Each member shall hold office until his successor has been appointed and qualified. Vacancies in office shall be filled for the balance of the unexpired term in the same manner as original appointments.

"3. Three members of the commission shall constitute a quorum; but the commission shall act only by a majority vote of all its members. Any member may, by written instrument filed in the office of the commission, designate any officer or employee of the commission to act in his place as a member whenever he shall be unable to attend a meeting of the commission. A vacancy in the office of a member shall not impair such designation until the vacancy shall have been filled. The commission shall elect one of its members to serve as chairman for a term of 1 year: *Provided, however,* that the term of the first chairman shall expire on June 30, 1974. The chairman shall represent a State other than the State represented by the immediately preceding chairman."

b. The consent of Congress is further given to the States of New Jersey and New York for entering into the Airport Commission Compact as authorized by chapter 951 of the laws of the State of New York of 1970, and by chapter 58 of the laws of the State of New Jersey of 1970, and reading substantially as follows:

AIRPORT COMMISSION COMPACT

"ARTICLE I

"FINDINGS AND DECLARATIONS

"1. The States of New York and New Jersey hereby find and declare that the movement of freight through the two States is vital to their economies and prosperity; that ever increasing amounts of such freight are being carried by the air freight industry; that said air freight industry in the two States constitutes an inseparable and integral unit of the commerce of the two States; that criminal and racketeer elements have infiltrated the air freight industry; that such criminal infiltration is threatening the growth of said air freight industry; that one of the means by which such criminal and racketeer elements infiltrate the air freight industry is by posing as labor relations consultants and that firms handling air freight are often forced to employ or engage such persons; that the air freight industry is suffering an alarming rise in the amount of pilferage and theft of air freight; and that it is imperative to the continued growth and economic well-being of the States of New York and New Jersey that every possible effective measure be taken to prevent the pilferage and theft of air freight and the criminal infiltration of the air freight industry.

"2. The State of New York and New Jersey hereby find and declare that many of the evils existing in the air freight industry result not only from the causes above described but from the lack of regulation of the air freight industry in and about the Port of New York district; that the air freight industry is affected with a public interest requiring regulation, just as the States of New York and New Jersey have heretofore found and declared in respect to the shipping industry; and that such regulation of the air freight industry shall be deemed an exercise of the police power of the two States for the protection of the public safety, welfare, prosperity, health, peace and living conditions of the people of the States.

"ARTICLE II

"DEFINITIONS

"As used in this compact:

"1. 'Commission' shall mean the waterfront and airport commission of New York and New Jersey established by part I, article III, of this act.

"2. 'Airport' shall mean any area on land, water or building or any other facility located within the States of New York and New Jersey (except a military installation of the United States government (a) which is located within one hundred miles of any point in the Port of New York district, (b) which is used, or intended for use, for the landing and take-off of aircraft operated by an air carrier, and any appurtenant areas which are used or intended for use, for airport buildings or other airport facilities or rights of way, together with all airport buildings, equipment, aircraft, and facilities located thereon, and (c) where the total tonnage of air freight in a calendar year loaded and unloaded on and from aircraft exceeds twenty thousand tons.

"3. 'Air carrier' shall mean any person who may be engaged or who may hold himself out as willing to be engaged, whether as a common carrier, as a contract carrier or otherwise, in the carriage of freight by air.

"4. 'Air freight' shall mean freight (including baggage, aircraft stores and mail) which is, has been, or will be carried by or consigned for carriage by an air carrier.

"5. 'Air freight terminal' shall include any warehouse, depot or other terminal (other than an airport) (a) any part of which is located within an airport and any part of which is used for the storage of air freight, or (b) which is operated by an air carrier or a contractor of an air carrier and any part of which is used for the storage of air freight and any part of which is located within the Port of New York district.

"6. 'Air freight terminal operator' shall mean the owner, lessee, or contractor or such other person (other than an employee) who is in direct and immediate charge and control of an air freight terminal, or any portion thereof.

"7. 'Air freight truck carrier' shall mean a contractor (other than an employee) engaged for compensation pursuant to a contract or arrangement, directly or indirectly, with an air carrier or air carriers or with an air freight terminal operator or operators in the moving of freight to or from an airport or air freight terminal by a truck or other motor vehicle used primarily for the transportation of property.

"8. 'Air freight security area' shall mean any area located within the airport to which the commission determines that limited ingress and egress is required for the protection and security of any air freight located within the airport.

"9. 'Airfreightman' shall mean a natural person who is employed

"(a) by any person to physically move or to perform services incidental to the movement of air freight at an airport or in an air freight terminal or

"(b) by an air carrier or an air freight terminal operator or an air freight truck carrier to transport or to assist in the transportation of air freight to or from an airport or air freight terminal; or

"(c) by any person to engage in direct and immediate checking of any air freight located in an airport or in an air freight terminal or of the custodial accounting therefor.

"10. 'Airfreightman supervisor' shall mean a natural person who is employed to supervise directly and immediately the work of an airfreightman at an airport or at an air freight terminal.

"11. 'Airfreightman labor relations consultant' shall mean any person who, pursuant to any contract or arrangement, advises or represents an air carrier, an air freight terminal operator, or an air freight truck carrier, or an organization of such employers (whether or not incorporated), or a labor organization representing any airfreightman or airfreightman supervisors, concerning the organization or collective bargaining activities of airfreightmen or airfreightman supervisors, but shall not include any person designated by any government official or body to so act or any person duly licensed to practice law as an attorney in any jurisdiction. As used in this paragraph, the term "labor organization" shall mean and include any labor organization to which section eleven of part V of this act is applicable.

"12. 'Person' shall mean not only a natural person but also any partnership, joint venture, association, corporation or any other legal entity but shall not include the United States, any State or territory thereof or any department, division, board, commission or authority of one or more of the foregoing or any officer or employee thereof while engaged in the performance of his official duties.

"13. 'The Port of New York district' shall mean the district created by article II of the compact dated April thirtieth, nineteen hundred twenty-one, between the States of New York and New Jersey, authorized by chapter one hundred fifty-four of the laws of New York of nineteen hundred twenty-one and chapter one hundred fifty-one of the laws of New Jersey of nineteen hundred twenty-one, and any amendments thereto.

"14. 'Court of the United States' shall mean all courts enumerated in section four hundred fifty-one of title twenty-eight of the United States Code and the courts-martial of the armed forces of the United States.

"15. 'Witness' shall mean any person whose testimony is desired in any investigation, interview or other proceeding conducted by the commission pursuant to the provisions of this act.

"16. 'Compact' shall mean this compact and rules and regulations lawfully promulgated thereunder and shall also include any amendments or supplements to this compact to implement the purposes thereof adopted by the action of the legislature of either the State of New York or the State of New Jersey concurred in by the legislature of the other.

"ARTICLE III

"GENERAL POWERS OF THE COMMISSION

"In addition to the powers and duties of the commission elsewhere conferred in parts I, II, III, and V of this act, the commission shall have the power:

"1. To administer and enforce the provisions of this compact;

"2. To establish such divisions and departments within the commission as the commission may deem necessary and to appoint such officers, agents and employees as it may deem necessary, prescribe their powers, duties and qualifications and fix their compensation and retain and employ counsel and private consultants on a contract basis or otherwise;

"3. To make and enforce such rules and regulations as the commission may deem necessary to effectuate the purposes of this compact or to prevent the circumvention or evasion thereof including, but not limited to, rules and regulations (which shall be applicable to any person licensed by the commission, his employer, or any other person within an airport) to provide for the maximum protection of air freight, such as checking and custodial accounting, guarding, storing, fencing, gatehouses, access to air freight, air freight loss reports, and any other requirements which the commission in its discretion may deem to be necessary and appropriate to provide such maximum protection. The rules and regulations of the commission shall be effective upon publication in the manner which the commission shall prescribe and upon filing in the office of the secretary of state of each State. A certified copy of any such rules and regulations, attested as true and correct by the commission, shall be presumptive evidence of the regular making, adoption, approval and publication thereof;

"4. To have for its members and its properly designated officers, agents and employees, full and free access, ingress and egress to and from all airports, air freight terminals, all aircraft traveling to or from an airport and all trucks or other motor vehicles or equipment which are carrying air freight to or from any airport or air freight terminal for the purposes of conducting investigations, making inspections or enforcing the provi-

sions of this compact; and no person shall obstruct or in any way interfere with any such member, officer, employee or agent in the making of such investigation or inspection or in the enforcement of the provisions of this compact or in the performance of any other power or duty under this compact;

"5. To make investigations, collect and compile information concerning airport practices generally, and upon all matters relating to the accomplishment of the objectives of this compact;

"6. To advise and consult with representatives of labor and industry and with public officials and agencies concerned with the effectuation of the purposes of this compact, upon all matters which the commission may desire, including but not limited to the form and substance of rules and regulations and the administration of the compact and the expeditious handling and efficient movement of air freight consistent with the security of such air freight;

"7. To make annual and other reports to the governors and legislatures of both States containing recommendations for the effectuation of the purposes of this compact;

"8. To issue temporary licenses and temporary permits under such terms and conditions as the commission may prescribe;

"9. In any case in which the commission has the power to revoke or suspend any license or permit the commission shall also have the power to impose as an alternative to such revocation or suspension, a penalty, which the licensee or permittee may elect to pay the commission in lieu of the revocation or suspension. The maximum penalty shall be five thousand dollars for each separate offense. The commission may, for good cause shown, abate all or part of such penalty;

"10. To determine the location, size and suitability of field and administrative offices and any other accommodations necessary and desirable for the performance of the commission's duties under this compact;

"11. To acquire, hold and dispose of real and personal property, by gift, purchase, lease, license or other similar manner, for its corporate purposes, and in connection therewith to borrow money;

"12. To recover possession of any car or other mean of identification issued by the commission as evidence of a license or permit in the event that the holder thereof no longer is a licensee or permittee;

"13. To require any license or permittee to exhibit upon demand the license or permit issued to him by the commission or to wear such license or permit.

"The powers and duties of the commission may be exercised by officers, employees and agents designated by them, except the power to make rules and regulations. The commission shall have such additional powers and duties as may hereafter be delegated to or imposed upon it from time to time by the action of the legislature of either State concurred in by the legislature of the other.

"ARTICLE IV

"AIRFREIGHTMEN AND AIRFREIGHTMAN SUPERVISORS

"1. On and after the ninetieth day after the effective date of this compact, no person shall act as an airfreightman or an airfreightman supervisor within the State of New York or the State of New Jersey without having first obtained from the commissions a license to act as such airfreightman or airfreightman supervisor, as the case may be, and no person shall employ another person to act as an airfreightman or airfreightman supervisor who is not so licensed.

"2. A license to act as an airfreightman or airfreightman supervisor shall be issued only upon the written application, under oath, of the person proposing to employ or engage another person to act as such airfreightman or airfreightman supervisor, verified by the prospective licensee as to the matters concerning him, and shall set forth the prospective licensee's full name, residence address, social security number, and such further facts and evidence as may be required by the commission to determine the identity, the existence of a criminal record, if any, and the eligibility of the prospective licensee for a license.

"3. The commission may in its discretion deny the application for such license submitted on behalf of a prospective licensee for any of the following causes:

"(a) Conviction by a court of the United States or of any State or territory thereof, without subsequent pardon, of the commission of, or the attempt or conspiracy to commit, treason, murder, manslaughter, coercion or any felony or high misdemeanor or any of the following misdemeanors or offenses (excluding, however, any conviction for a misdemeanor or lesser offense arising out of physical misconduct committed during the course of lawful organizational or collective bargaining activities of any labor organization): illegally using, carrying or possessing a pistol or other dangerous weapon; making, manufacturing, or possessing burglar's instruments; buying or receiving stolen property; criminal possession of stolen property; unlawful entry of a building; criminal trespass; aiding an escape from prison; and unlawfully possessing, selling or distributing a dangerous drug;

"(b) Conviction by any such court, after having been previously convicted by any such court of any crime or of the offenses hereinafter set forth, of a misdemeanor or any of the following offenses (excluding, however, any conviction for a misdemeanor or lesser offenses arising out of physical misconduct committed during the course of lawful organizational or collective bargaining activites of any labor organization): assault, malicious injury to property, criminal mischief, malicious mischief, criminal tampering, unlawful use or taking of a motor vehicle, corruption of employees, promoting gambling, possession of gambling records or devices, or possession of lottery or number slips;

"(c) Fraud, deceit or misrepresentation in connection with any application or petition submitted to, or any interview, hearing or proceeding conducted by the commission;

"(d) Violation of any provision of this Act or the commission of any offense thereunder;

"(e) Refusal on the part of the applicant, or prospective licensee, to answer any material question or produce any material evidence in connection with the application;

"(f) As to an airfreightman, his presence at the airports or air freight terminals is found by the commission on the basis of the facts and evidence before it to constitute a danger to the public peace or safety;

"(g) As to an airfreightman supervisor, failure to satisfy the commission that the prospective licensee possesses good character and integrity;

"(h) Conviction of a crime or other cause which would permit reprimand of such prospective licensee or the suspension or revocation of his license if such person were already licensed.

"4. When the application shall have been examined and such further inquiry and investigation made as the commission shall deem proper and when the commission shall be satisfied therefrom that the prospective licensee possesses the qualifications and requirements prescribed in this article, the commission shall issue and deliver to the prospective licensee a license to act as an airfreightman or as an airfreightman supervisor, as the case may be, and shall inform the applicant of its action.

"5. The commission shall the power to reprimand any airfreightman or airfreightman supervisor licensed under this article or to revoke or suspend his license for such period as the commission deems in the public interest for any of the following causes:

"(a) Conviction of a crime or other cause which would permit the denial of a license upon original application;

"(b) Fraud, deceit or misrepresentation in securing the license, or in the conduct of the licensed activity;

"(c) Transfer or surrender of possession to any person either temporarily or permanently of any card or other means of identification issued by the commission as evidence of a license, without satisfactory explanation;

"(d) False impersonation of another person who is a licensee or permittee of the commission under this compact;

"(e) Wilful commission of, or wilful attempt to commit at an airport or at an air freight terminal or adjacent highway any act of physical injury to any other person or of wilful damage to or misappropriation of any other person's property, unless justified or excused by law;

"(f) Violation of any of the provisions of this act or including or otherwise aiding or abetting any person to violate the terms of this act;

"(g) Addiction to the use of, or unlawful possession, sale or distribution of a dangerous drug;

"(h) Paying, giving, causing to be paid or given or offering to pay or give to any person any valid consideration to induce such other person to violate any provision of this act or to induce any public officer, agent or employee to fail to perform his duty under this act;

"(i) Consorting with known criminals for unlawful purposes;

"(j) Receipt or solicitation of anything of value from any person other than the licensee's or permittee's employer as consideration for the selection or retention for employment of any person who is a licensee or permittee of the commission under this compact;

"(k) Coercion of any person who is a licensee or permittee of the commission under this compact by threat of discrimination or violence or economic reprisal to make purchases from or to utilize the services of any person;

"(l) Lending any money to or borrowing any money from any person who is a licensee or permittee of the commission under this compact for which there is a charge of interest or other consideration which is usurious;

"(m) Conviction of any criminal offense in relation to gambling, bookmaking, pool selling, lotteries or similar crimes or offenses if the crime or offense was committed at an airport or air freight terminal or within five hundred feet thereof;

"(n) Refusal to answer any material question or produce any material evidence lawfully required to be answered or produced at any investigation, interview or other proceeding conducted by the commission pursuant to the provisions of this act, or, if such refusal is accompanied by a valid plea of privilege against self-incrimination, refusal to obey an order to answer such queston or produce such evidence made by the commission pursuant to the power of the commission under this act to grant immunity from prosecution;

"(o) Refusal to exhibit his license or permit upon the demand of any officer, agent or employee of the commission or failure to wear such license or permit when required;

"6. A license granted pursuant to this article shall expire on the expiration date (which shall be at least one year from the date of its issuance) set forth by the commission on the card or other means of identification issued by the commission as evidence of a license or upon the termination of employment with the employer who applied for the license. Upon expiration thereof, a license may be renewed by the commission upon fulfilling the same requirements as are set forth in this article for an original application.

"ARTICLE V

"AIR FREIGHT TERMINAL OPERATORS, AIR FREIGHT TRUCK CARRIERS, AND AIRFREIGHTMAN LABOR RELATIONS CONSULTANTS

"1. On and after the ninetieth day after the effective date of this compact, no person, except an air carrier, shall act as an air freight terminal operator or as an air freight truck carrier or as an airfreightman labor relations consultant within the State of New York or the State of New Jersey without having first obtained a license from the commission to act as an air freight terminal operator or as an air freight truck carrier or as an airfreightman labor relations consultant, as the case may be, and no person shall employ or engage another person to perform services as an air freight terminal operator or as an air freight truck carrier or as an airfreightman labor relations consultant who is not so licensed.

"2. Any person intending to act as an air freight terminal operator or as an air freight truck carrier or as an airfreightman labor relations consultant within the State of New York or the State of New Jersey shall file in the office of the commission a written application for a license to engage in such occupation duly signed and verified as follows:

"(a) If the applicant is a natural person, the application shall be signed and verified by such person and if the applicant is a partnership, the application shall be signed and verified by each natural person composing or intending to compose such partnership. The application shall state the full name, age, residence, business address (if any), present and previous occupations of each natural person so signing the same, and any other facts and evidence as may be required by the commission to ascertain the character, integrity, identity and criminal record, if any, of each natural person so signing such application.

"(b) If the applicant is a corporation, the application shall be signed and verified by the president, secretary and treasurer thereof, and shall specify the name of the corporation, the date and place of its incorporation, the location of its principal place of business, the names and addresses of, and the amount of the stock held by stockholders owning ten per cent or more of any of the stock thereof, and of all the officers (including all members of the board of directors). The requirements of subdivision (a) of this section as to a natural person who is member of a partnership, and such requirements as may be specified in rules and regulations promulgated by the commission, shall apply to each such officer or stockholder and their successors in office or interest as the case may be.

"In the event of the death, resignation or removal of any officer, and in the event of any change in the list of stockholders who shall own ten per cent or more of the stock of the corporation, the secretary of such corporation shall forthwith give notice of the fact in writing to the commission, certified by said secretary.

"3. No such license shall be granted

"(a) If any person whose signature or name appears in the application is not the real party in interest required by section two of this article to sign or to be identified in the application or if the person so signing or named in the application is an undisclosed agent or trustee for any such real party in interest or if any such real party in interest does not sign the application;

"(b) Unless the commission shall be satisfied that the applicant and all members, officers and stockholders required by section two of this article to sign or be identified in the application for license possess good character and integrity;

"(c) If the applicant or any member, officer or stockholder required by section two of this article to sign or be identified in the application for license has, without subsequent pardon, been convicted by a court of the United States or any State or territory thereof of the commission of, or the attempt or conspiracy to commit any crime or offense described in subdivision (a) of section three of article IV of this compact. Any applicant ineligible for a license by reason of any such conviction may submit satisfactory evidence to the commission that the person whose conviction was the basis of ineligibility has for a period of not less than five years, measured as hereinafter provided and up to the time of application, so conducted himself as to warrant the grant of such license, in which event the commission may, in its discretion issue an order removing such ineligibility. The aforesaid period of five years shall be measured either from the date of payment of any fine imposed upon such person or the suspension of sentence or from the date of his unrevoked release from custody by parole, commutation or termination of his sentence. Such petition may be made to the commission before or after the hearing on the application;

"(d) If, on or after the effective date of this compact, the applicant has paid, given, caused to have been paid or given or offered to pay or give to any officer or employee of any other person employing or engaging him in his licensed activity any valuable consideration for an improper or unlawful purpose or to induce such officer or employee to procure the employment of the applicant in his licensed activity by such other person;

"(e) If, on or after the effective date of this compact, the applicant has paid, given, caused to have been paid, or given or offered to pay or give to any officer or representative of a labor organization any valuable consideration for an improper or unlawful purpose or to induce such officer or representative to subordinate the interest of such labor organization or its members in the management of the affairs of such labor organization to the interests of the applicant or any other person;

"(f) If, on or after the effective date of this compact, the applicant has paid, given, caused to have been paid or given or offered to pay or give to any agent or any other person any valuable consideration for an improper or unlawful purpose or, without the knowledge and consent of such other person, to induce such agent to procure the employment of the applicant in his licensed activity by such other person.

"4. When the application shall have been examined and such further inquiry and investigation made as the commission shall deem proper and when the commission shall be satisfied therefrom that the applicant possesses the qualifications and requirements prescribed in this article, the commission shall issue and deliver a license to the applicant.

"5. The commission shall have the power to reprimand any person licensed under this article or to revoke or suspend his license for such period as the commission deems in the public interest for any of the following causes on the part of the licensee or any person required by section two of this article to sign or be identified in an original application for a license:

"(a) Any cause set forth in section 5 of article IV of this compact;

"(b) Failure by the licensee to maintain a complete set of books and records containing a true and accurate account of the licensee's receipts and disbursements arising out of his licensed activities;

"(c) Failure to keep said books and records available during business hours for inspection by the commission and its duly designated representatives until the expiration of the fifth calendar year following the calendar year during which occurred the transactions recorded therein;

"(d) Failure to pay any assessment or fee payable to the commission under this compact when due.

"6. A license granted pursuant to this article shall expire on the expiration date (which shall be at least one year from the date of its issuance) set forth by the commission on the card or other means of identification issued by the commission as evidence of a license. Upon expiration thereof, a license may be renewed by the commission upon fulfilling the same requirements as are set forth in this article for an original application.

"ARTICLE VI

"AIR FREIGHT SECURITY AREA

"1. On or after the effective date of this compact, the commission shall have the power to designate any area located within an airport as an air freight security area. No person who is not licensed by the commission pursuant to this compact shall have ingress to an air freight security area unless issued a permit by the commission.

"2. Any person who is not licensed by the commission pursuant to this compact and who desires upon any occasion ingress to an air freight security area shall apply at the entrance to such area for a permit for ingress for that particular occasion. In order to secure a permit, a prospective permittee must show identification establishing his name and address and he may be required by the commission to sign a consent to the surrender of his permit upon egress from such area and, if he is driving a motor vehicle, to an inspection of his motor vehicle upon egress from such area. Any person desiring a permit to enter an air freight security area may be denied such permit by the commission in its discretion if the commission determines that the presence of such person in such area would constitute a danger to the public peace or safety.

"3. Any person whose business, employment or occupation requires him to have ingress upon a regular basis to an air freight security area shall be required, in order to obtain ingress to such area, to apply to the commission for a permit for a fixed period of duration to be determined by the commission. Such applicant for a permit of a fixed period of duration shall fulfill the same requirements as the prospective licensee for an airfreightman's license. The commission may in the exercise of its discretion suspend or revoke such permit of a fixed period of duration for the same causes which would permit the commission to revoke the license of an airfreightman.

"4. The commission shall have the power to inspect any truck or any other motor vehicle within an air freight security area.

"5. The provisions of this article shall not be applicable to any person who is a member of the flight crew or flight personnel of an aircraft which is operated by an air carrier and which is located within an air freight security area upon a showing of such identification as may be required by the commission.

"ARTICLE VII

"HEARINGS, DETERMINATIONS AND REVIEW

"1. The commission shall not deny any application for a license or permit without giving the applicant or prospective licensee or permittee reasonable prior notice and an opportunity to be heard.

"2. Any application for a license or permit, and any license or permit issued, may be denied, revoked, or suspended, as the case may be, only in the manner prescribed in this article.

"3. The commission may on its own initiative or on complaint of any person, including any public official or agency, institute proceedings to revoke or suspend any license or permit after a hearing at which the licensee or permittee and any person making such complaint shall be given an opportunity to be heard: *Provided*, That any order of the commission revoking or suspending any license or permit shall not become effective

until fifteen days subsequent to the serving of notice thereof upon the licensee or permittee unless in the opinion of the commission the continuance of the license or permit for such period would be inimical to the public peace or safety. Such hearings shall be held in such manner and upon such notice as may be prescribed by the rules of the commission, but such notice shall be of not less than ten days and shall state the nature of the complaint.

"4. Pending the determination of such hearing pursuant to section three the commission may temporarily suspend a license or permit if in the opinion of the commission the continuance of the license or permit for such period is inimical to the public peace or safety.

"5. The commission, or such member, officer, employee or agent of the commission as may be designated by the commission for such purpose, shall have the power to issue subpoenas throughout both States to compel the attendance of witnesses and the giving of testimony or production of other evidence and to administer oaths in connection with any such hearing. It shall be the duty of the commission or of any such member, officer, employee or agent of the commission designated by the commission for such purpose to issue subpoenas at the request of and upon behalf of the licensee, permittee or applicant. The commission or such person conducting the hearing shall not be bound by common law or statutory rules of evidence or by technical or formal rules or procedure in the conduct of such hearing.

"6. Upon the conclusion of the hearing, the commission shall take such action upon such findings and determinations as it deems proper and shall execute an order carrying such findings into effect. The action in the case of an application for a license or permit shall be the granting or denial thereof. The action in the case of a licensee or permittee shall be revocation of the license or permit or suspension thereof for a fixed period or reprimand or a dismissal of the charges.

"7. The action of the commission in denying any application for a license or permit or in suspending or revoking such license or permit or in reprimanding a licensee or permittee shall be subject to judicial review by a proceeding instituted in either State at the instance of the applicant, licensee or permittee in the manner provided by the law of such State for review of the final decision or action of administrative agencies of such State, provided, however, That notwithstanding any other provision of law the court shall have power to stay for not more than thirty days an order of the commission suspending or revoking a license or permit.

"8. At hearings conducted by the commission pursuant to this article, applicants, prospective licensees and permittees, licensees and permittees shall have the right to be accompanied and represented by counsel.

"9. After the conclusion of a hearing but prior to the making of an order by the commission, a hearing may, upon petition and in the discretion of the hearing officer, be reopened for the presentation of additional evidence. Such petition to reopen the hearing shall state in detail the nature of the additional evidence, together with the reasons for the failure to submit such evidence prior to the conclusion of the hearing. The commission may upon its own motion and upon reasonable notice reopen a hearing for the presentation of additional evidence. Upon petition, after the making of an order of the commission, rehearing may be granted in the discretion of the commission. Such a petition for rehearing shall state in detail the grounds upon which the petition is based and shall separately set forth each error of law and fact alleged to have been made by the commission in its determination, together with the facts and arguments in support thereof. Such petition shall be filed with the commission not later than thirty days after service of such order unless the commission for good cause shown shall otherwise direct. The commission may upon its own motion grant a rehearing after the making of an order.

"ARTICLE VIII

"EXPENSES OF ADMINISTRATION

"1. In addition to the budget of its expenses under the waterfront commission compact, the commission shall annually adopt a budget of its expenses under this compact for each year. The annual budget shall be submited to the governors of the two States and shall take effect as submitted provided that either governor may within thirty days disapprove or reduce any item or items, and the budget shall be adjusted accordingly.

"2. After taking into account such funds as may be available to it from reserves in excess of ten percent of such budget under this compact, federal grants, or otherwise, the balance under this compact, federal grants, or otherwise, the balance of the commission's budgeted expenses shall be obtained by fees payable under this article and by assessments upon employers of persons licensed under this compact as provided in this article.

"3. With respect to airfreightmen and airfreightman supervisors who are employed by an air freight truck carrier regularly to move freight to or from an airport, the employers shall pay to the commission for each such airfreightman and airfreightman supervisor a license fee to be determined by the commission, not in excess of one hundred dollars for each year, commencing with the first day of April. The employer of every person who is issued a permit of fixed duration by the commission for ingress to an air freight security area, or the permittee himself if he is self-employed, shall pay to the commission a fee to be determined by the commission, not in excess of seventy-five dollars for each year, commencing with the first day of April. The commission shall reduce the maximum fees payable under this section proportionately with any reduction in the maximum assessment rate of two per cent provided for by this article.

"4. Every employer of airfreightmen and airfreightman supervisors licensed by the commission, except as otherwise provided in section three of this article, shall pay to the commission an assessment computed upon the gross payroll payments made by such employer to airfreightmen and airfreightman supervisors for work performed as such, at a rate, not in excess of two per cent, computed by the commission, in the following manner: the commission shall annually estimate the fees payable under this article and the gross payroll payments to be made by employers subject to assessment and shall compute the fees and a rate of assessment which will yield revenues sufficient to finance the balance of the commission's budget for each year as provided in section two of this article. The commission may hold in reserve an amount not to exceed ten per cent of its total budgeted expenses for the year, which reserve shall not be included as part of the budget. Such reserve shall be held for the stabilization of annual assessments, the payment of operating deficits and for the repayment of any advances made by the two States.

"5. The amount required to balance the commission's budget in excess of the estimated yield of the maximum fees and assessment, shall be certified by the commission, with the approval of the respective governors, to the legislatures of the two States, in proportion to the respective totals of the assessments and fees paid to the commission by persons in each of the two States. The legislatures shall annually appropriate to the commission the amounts so certified.

"6. The assessments and fees hereunder shall be in lieu of any other charge for the issuance of licenses or permits by the commission pursuant to this compact.

"7. In addition to any other sanction provided by law, the commission may revoke or suspend any license or permit held by any employer under this compact and/or the license or permit held under this compact by any employees of such employer, or the permit held under this compact by any employees of such employer, or the permit held under this compact by any permittee who is self-employed, and in addition the commission may deny ingress to such employers, employees or permittees to air freight security areas, for nonpayment of assessment or fee when due.

"8. Every person subject to the payment of any assessment under this compact shall file on or before the twentieth day of the first month of each calendar quarter-year a separate return, together with the payment of the assessment due, for the preceding calendar quarter-year during which any payroll payments were made to licensed persons for whom assessments are payable for work performed as such. Returns covering the amount of assessment payable shall be filed with the commission on forms to be furnished for such purpose and shall contain such data, information or matter as the commission may require to be included therein. The commission may grant a reasonable extension of time for filing returns, or for payment of assessment, whenever good cause exists. Every return shall have annexed thereto a certification to the effect that the statements contained therein are true.

"9. Every person subject to the payment of assessment hereunder shall keep an accurate record of his employment of licensed persons for whom assessments are payable, which shall show the amount of compensation paid and such other information as the commission may require. Such records shall be preserved for a period of three years and be open for inspection at reasonable times. The commission may consent to the destruction of any such records at any time after said period or may require that they be kept longer but not in excess of six years.

"10. (a) The commission shall audit and determine the amount of assessment due from the return filed and such other information as is available to it. Whenever a deficiency in payment of the assessment is determined the commission shall give notice of any such determination to the person liable therefor. Such determination shall finally and conclusively fix the amount due, unless the person against whom it is assessed shall, within thirty days after the giving of notice of such determination, apply in writing to the commission for a hearing, or unless the commission on its own motion shall reduce the same. After such hearing, the commission shall give notice of its decision to the person liable therefor. A determination of the commission under this section shall be subject to judicial review, if application for such review is made within thirty days after the giving of notice of such decision. Any determination under this article shall be made within five years from the time the return was filed and if no return was filed such determination may be made at any time.

"(b) Any notice authorized or required under this article may be given by mailing the same to the person for whom it is intended at the last address given by him to the commission, or in the last return filed by him with the commission under this article, or if no return has been filed then to such address as may be obtainable. The mailing of such notice shall be presumptive evidence of the receipt of same by the person to whom addressed. Any period of time, which is determined according to the provision of this section, for the giving of notice shall commence to run from the date of mailing of such notice.

"11. Every person required to pay a fee for a license or a permit under this article shall pay the same upon filing of the application

with the commission for such license or permit. The fee for such license or permit shall be prorated for the fiscal year for which the same is payable as of the date the application for such license or permit is filed with the commission. The commission shall prorate and make a refund of such fee for the period between the date of application and the date of the issuance of such license or permit. Upon surrender of such license or permit or upon the revocation of any such license or permit issued to an employee before the expiration of the fiscal year, the commission shall make a refund prorated for the unexpired portion of the year, less ten per cent of such refund. In the event of denial of any application for a license or permit, the commission shall refund the fee paid upon application, less ten per cent of such refund.

"12. Whenever any person shall fail to pay, within the time limited herein, any assessment or fee which he is required to pay to the commission under the provisions of this article the commission may enforce payment of such assessment or fee by civil action for the amount of such assessment or fee with interest and penalties.

"13. The employment by a nonresident of a licensed person or permittee for whom assessments of fees are payable in either State or the designation by a nonresident of a licensed person or permittee to perform work in such State shall be deemed equivalent to an appointment by such nonresident of the secretary of state of such State to be his true and lawful attorney upon whom may be served the process in any action or proceeding against him growing out of any liability for assessments or fees, penalties or interest, and a consent that any such process against him which is so served shall be of the same legal force and validity as if served on him personally within such State and within the territorial jurisdiction of the court from which the process issues. Service of process within either State shall be made by either (1) personally delivering to and leaving with the secretary of state or a deputy secretary of state of such State duplicate copies thereof at the office of the department of state in the capital city of such State, in which event such secretary of state shall forthwith send by registered mail one of such copies to the person at the last address designated by him to the commission for any purpose under this article or in the last return filed by him under this article with the commission or as shown on the records of the commission, or if no return has been filed, at his last known office address within or without such State, or (2) personally delivering to and leaving with the Secretary of state or a deputy secretary of state of such State a copy thereof at the office of the department of state in the capital city of such State and by delivering a copy thereof to the person, personally without such State. Proof of such personal service without such State shall be filed with the clerk of the court in which the process is pending within thirty days after such service and such service shall be complete ten days after proof thereof is filed.

"14. Whenever the commission shall determine that any monies received as assessments or fees were paid in error, it may cause the same to be refunded, provided an application therefor is filed with the commission within two years from the time erroneous payment was made.

"15. In addition to any other powers authorized hereunder, the commission shall have power to make reasonable rules and regulations to effectuate the purposes of this article.

"16. When any person shall wilfully fail to pay any assessment or fee due hereunder he shall be assessed interest at a rate of one per cent per month on the amount due and unpaid and penalties of five per cent of the amount due for each thirty days or part thereof that the assessment remains unpaid. The commission may, for good couse shown, abate all or part of such penalty.

"17. Any person who shall wilfully furnish false or fraudulent information or shall wilfully fail to furnish pertinent information as required with respect to the amount of any assessment or fee due, shall be guilty of a misdemeanor, punishable by a fine of not more than one thousand dollars, or imprisonment for not more than one year, or both.

"18. All funds of the commission shall be deposited with such responsible banks or trust companies as may be designated by the commission. The commission may require that all such deposits be secured by obligations of the United States or of the States of New York or New Jersey of a market value equal at all times to the amount of the deposits, and all banks and trust companies are authorized to give such security for such deposits. The monies so deposited shall be withdrawn only by check signed by two members of the commission or by such other officers or employees of the commission as it may from time to time designate.

"19. The accounts, books and records of the commission, including its receipts, disbursements, contracts, leases, investments and any other matters relating to its financial standing shall be examined and audited annually by independent auditors to be retained for such purpose by the commission.

"20. The commission shall reimburse each state for any funds advanced to the commission exclusive of sums appropriated pursuant to section five of this article.

"ARTICLE IX

"GENERAL VIOLATIONS; PROSECUTIONS; PENALTIES

"1. The failure of any witness, when duly subpoenaed to attend, to give testimony or produce other evidence in any investigation, interview or other proceeding conducted by the commission pursuant to the provisions of this act, shall be punishable by the superior court in New Jersey and the supreme court in New York in the same manner as said failure is punishable by such court in a case therein pending.

"2. Any person who, having been duly sworn or affirmed as a witness in any investigation, interview or other proceeding conducted by the commission pursuant to the provisions of this act, shall wilfully give false testimony shall be guilty of a misdemeanor punishable by a fine of not more than one thousand dollars or imprisonment for not more than one year or both.

"3. Any person who interferes with or impedes the orderly licensing of or orderly granting of any permits to any other person pursuant to this compact, or who attempts, conspires, or threatens so to do, shall be guilty of a misdemeanor punishable by a fine of not more than one thousand dollars or imprisonment for not more than one year or both.

"4. Any person who directly or indirectly inflicts or threatens to inflict any injury, damage, harm or loss or in any other manner practices intimidation upon or against any person in order to induce or compel such person or any other person to refrain from obtaining a license or permit pursuant to this compact shall be guilty of a misdemeanor punishable by a fine of not more than one thousand dollars or imprisonment for not more than one year or both.

"5. Any person who, without justification or excuse in law, directly or indirectly, intimidates or inflicts any injury, damage, harm, loss or economic reprisal upon any person who holds a license or permit issued by the commission pursuant to this compact, or any other person, or attempts, conspires or threatens so to do, in order to interfere with, impede or influence such licensee or permittee in the performance or discharge of his duties or obligations shall be guilty of a misdemeanor, punishable by a fine of not more than one thousand dollars or imprisonment of not more than one year or both.

"6. Any person who shall violate any of the provisions of this compact, for which no other penalty is prescribed, shall be guilty of a misdemeanor, punishable by a fine of not more than one thousand dollars or by imprisonment for not more than one year or both.

"7. In any prosecution under this compact, it shall be sufficient to prove only a single act (or a single holding out or attempt) prohibited by law without having to prove a general course of conduct, in order to prove a violation.

"ARTICLE X

"AMENDMENTS; CONSTRUCTION; SHORT TITLE

"1. Amendments and supplements to this compact to implement the purposes thereof may be adopted by the action of the legislature of either State concurred in by the legislature of the other.

"2. If any part or provision of this compact or the application thereof to any person or circumstances be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this compact or the application thereof to other persons or circumstances and the two States hereby declare that they would have entered into this compact or the remainder thereof had the invalidity of such provision or application thereof been apparent.

"3. In accordance with the ordinary rules for construction of interstate compacts this compact shall be liberally construed to eliminate the evils described therein and to effectuate the purposes thereof.

"4. This compact shall be known and may be cited as the 'Airport Commission Compact'."

SEC. 2. The consent herein granted does not constitute consent in advance for amendments or supplements to the Airport Commission Compact made pursuant to article X, paragraph 1 of said compact.

SEC. 3. The right is hereby reserved by the Congress or any of its standing committees to require the disclosure and the furnishing of such information and data by or concerning the Waterfront and Airport Commission in its operations as is deemed appropriate by Congress or such committee.

SEC. 4. The right to alter, amend, or repeal this Act is expressly reserved.

ADDITIONAL COSPONSORS OF BILLS

S. 796

At the request of Mr. PELL, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of S. 796, to improve museum services.

S. 1017

At the request of Mr. JACKSON, the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of S. 1017, the Indian Self-Determination and Educational Reform Act of 1973.

S. 1550

At the request of Mr. TOWER, the Senator from Nevada (Mr. BIBLE) was added as a cosponsor of S. 1550, to provide tax incentives to encourage physicians, dentists, and optometrists to practice in physician-shortage areas.

S. 1688

At the request of Mr. ERVIN, the Senator from Texas (Mr. TOWER) and the Senator from New Mexico (Mr. MONTOYA) were added as cosponsors of S. 1688, a bill to protect the civilian employees of the executive branch of the U.S. Government in the enjoyment of their constitutional rights and prevent

unwarranted governmental invasions of their privacy.

S. 1769

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

S. 1871

At the request of Mr. JACKSON, the Senator from North Dakota (Mr. BURDICK) was added as a cosponsor of S. 1871, to amend the Youth Conservation Corps Act.

S. 1939

At the request of Mr. MONDALE, the Senator from Washington (Mr. MAGNUSON), the Senator from Utah (Mr. Moss), and the Senator from Michigan (Mr. HART) were added as cosponsors of S. 1939, to prohibit pyramid sales transactions.

S. 2005

At the request of Mr. HUMPHREY, the Senator from Wyoming (Mr. McGEE) was added as a cosponsor of S. 2005, to establish strategic grain reserves.

S. 2093

At the request of Mr. MANSFIELD, for Mr. MAGNUSON, the Senator from Illinois (Mr. STEVENSON) was added as a cosponsor of S. 2093, to amend the Horse Protection Act of 1970 to better effectuate its purposes.

S. 2147

At the request of Mr. DOMENICI, the Senator from Oklahoma (Mr. BARTLETT) 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. 2215

At the request of Mr. HELMS, Senators BARTLETT, DOMENICI, DOMINICK, BELLMON, FANNIN, GOLDWATER, HANSEN, HOLLINGS, McCLURE, NUNN, TALMADGE, THURMOND, BROCK, BUCKLEY, and SCOTT of Virginia were added as cosponsors of S. 2215, to restore the value of the dollar and restrain inflation by providing for a Federal budget in which expenditures shall not exceed Federal revenues.

AUTHORITY FOR NAMES OF COSPONSORS TO BE ADDED TO S. 1179 DURING THE AUGUST RECESS

Mr. ROBERT C. BYRD. Mr. President, yesterday I secured consent for Senate Committees to file reports during the August recess, and specifically on the following dates: August 6, August 21, and September 4.

One of the bills on which a report is expected to be filed is S. 1179, a bill dealing with the tax treatment of private pensions. I have been asked by the distinguished chairman of the committee (Mr. LONG) to ask unanimous consent that during the August recess it be possible for Senators to add their names as cosponsors of that bill.

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

SENATE RESOLUTION 154—SUBMISSION OF A RESOLUTION TO EXTEND THROUGH FEBRUARY 28, 1977, THE SELECT COMMITTEE ON NUTRITION AND HUMAN NEEDS

(Referred to the Committee on Labor and Public Welfare.)

Mr. McGOVERN. Mr. President, the members of the Select Committee on Nutrition and Human Needs met in executive session on July 26, 1973, and unanimously approved the following resolution. On their behalf, I am therefore submitting a resolution regarding the future of the Select Committee.

The resolution reads as follows:

S. RES. 154

Resolved, That the Select Committee on Nutrition and Human Needs, established by S. Res. 281, Ninetieth Congress, agreed to on July 30, 1968, as amended and supplemented, is hereby extended through February 28, 1977.

SENATE RESOLUTION 155—SUBMISSION OF A RESOLUTION RELATING TO ASSISTANCE TO FRANCE

(Referred to the Committee on Foreign Relations.)

Mr. HARTKE. Mr. President, I submit a resolution calling on the President to inform the Government of France of this country's strong disapproval of France's continued detonation of nuclear devices in the Pacific Ocean area in blatant disregard of the wishes and rights of the countries and peoples most directly concerned.

I seek the wisdom and courage of my fellow colleagues in moving this resolution to finality in the most expeditious manner possible as it is speculated in the international community that France next plans to detonate a nuclear device the first part of September.

The administration of this country has remained deplorably silent on this subject. In fact, there has been no public statement from the Government of the United States concerning the nuclear explosions by France, while over 30 countries, many of which are our best friends, have valiantly fought the tests. New Zealand and Australia went to the World Court of Justice at The Hague, the United Nations' highest legal tribunal, and secured an order restraining France from further atmospheric nuclear testing. However, France ignored that injunction, striking at the very fabric of any international sense of order by law. And we will have a generation of peace, President Nixon has rhetorically charged—yet not a word of condemnation.

Mr. President, I ask unanimous consent that the Order of the World Court of Justice be printed in the RECORD following the conclusion of my remarks.

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

Mr. HARTKE. Mr. President, an editorial in the New York Times on June 27, 1973, stated:

The French rebuff is the second serious setback in less than a year for efforts to revive and strengthen this world tribunal.

The other rebuke was by Iceland. The editorial went on to emphasize the "moral weight" of the Court's judgment on world opinion when based on the facts and law presented and the impartial findings. Yet, not a word from our Government when France rebuffed the authority of the Court.

The world community, as a whole, condemns the explosion of any nuclear device in the atmosphere by any country. The potential destruction and injury to the world community of living matter is overwhelming. Yet, since 1966, France has detonated 28 nuclear devices in Polynesia on Mururoa Atoll in the South French Polynesia on Mururoa Atoll in the South Pacific. The protests of the countries in the immediate area have grown to include the World Court of Justice. The last two detonations are the commencement of a new series of tests to be conducted by France. The first was on Sunday, July 21, and the second was on July 28, 1973. The detonations have been estimated to be in the 10 megaton range and speculation has it that they are experimental trigger devices for far more powerful hydrogen bombs.

Radioactive fallout from these explosions has been detected throughout the South Pacific. The radioactive materials injected into the atmosphere could remain for years. The biological effects of ionizing radiation will remain in the cells, tissue and organs of all living matter. Embryonic cells are especially sensitive to radiation, and there is evidence that exposure of the fetus to small doses of radiation may result in leukemia during childhood. How long must civilized people stand idle watching their children being slaughtered by a lawless group?

The United States is a civilized nation which not only should be a political, economic, and cultural leader in the world community, but if we are to have the respect of our brothers and sisters, we must stand up as a moral leader recognizing the rights of man against the bullying impulses of a class of people that consider themselves above the law. We must speak up before the situation deteriorates hopelessly into violence.

I urge my colleagues to support this resolution calling upon the President to condemn France, so long as they continue to detonate nuclear devices irrespective of the rights of their fellow man in the world community. This will put France on notice that the United States has not lost its sense of right and wrong.

I ask unanimous consent that an article by Derryn Hinch appearing in the July 25, 1973, New York Times, be printed in the RECORD following the conclusion of my remarks. The cry usually heard by concerned persons, "What can I do?" has been answered in the article as it sets forth some of the actions taken by a concerned citizen.

Mr. President, not only have the countries expressing concern for the French nuclear testing on Mururoa Atoll been from the South Pacific. Our Latin American friend, Peru, has withdrawn their ambassador from France. Ecuador, Mexico, Canada, Chile, Colombia, Bolivia are other Western Hemisphere countries

that have issued strong protests to France.

Indonesia, Japan, Malaysia, the legislature of American Samoa, Singapore, South Vietnam, Thailand, and South Korea are some of the countries of the immediate region, in addition to New Zealand and Australia, that have registered strong protests to France.

Mr. President, this country cannot stand silent for another minute, while our friends are subjected to such ruthless conduct. I ask unanimous consent that the text of my resolution be printed in the RECORD at this point.

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

SENATE RESOLUTION 155

Whereas France detonated a nuclear device in the Pacific Ocean on Mururoa Atoll on July 21, 1973, without respect for the rights of the other countries in the area; and

Whereas France detonated a nuclear device in the Pacific Ocean on Mururoa Atoll on July 28, 1973, without regard or respect for the rights of the other countries in the area; and

Whereas France will in the future continue to detonate nuclear devices in the Pacific Ocean without regard or respect for the rights of the other countries in that area; and

Whereas New Zealand and Australia, among others, expressed their concern to France prior to said explosions with negligible impact on France for the welfare of others; and

Whereas the continued detonation of nuclear devices by France endangers the personal welfare of all the human beings in the Pacific Ocean area, including the United States; and

Whereas such continued detonation of nuclear devices by France endangers the natural, vegetarian and animal life of the Pacific Ocean, the United States and the rest of the World; Now, therefore, be it

Resolved, That it is the sense of the Senate that the President of the United States should immediately inform the government of France of the strong condemnation on the part of the United States of France's blatant disregard for human welfare and international law as evidenced by its policy of continued above-surface nuclear detonations in the Pacific Ocean area.

[International Court of Justice, June 22, 1973]

NUCLEAR TESTS CASE—NEW ZEALAND VERSUS FRANCE

(Request for the Indication of Interim Measures of Protection)

Present: Vice-President AMMOUN, *Acting President; Judges* FORSTER, GROS, BENGZON, PETRÉN, ONYEAMA, IGNACIO-PINTO, DE CASTRO, MOROZOV, JIMÉNEZ DE ARÉCHAGA, Sir Humphrey WALDOCK, NAGENDRA SINGH, RUDA; *Judge* ad hoc Sir Garfield BARWICK; *Registrar* AQUARONE.

The International Court of Justice,

Composed as above,

After deliberation,

Having regard to Articles 41 and 48 of the Statute of the Court,

Having regard to Article 66 of the Rules of Court,

Having regard to the Application by New Zealand filed in the Registry of the Court on 9 May 1973, instituting proceedings against France in respect of a dispute as to the legality of atmospheric nuclear tests in the South Pacific region, and asking the Court to adjudge and declare that the conduct by the French Government of nuclear tests in the South Pacific region that give rise to radioactive fall-out constitutes a violation of New Zealand's rights under international law, and that these rights will be violated by any further such tests,

Makes the following Order:

1. Having regard to the request dated 14 May 1973 and filed in the Registry the same day, whereby the Government of New Zealand, relying on Article 33 of the General Act of 1928 for the Pacific Settlement of International Disputes and on Articles 41 and 48 of the Statute and Article 66 of the Rules of Court, asks the Court to indicate, pending the final decision in the case brought before it by the Application of the same date, the following interim measures of protection:

"The measure which New Zealand requests . . . is that France refrain from conducting any further nuclear tests that give rise to radio-active fall-out while the Court is seized of the case."

2. Whereas the French Government was notified by telegram the same day of the filing of the Application instituting proceedings and a copy thereof was at the same time transmitted to it by express mail;

3. Whereas, pursuant to Article 40, paragraph 3, of the Statute and Article 37, paragraph 2, of the Rules of Court, copies of the Application were transmitted to Members of the United Nations through the Secretary-General and to other States entitled to appear before the Court;

4. Whereas the submissions set out in the request for the indication of interim measures of protection were on the day of the request communicated to the French Government, by telegram of 14 May 1973, and a copy of the request was at the same time transmitted to it by express mail;

5. Whereas pursuant to Article 31, paragraph 2, of the Statute, the Government of New Zealand chose the Right Honourable Sir Garfield Barwick, Chief Justice of Australia, to sit as judge *ad hoc* in the case;

6. Whereas the Governments of New Zealand and France were informed by communications of 15 May 1973 that the Court would in due course hold public hearings to afford them the opportunity of presenting their observations on the request by New Zealand for the indication of interim measures of protection, and by further communications of 22 May 1973 the Parties were informed that such hearings would open on 24 May 1973;

7. Whereas by a letter dated 16 May 1973 from the Ambassador of France to the Netherlands, handed by him to the Registrar the same day, the French Government stated that it considered that the Court was manifestly not competent in the case and that it could not accept the Court's jurisdiction, and that accordingly the French Government did not intend to appoint an agent, and requested the Court to remove the case from its list;

8. Whereas at the opening of the public hearings, which were held on 24 and 25 May 1973, there were present in court the Agent, Co-Agent, counsel and other advisers of the Government of New Zealand;

9. Having heard the observations on the request for interim measures on behalf of the Government of New Zealand, and the replies on behalf of that Government to questions put by a Member of the Court, submitted by Professor R. Q. Quentin-Baxter, Dr. A. M. Finlay, Q. C., and Mr. R. C. Savage, Q. C.;

10. Having taken note of the final submission of the Government of New Zealand made at the hearing of 25 May 1973, and filed in the Registry the same day, which reads as follows:

". . . New Zealand's final submission is: that the Court, acting under Article 33 of the General Act for the Pacific Settlement of International Disputes or, alternatively, under Article 41 of its Statute, should lay down or indicate that France, while the Court is seized of the case, refrain from conducting any further nuclear tests that give rise to radio-active fall-out".

11. Having taken note of the written reply given by the Agent of the Government of New Zealand on 1 June to a question put to him by a Member of the Court;

12. Noting that the French Government was not represented at the hearings; and whereas the non-appearance of one of the States concerned cannot by itself constitute an obstacle to the indication of provisional measures;

13. Whereas the Governments of New Zealand and France have been afforded an opportunity of presenting their observations on the request for the indication of provisional measures;

14. Whereas on a request for provisional measures the Court need not, before indicating them, finally satisfy itself that it has jurisdiction on the merits of the case, and yet ought not to indicate such measures unless the provisions invoked by the Applicant appear, prima facie, to afford a basis on which the jurisdiction of the Court might be founded;

15. Whereas in its Application and oral observations the Government of New Zealand claims to found the jurisdiction of the Court on the following provisions:

(*a*) Articles 36, paragraph 1, and 37 of the Statute of the Court and Article 17 of the above-mentioned General Act of 1928; and in the alternative,

(*b*) Article 36, paragraphs 2 and 5, of the Statute of the Court;

16. Whereas, according to the letter of 16 May 1973 handed to the Registrar by the French Ambassador to the Netherlands, the French Government considers, *inter alia*, that the General Act of 1928 was an integral part of the League of Nations system and, since the demise of the League of Nations, has lost its effectivity and fallen into desuetude; that this view of the matter is confirmed by the conduct of States in regard to the General Act of 1928 since the collapse of the League of Nations; that, in consequence, the General Act cannot serve as a basis for the competence of the Court to deliberate on the Application of New Zealand with respect to French nuclear tests; that in any event the General Act of 1928 is not now applicable in the relations between France and New Zealand and cannot prevail over the will clearly and more recently expressed in the declaration of 20 May 1966 made by the French Government under Article 36, paragraph 2, of the Statute of the Court; that paragraph 3 of that declaration excepts from the French Government's acceptance of compulsory jurisdiction "disputes concerning activities connected with national defence"; and that the present dispute concerning French nuclear tests in the Pacific incontestably falls within the exception contained in that paragraph;

17. Whereas in its oral observations the Government of New Zealand maintains, *inter alia*, that the validity, interpretation and effect in the present situation of the reservation attached to the French declaration of 20 May 1966 are issues which can be the subject of debate, and that it cannot be baldly asserted that there is a manifest absence of jurisdiction under Article 36, paragraph 2, of the Statute; that the General Act was, within the meaning of Article 37 of the Statute, a treaty or convention in force on 24 October 1945 when New Zealand and France became parties to the Statute, and that Article 37 of the Statute accordingly conferred on the Court the jurisdiction provided for in Article 17 of the General Act; that such evidence as there is of State practice in more recent years is wholly consistent with the Act's con-

tinuity; that since 1946 France has more than once acknowledged that the General Act remains in force; that so far as the General Act is concerned, not only is there no manifest lack of jurisdiction to deal with this matter, but the Court's jurisdiction on the merits on that basis is reasonably probable, and there exist weighty arguments in favour of it;

18. Whereas the material submitted to the Court leads it to the conclusion, at the present stage of the proceedings, that the provisions invoked by the Applicant appear, prima facie, to afford a basis on which the jurisdiction of the Court might be founded; and whereas the Court will accordingly proceed to examine the Applicant's request for the indication of interim measures of protection;

19. Whereas the request of the Government of New Zealand for the indication of provisional measures is based on Article 33 of the General Act of 1928, as well as on Article 41 of the Statute of the Court; and whereas the Government of New Zealand in its final submission asks the Court to indicate such measures under Article 33 of the General Act or, alternatively, under Article 41 of the Statute;

20. Whereas the Court considers that it should not exercise its power to indicate provisional measures under Article 33 of the General Act of 1928 until it has reached a final conclusion that the General Act is still in force: whereas the Court is not in a position to reach a final conclusion on this point at the present stage of the proceedings, and will therefore examine the request for the indication of interim measures only in the context of Article 41 of the Statute;

21. Whereas the power of the Court to indicate interim measures under Article 41 of the Statute has as its object to preserve the respective rights of the Parties pending the decision of the Court, and presupposes that irreparable prejudice should not be caused to rights which are the subject of dispute in judicial proceedings and that the Court's judgment should not be anticipated by reason of any initiative regarding the matters in issue before the Court:

22. Whereas it follows that the Court in the present case cannot exercise its power to indicate interim measures of protection unless the rights claimed in the Application, prima facie, appear to fall within the purview of the Court's jurisdiction;

23. Whereas it is claimed by the Government of New Zealand in its Application that rules and principles of international law are now violated by nuclear testing undertaken by the French Government in the South Pacific region, and that, *inter alia*,

(*a*) it violates the rights of all members of the international community including New Zealand, that no nuclear tests that give rise to radio-active fall-out be conducted;

(*b*) it violates the rights of all members of the international community, including New Zealand, to the preservation from unjustified artificial radio-active contamination of the terrestrial, maritime and aerial environment and, in particular, of the environment of the region in which the tests are conducted and in which New Zealand, the Cook Islands, Niue and the Tokelau Islands are situated;

(*c*) it violates the right of New Zealand that no radio-active material enter the territory of New Zealand, the Cook Islands, Niue or the Tokelau Islands, including their airspace and territorial waters, as a result of nuclear testing;

(*d*) it violates the right of New Zealand that no radio-active material, having entered the territory of New Zealand, the Cook Islands, Niue or the Tokelau Islands, including their air space and territorial waters, as a result of nuclear testing, cause harm, including apprehension, anxiety and concern, to the people and Government of New Zealand and of the Cook Islands, Niue and the Tokelau Islands;

(*e*) it violates the right of New Zealand to freedom of the high seas, including freedom of navigation and overflight and the freedom to explore and exploit the resources of the sea and the seabed, without interference or detriment resulting from nuclear testing;

and whereas New Zealand invokes its moral and legal responsibilities in relation to the Cook Islands, Niue and the Tokelau Islands;

24. Whereas it cannot be assumed *a priori* that such claims fall completely outside the purview of the Court's jurisdiction, or that the Government of New Zealand may not be able to establish a legal interest in respect of these claims entitled the Court to admit the Application;

25. Whereas by the terms of Article 41 of the Statute the Court may indicate interim measures of protection only when it considers that circumstances so require in order to preserve the rights of either party;

26. Whereas the Government of New Zealand alleges, *inter alia*, that during the period from 1966 to 1972 the French Government has carried out a series of atmospheric nuclear tests centred on Mururoa in the South Pacific; that the French Government has refused to give an assurance that its programme of atmospheric nuclear testing in the South Pacific is at an end, and that on 2 May 1973 the French Government announced that it did not envisage cancelling or modifying the programme originally planned; that from official pronouncements it is clear that some further tests are envisaged with the likelihood of deploying a thermonuclear warhead by 1976; that the French Government has also reserved its options on the development of yet another generation of nuclear weapons after 1976 which would require further tests; that in previous years the nuclear testing series conducted by France have begun on dates between 15 May and 7 July; that on the basis of the pronouncements referred to above and the past practice of the French Government, there are strong grounds for believing that the French Government will carry out further testing of nuclear devices and weapons in the atmosphere at Mururoa Atoll before the Court is able to reach a decision on the Application of New Zealand;

27. Whereas these allegations give substance to the New Zealand Government's contention that there is an immediate possibility of a further atmospheric nuclear test being carried out by France in the Pacific;

28. Whereas the Government of New Zealand also alleges that each of the series of French nuclear tests has added to the radio-active fall-out in New Zealand territory; that the basic principles applied in this field by international authorities are that any exposure to radiation may have irreparable, and harmful, somatic and genetic effects and that any additional exposure to artificial radiation can be justified only by the benefit which results; that, as the New Zealand Government has repeatedly pointed out in its correspondence with the French Government, the radio-active fall-out which reaches New Zealand as a result of French nuclear tests is inherently harmful, and that there is no compensating benefit to justify New Zealand's exposure to such harm; that the uncertain physical and genetic effects to which contamination exposes the people of New Zealand causes them acute apprehension, anxiety and concern; and that there could be no possibility that the rights eroded by the holding of further tests could be fully restored in the event of a judgment in New Zealand's favour in these proceedings;

29. Whereas the French Government, in a diplomatic Note addressed to the Government of New Zealand and dated 10 June 1966, the text of which was annexed to the Application in this case, emphasized that every precaution would be taken with a view to ensuring the safety and the harmlessness of the French nuclear tests, and observed that the French Government, in taking all appropriate steps to ensure the protection of the populations close to the test zone, had sought *a fortiori* to guarantee the safety of populations considerably further distant, such as New Zealand or the territories for which it is responsible; and whereas in a letter dated 19 February 1973 to the Prime Minister of New Zealand from the French Ambassador to New Zealand, the text of which was also annexed to the Application in this case, the French Government called attention to Reports of the New Zealand National Radiation Laboratory, and of the Australian National Radiation Advisory Committee, which reached the conclusion that the fall-out from the French tests had never involved any danger to the health of the populations of those two countries, and observed that the concern which had been expressed as to the long-term effects of testing could not be based on anything other than conjecture;

30. Whereas for the purpose of the present proceedings it suffices to observe that the information submitted to the Court, including Reports of the United Nations Scientific Committee on the Effects of Atomic Radiation between 1958 and 1972, does not exclude the possibility that damage to New Zealand might be shown to be caused by the deposit on New Zealand territory of radio-active fall-out resulting from such tests and to be irreparable;

31. Whereas in the light of the foregoing considerations the Court is satisfied that it should indicate interim measures of protection in order to preserve the right claimed by New Zealand in the present litigation in respect of the deposit of radio-active fall-out on the territory of New Zealand, the Cook Islands, Niue or the Tokelau Islands;

32. Whereas the circumstances of the case do not appear to require the indication of interim measures of protection in respect of other rights claimed by New Zealand in the Application;

33. Whereas the foregoing considerations do not permit the Court to accede at the present stage of the proceedings to the request made by the French Government in its letter dated 16 May 1973 that the case be removed from the list;

34. Whereas the decision given in the present proceedings in no way prejudges the question of the jurisdiction of the Court to deal with the merits of the case, or any questions relating to the admissibility of the Application, or relating to the merits themselves, and leaves unaffected the right of the French Government to submit arguments in respect of those questions;

35. Having regard to the position taken by the French Government in its letter dated 16 May 1973 that the Court was manifestly not competent in the case and to the fact that it was not represented at the hearings held on 24 and 25 May on the question of the indication of interim measures of protection;

36. Whereas, in these circumstances, it is necessary to resolve as soon as possible the questions of the Court's jurisdiction and of the admissibility of the Application;

Accordingly,

THE COURT

Indicates, by 8 votes to 6, pending its final decision in the proceedings instituted on 9 May 1973 by New Zealand against France, the following provisional measures:

The Governments of New Zealand and France should each of them ensure that no action of any kind is taken which might aggravate or extend the dispute submitted to the Court or prejudice the rights of the other Party in respect of the carrying out of whatever decision the Court may render in the case; and, in particular, the French Government should avoid nuclear tests causing the deposit of radioactive fall-out on

the territory of New Zealand, the Cook Islands, Niue or the Tokelau Islands;

Decides that the written proceedings shall first be addressed to the questions of the jurisdiction of the Court to entertain the dispute, and of the admissibility of the Application;

Fixes as follows the time-limits for the written proceedings:

21 September 1973 for the Memorial of the Government of New Zealand;

21 December 1973 for the Counter-Memorial of the French Government;

And reserves the subsequent procedure for further decision.

Done in English and in French, the English text being authoritative, at the Peace Palace, The Hague, this twenty-second day of June one thousand nine hundred and seventy-three, in four copies, one of which will be placed in the archives of the Court, and the others transmitted respectively to the French Government, to the Government of New Zealand, and to the Secretary-General of the United Nations for transmission to the Security Council.

(*Signed*) F. AMMOUN,
Vice-President.
(*Signed*) S. AQUARONE,
Registrar.

Judge JIMÉNEZ DE ARÉCHAGA makes the following declaration:

I have voted in favour of the Order for the reasons stated therein, but wish to add some brief comments on the relationship between the question of the Court's jurisdiction and the indication of interim measures.

I do not believe the Court should indicate interim measures without paying due regard to the basic question of its jurisdiction to entertain the merits of the Application. A request should not be granted if it is clear, even on a prima facie appreciation, that there is no possible basis on which the Court could be competent as to the merits. The question of jurisdiction is therefore one, and perhaps the most important, among all relevant circumstances to be taken into account by a Member of the Court when voting in favour of or against a request for interim measures.

On the other hand, in view of the urgent character of the decision on provisional measures, it is obvious that the Court cannot make its answer dependent on a previous collective determination by means of a judgment of the question of its jurisdiction on the merits.

This situation places upon each Member of the Court the duty to make, at this stage, an appreciation of whether—in the light of the grounds invoked and of the other materials before him—the Court will posses jurisdiction to entertain the merits of the dispute. From a subjective point of view, such an appreciation or estimation cannot be fairly described as a mere preliminary or even cursory examination of the jurisdictional issue: on the contrary, one must be satisfied that this basic question of the Court's jurisdiction has received the fullest possible attention which one is able to give to it within the limits of time and of materials available for the purpose.

When, as in this case, the Court decides in favour of interim measures, and does not, as requested by the French Government, remove the case from the list, the parties will have the opportunity at a later stage to plead more fully on the jurisdictional question. It follows that that question cannot be prejudged now; it is not possible to exclude *a priori*, that the further pleadings and other relevant information may change views or convictions presently held.

The question described in the Order as that of the existence of "a legal interest in respect of these claims entitling the Court to admit the Application" (para. 24) is characterized in the operative part as one relating to the admissibility of the Application. The issue has been raised of whether New Zealand has a right of its own—as distinct from a general community interest—or has suffered, or is threatened by, real damage. As far as the power of the Court to adjudicate on the merits is concerned, the issue is whether the dispute before the Court is one "with regard to which the parties are in conflict as to their respective rights" as required by the jurisdictional clause invoked by New Zealand. The question thus appears to be a limited one linked to jurisdiction rather than to admissibility. The distinction between those two categories of questions is indicated by Sir Gerald Fitzmaurice in *I.C.J. Reports 1963*, pages 102–103, as follows:

". . . the real distinction and test would seem to be whether or not the objection is based on, or arises from, the jurisdictional clause or clauses under which the jurisdiction of the tribunal is said to exist. If so, the objection is basically one of jurisdiction."

Article 17 of the General Act provides that the disputes therein referred to shall include in particular those mentioned in Article 36 of the Statute of the Permanent Court of International Justice. Among the classes of legal disputes there enumerated is that concerning "the existence of any fact which, *if established*, would constitute a breach of an international obligation" (emphasis added). At the preliminary stage it would seem therefore sufficient to determine whether the parties are in conflict as to their respective rights. It would not appear necessary to enter at that stage into questions which really pertain to the merits and constitute the heart of the eventual substantive decision such as for instance the establishment of the rights of the parties or the extent of the damage resulting from radioactive fall-out.

Judge Sir Humphrey WALDOCK makes the following declaration:

I concur in the Order. I wish only to add that, in my view, the principles set out in Article 67, paragraph 7, of the Rules of Court should guide the Court in giving its decision on the next phase of the proceedings which is provided for by the present Order.

Judge NAGENDRA SINGH makes the following declaration:

While fully supporting the reasoning leading to the verdict of the Court, and therefore voting with the majority for the grant of interim measures of protection in this case, I wish to lend emphasis, by the declaration, to the requirement that the Court must be satisfied of its own competence, even though prima facie, before taking action under Article 41 of the Statute and Rule 61 (New Rule 66) of the Rules of Court.

It is true that neither of the aforesaid provisions spell out the test of competence of the Court or of the admissibility of the Application and the request, which nevertheless have to be gone into by each Member of the Court in order to see that a *possible* valid base for the Court's competence exist and that the Application is, prima facie, entertainable. I am, therefore, in entire agreement with the Court in laying down a positive test regarding its own competence, prima facie established, which was enunciated in the Fisheries Jurisdiction[1] case and having been reiterated in this case may be said to lay down not only the latest but also the settled jurisprudence of the Court on the subject.

It is indeed a *sine qua non* of the exercise of judicial function that a court can be moved only if it has competence. If therefore in the exercise of its inherent powers (as enshrined in Art. 41 of its Statute) the Court grants interim relief, its sole justification to do so is that if it did not, the rights of the parties would get so prejudiced that the judgment of the Court when it came could be rendered meaningless. Thus the possibility of the Court being ultimately able to give a judgment on merits should always be present when interim measures are contemplated. If, however, the Court were to shed its legal base of competence when acting under Article 41 of its Statute, it would immediately expose itself to the danger of being accused of discouraging governments from:

". . . undertaking, or continuing to undertake, the obligations of judicial settlement as the result of any justifiable apprehension that by accepting them they may become exposed to the embarrassment, vexation and loss, possibly following upon interim measures, in cases in which there is no reasonable possibility, prima facie ascertained by the Court, of jurisdiction on the merits. Accordingly, the Court cannot, in relation to a request for indication of interim measures, disregard altogether the question of its competence on the merits. The correct principle which emerges from these apparently conflicting considerations and which has been uniformly adopted in international arbitral and judicial practice is as follows: The Court may properly act under the terms of Article 41 provided that there is in existence an instrument such as a Declaration of Acceptance of the Optional Clause, emanating from the Parties to the dispute, which prima facie confers jurisdiction upon the Court and which incorporates no reservations obviously excluding its jurisdiction." (Separate opinion of Sir Hersch Lauterpacht in *Interhandel* case, *I.C.J. Report 1957*, p. 118.)

It needs to be mentioned, therefore, that even at this preliminary stage of prima facie testing the Court has to examine the reservations and declarations made to the treaty which is cited by a party to furnish the base for the jurisdiction of the Court and to consider also the validity of the treaty if the same is challenged in relation to the parties to the dispute. As a result of this prima facie examination the Court could either find:

(*a*) that there is no possible base for the Court's jurisdiction in which event no matter what emphasis is placed on Article 41 of its Statute, the Court cannot proceed to grant interim relief; or

(*b*) that a possible base exists, but needs further investigation to come to any definite conclusion in which event the Court is inevitably left no option but to proceed to the substance of the jurisdiction of the case to complete its process of adjudication which, in turn, is time consuming and therefore comes into conflict with the urgency of the matter coupled with the prospect of irreparable damage to the rights of the parties. It is this situation which furnishes the "raison d'être" of interim relief.

If, therefore, the Court, in this case, has granted interim measures of protection it is without prejudice to the substance whether jurisdictional or otherwise which cannot be prejudged at this stage and will have to be gone into further in the next phase.

Judge *ad hoc* Sir Garfield BARWICK makes the following declaration:

I have voted for the indication of interim measures and the Order of the Court as to the further procedure in the case because the very thorough discussions in which the Court has engaged over the past weeks and my own researches have convinced me that the General Act of 1928 and the French Government's declaration to the compulsory jurisdiction of the Court with reservations each provide, prima facie, a basis on which the Court might have jurisdiction to entertain and decide the claims made by New Zealand in its Application of 9 May 1973. Further, the exchange of diplomatic notes between the Governments of New Zealand and France in 1973 afford, in my opinion, at least prima facie evidence of the existence

[1] *Fisheries Jurisdiction* (*United Kingdom* v. *Iceland*) *I.C.J. Reports 1972*, Order of 17 August 1972, paras. 15 to 17, pp. 15 to 16.

of a dispute between those Governments as to matters of international law affecting their respective rights.

Lastly, the material before the Court, particularly that appearing in the UNSCEAR reports, provides reasonable grounds for concluding that further deposit in the New Zealand territorial environment and that of the Cook Islands of radio-active particles of matter is likely to do harm for which no adequate compensatory measures could be provided.

These conclusions are sufficient to warrant the indication of interim measures.

I agree with the form of the provisional measures indicated, understanding that the action proscribed is action on the part of governments and that the measures are indicated in respect only of the New Zealand Government's claim to the inviolability of its territory, and of that of the Cook Islands.

Judges FORSTER, GROS, PETRÉN and IGNACIO-PINTO append dissenting opinions to the Order of the Court.

(*Initialled*) F.A.
(*Initialled*) S.A.

[From the New York Times]

RETALIATORY SHOPPING

(By Derryn Hinch)

The most important news out of France in recent weeks, at least as far as American wine drinkers were concerned, was the announcement that Château Mouton-Rothschild had been upgraded to a first-growth wine.

There was no rejoicing at this reporter's table, from which all French wine has been banned for months.

I am boycotting French products until the French abide by the World Court, and the court of world opinion, and abandon their irresponsible and narcissistic nuclear tests on Australia's doorstep (or at least until Australia and New Zealand detonate a nuclear device off the South of France).

For me, the paramount French news chattering off the wire-service machines was the cat-and-mouse drama being played out in the Pacific by the plucky New Zealand protest frigate "Otago" and a French minesweeper near the combustion zone at Mururoa Atoll—at least until last weekend, when the French detonated their latest bomb. At this distant outpost, ten thousand miles from the contaminated-milk zone, there is little an individual can do to protest the French tests.

Still, one has memories of the anti-French boycott that stirred Americans, especially New Yorkers, back in 1967.

It was only six years ago, and yet the main issue that triggered the boycott of French products is already a hazy memory.

The protest was fueled by Charles de Gaulle's arrogant anti-Americanisms and the belief that the French were denigrating the Americans from the left side of the mouth while shamelessly exploiting the Yankee tourists from the right.

The boycott was short-lived but partially successful. I remember the small placards that appeared on tables in New York restaurants urging diners not to buy French wine; there were bomb threats against the New York officials of Air France; and summer travelers were urged to visit any European city except "putrid Paree."

That boycott also gave birth to a wave of anti-French jokes that made Polish ethnic jokes look complimentary, and included such foul puns as "That's the way de Gaulle bounces."

With that in mind, I decided several months ago to launch a one-man boycott from afar that admittedly has achieved little, except to impart a glow of self-righteousness.

So far, at great personal deprivation, I have achieved the following:

Knocked back an invitation to a riotous evening at the National Press Club while in Washington because it was billed as a "French Night," featuring only French wines and cheeses. For a while I contemplated attending and then feigning illness next day with the heinous story that I had contracted botulism poisoning from the cheese and amebic dysentery from the wine.

Poured a bottle of Châteauneuf-du-Pape down the drain at a loss of $6.85. That was an even more painful ritual because it was one of my favorite wines. I once spent a holiday in a small French hotel that was in the shadow of the ruins of the old château.

Consigned a round of Camembert cheese to the garbage-disposal chute along with a half a head of Brie bought before the boycott decision.

Convinced my liquor store to push German and Italian wines by indoctrinating the owner with horror stories about the French nuclear tests.

Ignored my favorite white wine (a French Pouilly-Fuissé) at every restaurant dinner.

This singular protest, however, has had several advantages. I have rediscovered the delights of good Italian white wines, have found an even better Camembert cheese that is Danish, and have talked my liquor store owner into stocking such Australian wines as Moyston claret (one of the few he can get) which he sells to me for $36 (American) a case.

It seems a lot of Americans are starting boycotts of French wines for economic reasons rather than for stands of conscience. A friend of mine in Greenwich, Conn., who merely by his address can obviously afford Lafite-Rothschild, now admits to buying California wines because "the price of French wine is outrageous."

When boycotting the French you don't have that problem, but quandaries do crop up. For example: Is it permissible to eat French onion soup?

ADDITIONAL COSPONSORS OF A SENATE RESOLUTION

SENATE RESOLUTION 150

At the request of Mr. HANSEN, the Senator from Tennessee (Mr. BROCK), the Senator from North Dakota (Mr. BURDICK), the Senator from Idaho, (Mr. CHURCH), the Senator from California (Mr. CRANSTON), the Senator from Nebraska (Mr. CURTIS), the Senator from Colorado (Mr. DOMINICK), the Senator from Oregon (Mr. HATFIELD), the Senator from North Carolina (Mr. HELMS), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Idaho (Mr. MCCLURE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Wisconsin (Mr. NELSON), the Senator from Georgia (Mr. NUNN), the Senator from Illinois (Mr. STEVENSON), the Senator from Georgia (Mr. TALMADGE), and the Senator from South Carolina (Mr. THURMOND), be added as cosponsors of Senate Resolution 150 to disapprove recommendations of the President with respect to rates of pay transmitted to Congress during calendar year 1973 under section 225 (h) of the Federal Salary Act of 1967.

PROHIBITION OF MINING AND PROSPECTING WITHIN NATIONAL PARK SYSTEM AMENDMENT

AMENDMENT NO. 452

(Ordered to be printed and referred to the Committee on Interior and Insular Affairs.)

Mr. FANNIN (for himself and Mr. GOLDWATER) submitted an amendment intended to be proposed by them to the bill (S. 2273) to repeal certain provisions of law allowing prospecting and mining important components of the National Park System, to prohibit prospecting and mining activities within such area, and for other purposes.

DEPARTMENT OF ENERGY AND NATURAL RESOURCES—AMENDMENT

AMENDMENT NO. 453

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

Mr. HOLLINGS. Mr. President, for myself, Senator BAYH, Senator CANNON, Senator CASE, Senator COOK, Senator HART, Senator HASKELL, Senator HUGHES, Senator JACKSON, Senator MAGNUSON, Senator Moss, Senator NELSON, Senator PASTORE, Senator PELL, Senator RANDOLPH, Senator STEVENSON, and Senator TUNNEY, I am submitting an amendment intended to be proposed by us, jointly, to the bill (S. 2135) to promote more effective management of certain related functions of the executive branch by reorganizing and consolidating those functions in a new Department of Energy and Natural Resources, by reorganizing and consolidating others in a new Energy Research and Development Administration, and for other purposes.

On June 29, 1973, the President announced a series of additional actions to deal with the Nation's energy problem and proposed the establishment of a new Cabinet-level Department of Energy and Natural Resources responsible for the utilization and conservation of America's energy and natural resources. The President's proposal was introduced on July 10, as S. 2135, by the distinguished Senator from Washington (Mr. JACKSON) and others. Initial hearings on this proposal were held on July 31 and August 1, 1973.

As the Senate begins its consideration of S. 2135, I want to point out the opportunity which this legislation presents for furthering the goals adopted by a 79-to-12 vote of the Senate when it passed S. 70, a bill to establish a Council on Energy Policy in the Executive Office of the President. I believe that this bill should be incorporated in S. 2135, which is intended to strengthen the Federal Government's ability to deal with the energy and natural resource problem now facing the Nation.

S. 70, as passed by the Senate, would establish a three-member Council on Energy Policy. The Council would improve Federal capabilities for obtaining reliable and credible information, coordinate the energy activities of the Federal Government, and prepare a long-range, comprehensive plan for energy development, utilization, and conservation. This proposal would provide a single place for Congress and the President to seek energy information and policy recommendations.

The Council would provide sophisticated analysis of policy alternatives and would formulate recommendations for energy policy. It would not assume the

duties of existing agencies but rather would be a policy adviser such as the Council of Economic Advisers or the Council on Environmental Quality. In addition, once the policy choices have been made within the executive or legislative branches, the Council would formulate an energy plan to serve as a basic blueprint for other agencies to better carry out their assigned tasks in a coordinated fashion. The Council would publish an annual energy report. This report would include statistical data, energy supply and demand trends, and recommended legislation.

The members of the Council would be nominated by the President, subject to advice and consent of the Senate. The Council would have an affirmative duty to keep Congress fully and currently informed of all of its activities. Neither its members nor employees may refuse to testify or submit information to Congress. Finally, the General Accounting Office would have the authority to review the effectiveness and efficiency of the information gathering activities of the Council.

The Energy Policy Office recently established by Executive order but without public accountability or statutory powers and without the strength of diversity provided by a three-member council supported by an independent staff simply will not suffice to meet the enormous challenge for formulating a national energy policy.

The Senate's consideration of S. 2135 presents an opportunity to deal comprehensively with energy and natural resource problems and establish a Federal energy organization that is properly equipped to meet the challenges of the future. I believe that the creation of a Council on Energy Policy is an essential part of any such effort.

Mr. President, I ask unanimous consent that my amendment be printed in the RECORD at this point.

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

AMENDMENT No. 453

At the end of the bill add the following:

TITLE XX

SEC. 2001. This title may be cited as the "Energy Policy Act of 1973."

FINDINGS

SEC. 2002. The Congress hereby finds and declares that—

(a) there are many Federal agencies, created at different times and for different purposes to handle specialized problems, all directly or indirectly involved in the establishment of energy policy;

(b) there is no comprehensive national energy policy but instead Federal energy activities consist of a myriad of laws, regulations, and in actions resulting in narrow, short range, and often conflicting decisionmaking by individual agencies without adequate consideration of the impact on the overall energy policy, nor future national energy needs; and

(c) as a consequence of not having a comprehensive national energy policy, the Nation faces mismanagement of energy resources, unacceptably high adverse environmental impacts, inadequate incentives for efficient utilization and conservation of energy resources, shortages of supply, and soaring energy prices.

DECLARATION OF PURPOSES

SEC. 2003. Congress declares that—

(a) It is the purpose of this Act to protect and promote the interest of the people of the United States as energy users by establishing a Council on Energy Policy.

(b) A Council on Energy Policy is needed to serve as a focal point for—

(1) the collection, analysis, and interpretation of energy statistics and data necessary to formulate policies for wise energy management and conservation and to anticipate social, environmental, and economic problems associated with existing and emerging energy technologies;

(2) the coordination of all energy activities of the Federal Government, and provide leadership to State and local governments and other persons involved in energy activities; and

(3) the preparation of, after consultation with other interested organizations and agencies, a long-range comprehensive plan (hereinafter referred to as the "Energy Plan") for energy development, utilization and conservation to foster improvement in the efficiency of energy production and utilization, reduction of the adverse environmental impacts of energy production and utilization, conservation of energy resources for the use of future generations, reduction of excessive energy demands, and development of new technologies to produce clean energy.

DUTIES OF FEDERAL AGENCIES

SEC. 2004. (a) The policies, regulations, and public laws of the United States shall be interpreted and administered to the fullest extent possible in accordance with the policies set forth in this Act; and

(b) All agencies of the Federal Government shall to the fullest extent possible—

(1) utilize a systematic, interdisciplinary approach which will insure the integrated use of both physical and social sciences in producing, conserving, and utilizing the Nation's energy resources;

(2) submit prior to the review process established pursuant to the Budget and Accounting Act of 1921, as amended, to the Council on Energy Policy established by this Act for comment all legislative recommendations and reports, to the extent that such recommendations and reports deal with or have a bearing on energy matters;

(3) gather data and information pursuant to guidelines promulgated by the Council on Energy Policy; develop analytical techniques for use in the management, conservation, use, and development of energy resources, and make such data available to the Council on Energy Policy;

(4) recognize the worldwide and long-range character of energy concerns and, where consistent with the foreign policy of the United States, lend appropriate support to initiatives, resolutions, and programs designed to foster international cooperation in anticipating and resolving energy-related problems;

(5) include in every recommendation or report to Congress on proposals for legislation and other major Federal actions having a significant effect on energy availability or use a detailed statement by the responsible official on whether such a proposal or action is consistent with the Energy Plan formulated by the Council on Energy Policy pursuant to this Act. If such proposal or action is not consistent with such plan, the statement shall also contain a detailed justification for the proposal or action;

(6) prepare, if required by guidelines promulgated by the Council on Energy Policy, an energy resource statement by the responsible official on the effect of the proposed activity on the Nation's overall energy posture.

ESTABLISHMENT OF A COUNCIL

SEC. 2005. (a) There shall be created in the Executive Office of the President a Council on Energy Policy (hereinafter referred to as the "Council"). The Council shall be composed of three members who shall be appointed by the President to serve at his pleasure by and with the advice and consent of the Senate. The President shall at the time of nomination designate one of the members of the Council to serve as Chairman. Each member shall be a person, who as a result of his training, experience, and attainment, is well qualified to analyze and interpret energy trends and information of all kinds; to appraise programs and activities of the Federal Government in light of the energy needs of the Nation; to be conscious of and responsive to the environmental, social, cultural, economic, scientific, and esthetic needs and interests of the Nation; and to formulate a national energy plan and recommend national policies with respect to wise energy management.

DUTIES OF COUNCIL

SEC. 2006. (a) The Council shall serve as the principal adviser to the President on energy policy and shall exercise leadership in the formulation of Government policy concerning domestic and international issues relating to energy.

(b) The Council shall make recommendations to the President and the Congress for resolving conflicts between the policies relating to energy of different Federal agencies.

(c) The Council shall develop within eighteen months after the date of enactment of this Act and thereafter shall annually update an Energy Plan for energy development, utilization, and conservation in the United States to carry out the purposes as stated in section 3 of this Act. Copies of such plans shall be distributed on January 1 of each year to the President, to the Congress, and to all Federal and State agencies concerned with energy, and upon request to local agencies and nongovernmental entities.

(d) The Council shall promptly review all legislative recommendations and reports sent to Congress and the accompanying energy resource statements of Federal agencies, to the extent that such recommendations and reports have a bearing on energy matters, and it shall send to the President and the involved Federal agency a statement in writing of its position and the reasons therefor.

(e) The Council shall keep Congress fully and currently informed of all of its activities. Neither the Council nor its employees may refuse to testify before or submit information to Congress or any duly authorized committee thereof.

(f) The Council shall conduct annual public hearings on the Energy Plan and may hold public hearings when there is substantial public interest in other pending matters.

(g) Within six months after the enactment date of this Act and after published notice in the Federal Register and opportunity for comment, the Council shall promulgate guidelines for the preparation of energy resource statements by other Federal agencies. Such guidelines shall be implemented by all Federal agencies within six months after promulgation by the Council. Such guidelines shall be implemented by all Federal agencies within six months after promulgation by the Council. Such guidelines are to be designed to avoid duplication of effort, distinguish between regulatory and nonregulatory activities, contain criteria for determining when an activity is a major Federal activity that affects energy availability and specify the content and nature of the analysis to be required in the energy resource statements. The provisions of this subsection and paragraph (6) of subsection 4(b) shall be enforceable by the Council only. Nothing contained herein shall be construed as authorizing any court to grant injunctive or other relief to any person for failure to comply with its provisions.

(h) In carrying out its collection, analysis, and interpretation of energy statistics func-

tion, the Council shall, as quickly as possible and after appropriate study, promulgate guidelines for the collection and initial analysis of energy data by other Federal agencies, after published notice in the Federal Register and opportunity for comment. Such guidelines shall be designed to make such data compatible, useful, and comprehensive. Where relevant data is not now available or reliable and is beyond the authority of other agencies to collect, then the Council shall recommend to the Congress the enactment of appropriate legislation. Pending congressional consideration, the Council may gather such data directly. The Council shall have the power to require by special or general orders any person to submit in writing such energy data as the Council may prescribe. Such submission shall be made within such reasonable period and under oath or otherwise as the Council may direct.

ADMINISTRATIVE PROVISIONS

SEC. 2007. (a) In exercising its powers, functions, and duties under this Act the Council shall—

(1) consult with representatives of science, industry, agriculture, labor, conservation organizations, State, and local governments, and other groups, as it deems advisable; and

(2) employ a competent, independent staff which shall utilize, to the fullest extent possible, the services, facilities, and information (including statistical information) of public and private agencies and organizations, and individuals, to avoid duplication of effort and expense, thus assuring that the Council's activities will not unnecessarily overlap or conflict with similar activities authorized by law and performed by other agencies.

(b) Members of the Council shall serve full time and the Chairman of the Council shall be compensated at the rate provided for level II of the Executive Schedule Pay Rates (5 U.S.C. 5313). The other members of the Council shall be compensated at the rate provided for level IV of the Executive Schedule Pay Rates (5 U.S.C. 5315).

(c) The Council may employ such officers and employees as may be necessary to carry out its functions under this Act. In addition, the Council may employ and fix the compensation of such experts, consultants, or contractors to conduct detailed studies as may be necessary for the carrying out of its functions under this Act in accordance with section 3109 of title 5, United States Code (but without regard to the last sentence thereof).

ENERGY REPORT

SEC. 2008. The Council shall prepare and submit to the President and the Congress on or before January 1, 1974, and annually thereafter, an energy report to accompany the Energy Plan. This report shall include—

(a) an estimate of energy needs of the United States for the ensuing ten-year period to meet the requirements of the general welfare of the people of the United States and the commercial and industrial life of the Nation;

(b) an estimate of the domestic and foreign energy supply on which the United States will be expected to rely to meet such needs in an economic manner with due regard for the protection of the environment, the conservation of natural resources, and the implementation of foreign policy objectives;

(c) current and foreseeable trends in the price, quality, management, and utilization of energy resources and the effects of those trends on the social, environmental, economic, and other requirements of the Nation;

(d) a catalog of research and development efforts funded by the Federal Government to develop new technologies, to forestall energy shortages, to reduce waste, to foster recycling, and to encourage conservation practices; and recommendations for developing technology capable of improving the quality of the environment, increasing efficiency, and protecting employee health and safety in energy industries;

(e) recommendations for improving the energy data and information available to the Federal agencies by improving monitoring systems, standardizing data, and securing additional needed information;

(f) a review and appraisal of the adequacy and appropriateness of technologies, procedures, and practices (including competitive and regulatory practices), employed by Federal, State, and local governments and nongovernmental entities to achieve the purposes of this Act; and

(g) recommendations for the level of funding for the development and application of new technologies, as well as new procedures and practices which the Council may determine to be required to achieve the purposes of this Act and improve energy management and conservation together with recommendations for additional legislation.

PUBLIC ACCESS TO INFORMATION

SEC. 2009. (a) Copies of any communications, documents, reports, or information received or sent by any member of the Council shall be made available to the public upon identifiable request, and at reasonable cost, unless such information may not be publicly released under the terms of subsection (b) of this section.

(b) The Council or any officer or employee of the Council shall not disclose information obtained under this Act which concerns or relates to a trade secret referred to in section 1905 of title 18, United States Code, except that such information may be disclosed in a manner designed to preserve its confidentiality—

(1) to other Federal Government departments, agencies and officials for official use upon request;

(2) to committee of Congress having jurisdiction over the subject matter to which the information relates;

(3) to a court in any judicial proceeding under court order formulated to preserve the confidentiality of such information without impairing the proceedings; and

(4) to the public in order to protect their health and safety after notice and opportunity for comment in writing or for discussion in closed session within fifteen days by the party to whom the information pertains (if the delay resulting from such notice and opportunity for comment would not be detrimental to the public health and safety).

In no event shall the names or other means of identification of injured persons be made public without their express written consent. Nothing contained in this section shall be deemed to require the release of any information described by subsection (b) of section 552, title 5, United States Code, or which is otherwise protected by law from disclosure to the public.

MONITORING OF ENERGY STATISTICS AND ANALYSIS

SEC. 2010. (a) The Comptroller General of the United States shall continuously monitor and evaluate the operations of the Council including its reporting requirements. Upon his own initiative or upon the request of a committee of the Congress or, to the extent personnel are available, upon the request of a Member of the Congress, the Comptroller General shall (1) conduct studies of existing statutes and regulations governing Federal energy programs, (2) review the policies and practices of Federal agencies administering such programs, (3) review and evaluate the procedures followed by such agencies, in gathering, analyzing, and interpreting energy statistics, data, and information related to the management and conservation of energy, including but not limited to data related to energy costs, demand, industry structure, environmental impacts and research and development, and (4) evaluate particular projects or programs. The Comptroller General shall have access to such data from any public or private source whatever, notwithstanding the provisions of any other law, as is necessary to carry out his responsibilities under this Act and shall report to the Congress at such times as he deems appropriate with respect to Federal energy programs, including his recommendations for such modifications in existing laws, regulations, procedures, and practices as will, in his judgment, best serve the Congress in the formulation of a national energy policy.

(b) In carrying out his responsibilities as provided in subsection (a) of this section, the Comptroller General shall give particular attention to the need for improved coordination of the work of the Federal Government related to energy policies and programs and the attendant need for a central source of energy statistics and information.

(c) The Comptroller General or any of his authorized representatives in carrying out his responsibilities under this section shall have access to any books, documents, papers, statistics, data, information, and records of any private organization relating to the management and conservation of energy, including but not limited to energy costs, demand, supply, reserves, industry structure, environmental impacts, and research and development. The Comptroller General may require any private organization to submit in writing such energy data as he may prescribe. Such submission shall be made within such reasonable period and under oath or otherwise as he may direct.

(d) To assist in carrying out his responsibilities, the Comptroller General may sign and issue subpenas requiring the production of the books, documents, papers, statistics, data, information, and records referred to in subsection (c) of this section.

(e) In case of disobedience to a subpena issued under subsection (d) of this section, the Comptroller General may invoke the aid of any district court of the United States in requiring the production of the books, documents, papers, statistics, data, information, and records referred to in subsection (c) of this section. Any district court of the United States within the jurisdiction in which the private organization is found or transacts business may, in case of contumacy or refusal to obey a subpena issued by the Comptroller General, issue an order requiring the private organization to produce the statistics, data, or information; and any failure to obey such order of the court shall be punished by the court as a contempt thereof.

(f) Reports submitted by the Comptroller General to the Congress shall be available to the public at reasonable cost and upon identifiable request, except that the Comptroller General may not disclose to the public any information which could not be disclosed to the public by the Council under the provisions of section 9(b) if the information were held by the Council.

AUTHORIZATION

SEC. 2011. (a) There are authorized to be appropriated to carry out the provisions of this Act not to exceed $1,000,000 for fiscal year ending June 30, 1974, $2,000,000 for fiscal year ending June 30, 1975, and $4,000,000 for each fiscal year thereafter.

(b) All sums appropriated under this Act shall remain available for obligation or expenditure in the fiscal year for which appropriated and in the fiscal year next following.

ANNOUNCEMENT OF HEARINGS ON LEGISLATION RELATING TO THE PUBLIC FINANCING OF FEDERAL ELECTIONS

Mr. PELL. Mr. President, I announce to the Senate the scheduling of public hearings on the bills, S. 1103, S. 1766 and

S. 1954, providing for the public financing of Federal elections.

The Subcommittee on Privileges and Elections of the Committee on Rules and Administration will hold the hearings on September 18, 19, 20 and 21, 1973, in room 301 of the Russell Senate Office Building, beginning at 10 a.m. on each day.

Anyone interested in appearing before the subcommittee may contact the Counsel, Jim Duffy, at extensions 53448 or 55647.

NOTICE CONCERNING NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

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

Melvin A. Hove, of Iowa, to be U.S. Marshal for the Northern District of Iowa for the term of 4 years (reappointment).

Isaac G. Hylton, of Virginia, to be U.S. Marshal for the Eastern District of Virginia for the term of 4 years (reappointment).

J. Pat Madrid, of Arizona, to be U.S. Marshal for the District of Arizona for the term of 4 years (reappointment).

Richard Van Thomas, of Wyoming, to be U.S. Attorney for the District of Wyoming for the term of 4 years (reappointment).

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Thursday, August 9, 1973, any representations or objections they may wish to present concerning the above nominations, with a further statement whether it is their intention to appear at any hearing which may be scheduled.

ADDITIONAL STATEMENTS

BENEFITS FROM SPACE EXPLORATION

Mr. MOSS. Mr. President, Mr. Paul Harvey, a widely read newspaper columnist has said in a column which appeared in the Deseret News of Salt Lake City, Utah, much of what I have tried to emphasize in the Senate. I wish that I could tell the story of space benefits so that it would be understood and accepted. Mr. Harvey does this well, so I ask unanimous consent that this column be printed in the RECORD.

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

OUR RETURN FROM SPACE

(By Paul Harvey)

The Senate has approved only $3 billion for space. That is the skimpiest expenditure for that purpose in more than 10 years.

Yet our dividends from that investment—our "returns from space," if you will—are bigger than any big Texas lie I could tell about it.

So blase have you and I become about Skylab that our attention is alerted only when a malfunction suggests danger, and then only briefly. Yet perpetuation of a program which offers the best hope of keeping our home planet livable depends on interested voters and willing taxpayers.

How can men of science hope to bring home to you and me and the politicians the importance of intangible benefits, even tangible benefits?

On my desk is their latest effort. It is a scholarly treatise efficiently cataloguing the several thousand specific products and processes directly derived from NASA's efforts. Pages of geological data, pages of medical innovations, pages of practical, applied electronic and mechanical devices and metallurgical processes.

But scientists are schooled in how not to promote themselves.

And even those of us who are supposed to know how to condense and translate data for public consumption don't know where to start. It is that big!

I could take one or two or a few examples from this ream of "things" our space dollars bought, but it seems such a pitifully inadequate summation for the defense.

Just under the category of "safety" are identified insulations, fireproofings, alarm sensors, respirator systems, unbreakable glass which have cost you pennies and may already have saved your life.

In the kitchen you are using preservatives, "indestructible" ceramics, protective coatings, bonding techniques, electronics applications, and the most likely source of heat, power and light for your children's home is being tested to perfection in today's vehicles.

In medicine the new knowhow handed down from above is adding useful, pain-free years to life on earth.

But there appears no way to convince the electorate that getting to the moon really is more important than getting to work—though many Americans already owe their lives and their jobs to tchniques, materials and devices which have been showered on industry, agriculture and medicine by our now taken-for-granted spacemen.

SUMMARY OF IDAHO COMMUNITY SCHOOL PROGRAMS

Mr. CHURCH. Mr. President, the State of Idaho has recognized the effectiveness of a community school program and has established throughout the State various community school projects under the auspices of the Idaho Center for Community Education at Idaho State University. The center, which began operations this year, is typical of many such centers which have grown around the country as the community school concept of education becomes more familiar. The concept, using community schools after closing hours for community activities and learning facilities, is not only economically feasible but advantageous for the betterment of our communities. To use the physical plants of our schools—which happen to be the largest investment of this country—after the hours when the students vacate the buildings to educate and enhance our entire communities—young and old—appears not only logical to me but also a benefit we cannot ignore.

For these reasons, I have sponsored a bill, S. 335, the Community School Center Development Act, which would create a nationwide community school program. The bill, which would help to expand programs already existing and also develop new programs, was recently studied during hearings held by the Subcommittee on Education of the Labor and Public Welfare Committee. Such notable witnesses as Wilbur Cohen, former Secretary of HEW, and C. S. Harding Mott of the Mott Foundation, gave knowledgeable testimony in support of the bill.

I would like to ask unanimous consent that a summary of the Idaho community school program be printed in the RECORD.

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

COMMUNITY EDUCATION AT IDAHO STATE UNIVERSITY

HISTORICAL PERSPECTIVE

Community education at Idaho State University had operated as a peripheral activity during the years prior to the 1972–73 school year. At various times, interested faculty members had contributed to and participated in the Pocatello Community Education program. Classroom discussions often centered around the need for community involvement in our educational programs.

During the 1972 spring semester, faculty members of the College of Education pooled their resources in the writing of a federally-funded, teacher preparation program entitled "Teachers for the Rural World." Following the guidelines of the national Teacher Corps program, the ensuing Idaho project included the following basic objectives: teacher preparation, instructional and institutional change, and community education development. Under the latter objective, the following direction was decided upon:

"The rural public school of today is characterized by the absence of community involvement within the educational purpose of the school. There is an absence of utilization of the school facilities that are located in these areas. This (project) provides for programs and activities in which the neighborhood community could become involved."

Beginning July 3, 1972, when the entire project was launched, a community education specialist was employed by the Idaho Teacher Corps project. His primary responsibility was to develop and coordinate the community education activities in the ten designated Teacher Corps schools. These schools were located in ten independent school districts scattered throughout Southeast Idaho.

The basic philosophical concepts incorporated into the Idaho Teacher Corps community education program followed the Flint, Michigan "Community School" model. This model operated under the following premise:

"A community school is a school whose educational program grows out of the life of the community and serves to improve that life. Through mobilizing all available human and other resources, it becomes a center of vital learning and of many varied opportunities. It is a unifying force for community services directed toward improving the living of individuals and groups, as well as a life-centered educational institution designed to develop mature, productive citizens.

Two closely related, yet somewhat different, approaches are included within the school-community partnership. The one focuses upon the regular school program for children and youth, advocating a school where learning and living join hands. The school program either moves out into the community or brings the community into the classroom for its learning experiences, establishes relevance of learning exercises, and pursues the principle of purposeful learning by doing. Community resources and action projects provide rich opportunities for education and at the same time assist in solving individual and group problems. The community serves as a learning laboratory for school youth, and the school offers leadership for improving the life of the citizenry.

The other concept of community education emphasizes building an educationally centered community through opening the

schools to people of all ages from early morning until late at night on an all-week, year-round schedule. The offerings are determined by the needs and interests of the people and include everything from literature and literacy programs to sports and weight-watching. Multi-media centers, swimming pools, laboratories, health facilities, art rooms and centers for the aging are open to all who want to use them. The schools are centers of neighborhood and community life. Participation in self-government, health services, social and recreational activities, continuous study, and community improvement are stressed. Frequently, special attention is directed toward strengthening the ability of lower socio-economic groups to improve competencies, attacking problems of crime and drugs, securing personal and legal counseling, improving home management, building better relations, and expanding recreational interests.

By involving youth in learning and working in the community and by bringing all citizens into the schools, people of all ages and of divergent social and economic backgrounds learn to work together for the improvement of themselves, their families, and their communities."

From the accomplishments achieved within the Teacher Corps project and from discussions carried on with officials from the Regional Center for Community School Development at Brigham Young University, the Idaho Center for Community Education was established at Idaho State University on March 16, 1973. The Center is jointly funded by the C. S. Mott Foundation and the College of Education at Idaho State University. Dr. Don Jeanroy was identified as the director of the Center.

PROGRAM OBJECTIVES

The program objectives for the Idaho Center for Community Education have been identified and developed as the following:

1. The Idaho Center will *disseminate* the philosophy, goals, and techniques related to community education through all possible means for the Idaho State Department of Education, local school districts and other community institutions and agencies in the area being served by the Center.

2. The Idaho Center will assist local school districts and other community agencies to *implement* or expand those community education programs in the area being served by the Center.

3. The Idaho Center will provide pre- and in-service *training* for community education directors, coordinators, teachers, advisory committee members, Mott Foundation interns, and other interested persons in the area being served by the Center.

4. The Idaho Center will *affect change* at Idaho State University and at other institutions of higher education throughout the State in the development of the community education concept.

5. The Idaho Center will assist in the development of *miscellaneous*, yet supportive, activities that will further the basic designs of community education throughout the State.

PROGRAM ACCOMPLISHMENTS

In review of the program activities engaged in during the 1972–73 academic year, both under the sponsorship of the Idaho Teacher Corps project and the Idaho Center for Community Education, the following accomplishments can be reported:

1. Community education programs were established in ten rural school districts in Idaho.

2. Community education programs were expanded, including local tax funding amounts, in four school districts.

3. Seventeen new community schools were opened with many local rural residents participating and enrolling in various community education activities.

4. Numerous training conferences and seminars were held, both on campus and in the field, for local community education directors, coordinators, advisory committee members, teachers, and other interested persons.

5. Informational and training materials have been sent out in response to numerous requests from local school district, State Department of Education and other local agencies and institutions.

6. Numerous visits were conducted to local groups and organizations (Chambers of Commerce, Jaycees, Parent-Teacher Associations, Rotary Clubs, etc.) to provide information about the basic concepts of community education.

In review of the program activities engaged in during the 1972–73 academic year by the local school district community education programs, the following accomplishments can be reported:

American Falls—Mrs. Erma Crompton, Community Coordinator.

The American Falls School Board has approved the full use of the Hillcrest Elementary School as the center for district-wide community education activities. The other facilities in the district will be available when needed. The Community Coordinator has made numerous contacts with instructors who have expressed a willingness to teach in the community education program. Enrichment programs began last spring semester with a variety of course areas and activities being offered.

The Coordinator has visited with local governmental, service and church groups in the community to solicit their help and support. The Chamber of Commerce has agreed to support the development of a Migrant Information-Education Center in American Falls wherein persons may seek assistance in locating legal, medical, consumer, recreational, and educational help.

The Volunteer Aide program, which began last October, now has 32 parents involved at the Hillcrest School.

Arco—Mrs. Mary Larsen, Community Coordinator.

The Butte County Community Education program was initiated with the distribution of a county-wide survey in September, 1972. When the results of the survey were tabulated in mid-November, an assessment was made as to the direction of the community education program. An Advisory Committee of 12 members was formed. The Committee, under the leadership of the Community Coordinator, established the policy, direction and program for the community education program. Between January 10 and 12, 1973, course registration was held, and on January 15, the first courses began. A total of 151 persons enrolled in 8 separate courses.

A second session was conducted between March 29 and May 10. Over 125 persons were enrolled in 12 separate course offerings.

A summer planning program is being designed to meet the needs of the aged-retired persons of the area.

Boise—Mr. Tom Richards, Program Director.

The year-round Boise Community Education program involves between eight and ten thousand persons. Three schools are used on a permanent basis, with seven schools being used on a part-time basis. The program is funded on an equal basis by the local school district and the Model Cities program. Cooperating agencies include Boise State College, Idaho National Guard, Boise-Cascade, and other local organizations and agencies.

An Idaho Community Education Workshop will be held August 13–14–15, 1973 in Boise.

Blackfoot—Mrs. Bernice Ball, Community Coordinator.

The Fort Hall Elementary School Community Education program was directed toward the youth of the school. Under the direction of both the Teacher Corps Professional Coordinator and the Community Coordinator, Cub and Boy Scout troops have been formed for the boys through the sixth grade, and Blue Bird and Camp Fire Girl troops have been formed for the girls. A $400 Wohelo fund was utilized to organize the girls' program. Mothers of the children involved have volunteered their time and efforts to be den mothers and leaders.

Leading members of the Fort Hall Indian Reservation have been used as resource persons in the classrooms during special activity days. Also, members of the tribe have been involved in advisory capacities to assist in the development of special projects, particularly in relation to the summer community education program.

As a result of the Fort Hall program, the Blackfoot School District intends to expand the community school concept into the entire district. They have hired a full-time community coordinator to provide leadership to the program.

Bonneville District—Mr. Dean Welker, Program Director.

During its four year history, the Bonneville District No. 91 Community Education program has offered a wide variety of educational and recreational activities. Coordination with church and other community activities has provided greater utilization of the school facilities. The "community school" has become a reality.

Burley—Mrs. June Cole, Community Coordinator.

Under the direction of the team leader and the community coordinator, an attempt is being made to develop a county-wide community education program. A Community Education Advisory Committee is being formed. It is composed of representatives from civic, migrant, religious, and educational groups to help coordinate the program efforts.

A summer program involving the team leader, interns and volunteer aides has been implemented to support the Migrant Camp educational program.

Filer—Mrs. Winona Watson, Community Coordinator.

The Filer community education program has been active since October, 1972. Since that time, a Community Education Advisory Committee has been formed and has since expanded its membership to 16 active members; a number of community education activities have been conducted, including the organization of a boys' boxing club, a wrestling program, beginning and advanced candlemaking courses, powder-puff mechanics for women, a couples P.E. program and some homemaking activities; and a volunteer aide program, involving 26 mothers and 4 fathers, has been developed around a motor perception activity program in the Filer Elementary School.

A program has been developed to attempt to meet some of the social, educational and recreational needs of the aged-retired in Filer. An initial meeting has been held, involving over 90 persons, and plans are being made for further activities.

The Filer School Board and administration have been most generous in supporting the community education program and in providing the full use of all of the district's school facilities.

Idaho Falls—Mrs. Anita Hosking, Community Coordinator.

The community education concept has been well received at the Dora Erickson School in Idaho Falls. The emphasis has been placed upon offering some type of program to all age groups. For example: the school is used on a weekly basis by both Boy and Girl Scout groups for meetings, and the school is sponsoring a Cub Scout troop; the school library is open in the evenings for children; the school gym is open in the evenings for youth and adult basketball and vol-

leyball activities; and several homemaking demonstrations have been given to numerous women in the area. A modern math for parents and a first-aid class have been offered through the community education program.

The community coordinator indicated that "our main objective is to have the Dora Erickson School become an integral part of the community. A school belongs to its patrons and the more they are able to use it the more responsibility they will assume in supporting and maintaining school programs."

As a result of the above activities, the Idaho Falls School District has initiated plans to develop a similar community education program in the other elementary schools in the district. At the same time, the district's Parent-Teacher Association Council had decided to make community education their organization's primary working objective for the coming year.

Parma—Mr. Dom Iaderosa, Community Education Director.

The Parma community education program was organized last September. Since that time, a community survey has been conducted and from the results two activity sessions have been held. During the winter and spring sessions over 500 persons were enrolled in 20 activities. A summer session is currently in full swing.

Pocatello—Mr. Russ Mager, Program Director.

The leading feature of the Teacher Corps community education program at the Bonneville Elementary School is that it is emersed and totally supportive of the present ongoing community education at the school. The community coordinator, team leader, and all of the project interns have become participating members of the present Advisory Committee; the community coordinator spends 15 hours a week helping to organize and supervise various community education recreational activities; and the interns are contributing to the supervision of after school basketball activities, science study field trips, the use of volunteer aides in the classroom, and other community education activities.

Of major importance has been the experience received by the project interns in functioning in an on-going, successful community education program.

Preston—Mrs. Nancy Pearce, Community Coordinator.

The East Side School District community education has been functioning since November, 1972. Since that time, over 600 persons have become involved in various community education programs. The initial effort was the sponsoring of a women's physical exercise program which attracted over 80 persons. In January, nine course areas were offered, ranging from knitting, sewing and pattern construction, and small engine repair to various physical education courses. All of the courses offered were filled.

A second nine-week spring program was conducted and a summer activity and theater program are being scheduled. The interest and participation of the residents of the school district is widespread.

Under the direction of the community coordinator, a district-wide Community Education Advisory Committee was organized in November. Since that time, orientation, organization, and program development meetings have been held; the members have been active in the publicity and registration of the program; and they have served in coordinating the school's community education program with other adult-community education programs in the area.

The community education program has received the generous support and encouragement from the district school board and administration.

Rexburg—Mr. Brad Dalling, Program Director.

During its two years of operation, the Rexburg Community Education Program has expanded the use of the school facilities and has provided increased recreational and educational opportunities for the members of the community.

Rupert—Mrs. Helen Cravens, Community Coordinator.

The community education program at the Pershing Elementary School has been designed primarily to get parents and other residents involved in the school program as aides and resource persons. The volunteer mothers have assisted, since mid-September, in the motor perception program for the 1st and 2nd grade. They have also assisted in the library area; in the classroom; in conducting special school activities such as the school carnival, Thanksgiving Dinner, etc.; and in contributing greatly to the total school program. The volunteer fathers have assisted in making various motor perception equipment and in moving various school furniture and equipment.

Since mid-December, various homemaking and avocational demonstrations have been conducted at the Pershing School. These have included candy making, Christmas home decorating, chenille handicraft, candlemaking, and cake baking and decorating. A physical education program for women involved over 40 persons.

The community coordinator indicated that "progress is being made to reach and educate the Pershing community."

Twin Falls—Mrs. Mary McCluskey, Community Coordinator.

The Twin Falls community education program has been active since December, 1972. Since that time: a 14-member Community Education Advisory Committee has been formed; steps have been taken to familiarize the school board, the school administration and the public with the concept of community education; and an interest survey has been developed and distributed to over 500 families in the Bickel Elementary School attendance area. When the results of the survey were tabulated, a decision was made to provide three course offerings through the Bickel Elementary School. Each course was filled to capacity. As a result of these activities, the school board has decided to expand the program during the coming year to include other schools in the district.

A successful tutoring program for Mexican-American adults has been developed by one of the project interns. Also, parent aides have been used occasionally as resource persons in a number of classrooms at the Bickel Elementary School.

PROJECTED PROGRAM PLANS FOR 1973–74

As observed from the above review of local community education programs, plans are being made, and in some cases already implemented, to expand the single "community school" program into a district-wide program. It has been observed that local school districts have already provided various forms of local leadership needed to adequately operate a program and developed alternate methods of financing their local community education efforts.

In review of the projected Idaho Center for Community Education plans for the 1973–74 school year, the following recommendations are being pursued:

1. The expansion of the community education program offerings. At the present time, the majority of school districts have followed the traditional adult education patterns to develop community involvement and to satisfy some of the community's basic educational and recreational needs. Attempts will be made to project the community education programs into the standard K–12 program as an enrichment activity. Efforts will also be made to expand the program areas to include greater pre-school activities, where needed, and to seek greater involvement by the aged-retired in many communities. Potentially, a fully operational community education program can provide program activities from the earliest childhood activities through the retirement years.

2. The extension of the community education into additional community schools. As already noted, many school districts have expanded their community education from the designated single school concept into other elementary and secondary schools within the district. At the same time, additional parent groups have become involved in the community education effort through these local expansions.

3. School districts will assume the financial obligations related to the community education program. As each school district becomes increasingly committed to the basic philosophy and concepts of the community education effort, they will naturally assume many of the financial responsibilities involved. The major financial obligation involved is to provide funds for the salary of the community coordinator.

4. School districts will provide greater leadership oportunities within the local community education program. With anticipated increases being made in the scope of the program, in the number of community schools involved, and in the financial obligation being incurred by the local school districts, it is only natural to assume and expect that the local school districts will expand the opportunities for local program leadership.

5. Provide additional training for the community coordinators and advisory committee members. Operating under the assumption that the local community education programs will be expanded, additional training will be provided by the university staff. This training will be carried out primarily on-site. A model for this type of training will be developed.

6. Develop recommendations for expanded use of community education advisory councils. To date, advisory councils have been invaluable in the development and implementation of local community education programs. They have been actively involved in assessing community needs, in program development, in assisting with the management of the program, and in the evaluation of the program. However, all advisory councils have not been involved equally in these activities.

7. Develop a model for the implementation of a community education program in rural communities. Most of the national activities related to the "community school" concept have taken place in urban and suburban settings. Very little has been done in predominantly rural areas. From the experiences generated from this Teacher Corps project, firm guidelines should have been established concerning the development, implementation, financing, management and evaluation of community education programs in rural areas.

8. Coordinate graduate research studies, at a Masters degree level related to various aspects of community education. Already in progress are two Master's degree projects, being conducted by two team leaders, related to A) state guidelines for community education, and B) program evaluation criteria. More shall be done in these areas, particularly with interns involved.

9. Develop greater interest on a State-wide basis in community education development. To date, the Idaho State Department of Education has not been involved and has not provided its active support to the program, even though they have verbally supported the Teacher Corps community education efforts. With the expansion and refinement of the Teacher Corps program, and with graduate research being contributed, the possibilities of generating State Department interest is increasing.

10. Develop greater interest in the establishment of a State-wide professional asso-

ciation related to community and adult education. In the past, those persons involved in various areas of community and adult education, including continuing, recreation and Extension Division personnel, have not been represented by a common association within the State and have had very little opportunity for shared communication, leadership development, program analysis, and other professional activities. The success developed through the Teacher Corps community education program might facilitate these activities.

LONG-RANGE PLANS FOR THE IDAHO CENTER FOR COMMUNITY EDUCATION

The long-range plans for the Idaho Center for Community Education are somewhat similar to the 1973–74 program plans. There will be emphasis upon local program expansion, increased training opportunities, the generation for additional funds for the local school district programs and for the Idaho Center, and the development of a graduate-research program in community education at Idaho State University.

There are, however, three major objectives where special emphasis will be given in the future. First, there is a tremendous need for a unifom system of State-wide leadership in Idaho in community education. This can only be accomplished through the development of a community education specialist(s) position at the State Department of Education level. This type of position would encompass the following activities. State-wide program dissemination, implementation, supervision and evaluation; legislative encouragement and direction; financial support—both now and in the future; and the coordination of program leadership and training activities.

Before this can be accomplished, however, two events must take place:

(A) the State Department of Education make a policy and administrative decision to support community education as an integral part of the total educational program being offered in each community throughout the State, and

(B) funds must be provided for the initial support of the described position(s).

The second major future objective of the Idaho Center would be the expansion of the use of the State's institutions of higher education in the training of local or area community education personnel and the dissemination of information to local or area programs. For example, Idaho State University could continue to service Southeast and South-central Idaho, Boise State College could service the southwest and west-central portions of the State, and the University of Idaho could serve the northern areas of the State. This could result in the possible establishment of three Idaho Centers for Community Education.

The third major objective would be the establishment of a State-wide professional association that would serve in the capacity of facilitating greater internal coordination within the ranks and activities of all adult and community educators within the State.

RELATIONSHIP TO THE COMMUNITY SCHOOL BILL

The proposed Community School Center Development Bill would be a "benchmark" piece of legislation in the community education field. It would definitely establish a standard from which other federal and particularly state legislation could be introduced and enacted in the future.

Related to the future objectives of the Idaho Center for Community Education, as spelled out in the above, the proposed bill would facilitate and partially ensure the continued development of the Idaho Center itself at Idaho State University. The establishment of two additional Centers in Idaho is also a possibility if funds are available.

Funding for the development of local community school programs is somewhat encouraging, provided the funds are limited to leadership purposes and that there would be a certain element of "financing matching" on the part of the local school districts.

The major weakness of the bill is that it overlooks the need for Statewide leadership at the State Department of Education level. As explained in the above sections, Statewide leadership is absolutely necessary for the establishment of a unified form of program development, supervision and evaluation, for legislative support, and for generating financial support.

Another weakness of the bill is that it should encourage special research projects and program evaluation methods that will facilitate the eventual "improvement" of all community education programs.

Respectfully submitted by,

Dr. DON JEANROY,
Director, Idaho Center for Community Education, Idaho State University.

SBA CEREMONIES IN ABILENE, KANS.

Mr. DOLE. Mr. President, on Monday, I attended ceremonies in Abilene, Kans., marking the 20th anniversary of the Small Business Administration. The event took place at the Dwight D. Eisenhower Center, appropriately so, because it was President Eisenhower who signed the Small Business Act into law on July 30, 1953.

SBA Administrator, Thomas Kleppe, was the featured speaker in Abilene. His tribute to Ike and his discussion of the great importance of the Small Business Act to the American business community were highly informative and warmly received by the large group which gathered for the occasion.

I ask unanimous consent that a bulletin containing excerpts from Mr. Kleppe's remarks be printed in the RECORD.

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

EXCERPTS OF REMARKS BY THOMAS S. KLEPPE, ADMINISTRATOR OF THE U.S. SMALL BUSINESS ADMINISTRATION, A NATIONAL SALUTE TO SMALL BUSINESS CEREMONY, DWIGHT D. EISENHOWER PRESIDENTIAL CENTER, ABILENE, KANS.

Today, on the 20th Anniversary of the United States Small Business Administration, we offer a richly-deserved national salute to the men and women who toil daily in more than eight million small businesses across the land.

Knowing fully that it is not within our power to express adequately our gratitude for the numerous unheralded contributions they have made to the nation's economic strength, we are assembled here in solemn ceremony amidst the gracious grandeur of the Dwight D. Eisenhower Presidential Center because it was President Eisenhower who signed the Congressional Act which created SBA on July 30, 1953.

So, with a deep sense of humility and a profound respect for the 34th President of the United States who is enshrined on these grounds, we are indeed most grateful for the opportunity to contribute whatever we can to help make this a dignified and yet a most rewarding occasion.

In keeping with the dignity which marked his life even in his greatest moments of triumph, we planned this modest ceremony not only to eulogize the contributions he made to the small business world, but also to commemorate twenty years of service by the first peacetime Federal agency devoted exclusively to matters of interest to that vital segment of our economy.

There is no other place in America where this event could have been held in a setting more appropriate and more meaningful than this 13-acre tract of land which once heard the thunder of thousands upon thousands of Texas Longhorn cattle as they came to the end of the long Chisholm trail.

For it was here in the heartland of the republic that Dwight David Eisenhower formed the roots of a rare leadership ability which later grew to world renown and endeared him in the hearts and minds of his countrymen and other peace-loving people of the world.

Yes, it was here on the prairie that he romped and played as a boy, hoed the family garden on the plot of ground where the Eisenhower Museum now stands, and learned some of the disciplines of small business when he worked as an ice-puller at the Belle Springs Creamery still located only a few blocks north of his home.

Perhaps not unexpectedly, it was from this land of raw-boned frontier lore that he made his bid for a United States Army career which was to lead him eventually to the post of Supreme Commander of Allied Forces in Europe during World War II.

Likewise, it was from this former frontier territory of the legendary Wild Bill Hickok that he officially launched his campaign for the Presidency of the United States.

Finally, it was in the small picturesque chapel at the western end of these grounds that he was placed to rest in immortal greatness.

So, we ask, what more appropriate place than the Eisenhower Presidential Center could have been selected for this auspicious and memorable occasion?

We do not know what crossed President Eisenhower's mind at the precise moment that he signed the act creating the Small Business Administration back in 1953.

But we do know that he had a deep and abiding love for history. So, in that frame of reference, it would not be unreasonable to assume that he had a few fond memories of the important role played by small business in his own life as he inscribed his name on that historic document.

It was at the creamery that he got his first job, and he lived in a God-fearing town where small businessmen provided strong leadership and commanded much community respect.

But perhaps his fondest thought of all on that July day twenty years ago was his recollection of how total mobilization of the nation's small business sector during World War II helped turn the tide of freedom into victory and win the peace in Europe.

So, in retrospect, is there any wonder that Ike, in his folksy wisdom, often referred to small business as "the heart of the economy"?

As just one example of that wisdom and his commitment to the people of small business when he was President, we selected an excerpt from a speech he made on October 27, 1958 and committed it to a plaque for permanent installation in the Eisenhower Library. These are the words cast in bronze on that plaque:

"Jobs are best provided by sensible, progressive programs which generate and hold confidence, and encourage steady growth all across the land.

"A good example is our help to small businessmen. We made the Small Business Administration a permanent organization. We opened new methods of easing the financial problems of these small concerns. We made it easier for small businesses to work with the government. We assured them a full opportunity for a larger share of government contracts."

We think there is a deep sense of pride reflected in those words, and we think Ike

would have been proud of this moment had he been here to witness it.

Perhaps that pride would most properly stem from the curious fact that SBA was created in 1953 only as a temporary two-year experiment but today is recognized the world over as a model in its field. It became a permanent entity in 1958 after the Congress was satisfied that it was needed and would function properly.

During its first year of operation it loaned only $35 million to small businesses.

But in fiscal year 1974 which began on July 1st, it probably will reach or surpass $2.6 billion in loans to that sector of our economy which produces 43 percent of our gross national product and accounts for over 50 percent of our employment.

Thus we celebrate SBA's twenty-year mark confident that the cautious experiment which President Eisenhower set in motion was truly a stroke of genius which, hopefully, will continue to enhance the free enterprise system of this nation for many generations to come.

But here in this lovely setting of a great national shrine, let us not forget that the place where the concept of free enterprise has its greatest value and its greatest potential productivity is not in the marketplace, but in the minds of a free people!

For if a healthy and thriving small business community is nothing more in the eyes of the world, it is living proof that this nation can long endure in freedom where every citizen has the cherished God-given right of self-determination.

In many respects, this national institution where we are now assembled is a vibrant symbol of that freedom!

Boldly engraved in bronze on one of the pylons at the eastern end of these grounds are the following words:

"Sustained by faith in the cherished ideals of true democracy, each American works in his daily task at plough or forge or machine or desk knowing this nation will forever stand one and indivisible in devotion to the cause of liberty for all mankind."

Yes, it is true, as President Eisenhower so aptly declared, that the men and women of small business are "the heart of the economy". As such, they serve as a constant reminder that freedom, used properly, still remains the key to all meaningful human progress.

That is why we salute them here today.

Now it gives me great pleasure to present the plaque mentioned earlier to the Eisenhower Library. I am deeply grateful that my good friend Arthur F. Sampson, Administrator of the General Services Administration which administers this Center, is here to accept it for the Library.

HOLDING DOWN SPENDING

Mr. BROCK. Mr. President, the President of the United States announced last week that the final budget figures for fiscal year 1973 showed that total Federal outlays were held to $246.6 billion.

I well recall the pessimism which greeted his announcement last year of his resolve to keep the final figure under $250 billion. From all sides, commentators said it was an impossible goal, and wondered why the President would be so unrealistic.

His critics proved wrong, and the President proved right. Yet their pessimism was not wholly unjustified. An undeniable historical trend indicated that initial budget projections by recent administrations have generally been conservative, and by the time all the supplementary appropriations were in, the Government would wind up spending far more than it had predicted. Thus another log would be thrown on the fires of inflation, and another battle for fiscal sanity would be lost.

This time, it did not happen that way, and President Nixon deserves the praise of all Americans for having the courage to make the tough decisions which held spending down.

The President's statement indicates that the projected budget deficit was reduced by $10.4 billion to a still-too-high $14.4 billion. I take particular pleasure, however, in noting that of the $14.4 billion deficit, only $2 billion was incurred in the last half of the fiscal year, from January to June 1972.

The best news of all is the President's promise that the fiscal 1974 budget will be balanced. Based on his demonstrated success in recent months, I have renewed optimism about that promise.

There is not a man in this Chamber, including the Senator from Tennessee, who did not disagree with the President on some aspect of his fiscal restraint program. Each time he announced a new move in that regard, there were anguished cries from one quarter or another that this cut or veto or impoundment would wreck the country.

It is now clear that none of them did, and in fact, the net result of his managerial ability represents one of the greatest victories for the country in recent years.

The Congress now has the opportunity to join the President in the battle for fiscal sanity, and his demonstration that it can be done should give us new resolve to push ahead with programs that will make us an active partner in the undertaking.

Just one day before the President's announcement, the Subcommittee on Budgeting, Management and Expenditures of the Government Operations Committee reported out a bill, S. 1541, passage of which will, for the first time in the modern era, give the Congress the tools to make real reforms in spending policies.

Coming together as they are, these two fronts, executive resolve and congressional reform, can usher in a new era of fiscal sanity. It can be the moment from which we mark the turning of the inflationary tide.

All of this is tremendously good news for the American taxpayer. But the path ahead is not void of hazards. Earlier this month, I had occasion to note before this body that the Joint Committee on Reduction of Federal Expenditures, in its most recent scorekeeping statement, has shown that the Congress is not yet committed to making the tough decisions to hold down spending.

That report shows that this session has already voted to boost fiscal 1974 outlays by at least $1 billion above the $268.7 billion upon which the President bases his prediction that the budget will be balanced.

Even as we have been moving so auspiciously toward budgetary reform, the Congress has continued, in its individual votes, to act in a spendthrift manner.

So you see, it gets right down to us, and to just how willing we are to say, "no," to programs we cannot afford. In the final analysis, it is the willingness of each of us to vote in a responsible manner that will be needed to assure a lasting victory over inflation and fiscal irresponsibility.

President Nixon has demonstrated great leadership in this battle. The Congress seems about ready to arm itself with impressive new weapons in order to do its part. Still to be demonstrated, and I fervently hope it soon will, is congressional commitment to do what must be done.

I ask unanimous consent to have the President's statement printed at this point in the RECORD.

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

STATEMENT BY THE PRESIDENT

The best way to hold down the cost of living is to hold down the cost of Government. Today there is new and encouraging evidence that we can win that battle.

The latest Monthly Statement of Receipts and Outlays shows that Federal outlays for fiscal year 1973 were held to $246.6 billion—a figure well below the $250 billion ceiling on spending that I had recommended to the Congress. Since overall receipts totaled $232.2 billion, the deficit for fiscal year 1973 was $14.4 billion. This was a much smaller deficit than the $24.8 billion deficit projected in my Budget last January. Moreover, the budget was within $2 billion of being in balance during the period from January to June of this year—a period when it was especially important to hold down Government spending.

During the debates on budget policy last fall and last winter, it was widely assumed and frequently asserted that we could not hold spending to the $250 billion level and that the only way to produce an anti-inflationary budget was by increasing taxes. I rejected that contention then—and I reject it now, as we look to a new fiscal year. We held the budget line in the year just past without raising taxes. I believe we can do so again—and, in fact, achieve a balanced budget—in fiscal year 1974.

In earlier years, budget deficits have sometimes helped take the slack out of the economy and increase employment. However, we recognized in the summer of 1972 that a major problem was developing as the economic boom got well underway. We could foresee that the pressures from existing Federal programs and new legislation could push spending for fiscal year 1973 to $260 billion or more—much more than we thought an already strong economy could tolerate without greater inflation. I therefore called upon the Congress to hold the line on spending at $250 billion.

The Congress has acted responsibly on that request. There have been many differences between the Congress and the Administration over the level of Federal spending on many specific programs, but the important point is that our overall spending goal has been achieved.

I recall how both Houses of the Congress approved legislation last fall to set a ceiling in Federal spending at the $250 billion level. While technical differences prevented the two Houses from agreeing on a common version of that ceiling, and while overall Congressional action for the last fiscal year eventually contemplated much higher expenditures, it was clear nevertheless that a majority in both Houses of the Congress accepted in principle the advisability of holding spending to a lower level. When the chips were down, it was that spirit of restraint which prevailed.

I trust that the two branches can forge an effective partnership on behalf of budgetary responsibility again in this new fiscal year—and that one year from now the figures will show that the budget for fiscal year 1974 was in balance. The fact that we nearly achieved a balance in the second half of fiscal year 1973 encourages us to believe this is a realistic objective.

It should not be overlooked, however, that the veto of certain bills and the reserving of certain funds was essential in achieving our budgetary goals for the past twelve months. Inflation continues to be our most important economic problem—and budget and monetary restraint continues to be our most important tools for fighting it. Our Phase IV controls will help to moderate inflation, but a balanced budget and monetary restraint must be our major weapons against rising prices.

With the economy now operating at a high level, revenues in fiscal year 1974 should approximate, without any tax increases, the overall level of expenditures I proposed last January—about $269 billion. Balancing the budget therefore means that we must hold expenditures to that level in the coming year, despite the fact that higher prices, higher interest rates and new legislation will all be working to drive spending higher. I am confident that with the continuing cooperation of the Congress we can meet that goal and thus help protect the American people against the twin dangers of higher prices and higher taxes.

REPORT ON THE SITE DEFENSE OF MINUTEMAN—SDM

Mr. PROXMIRE. Mr. President, a report on the site defense of Minuteman has just been released by its author, Congressman ROBERT L. LEGGETT, for the organization Members of Congress for Peace Through Law.

As in previous years this organization is publishing a series of reports on critical defense issues. Some of these reports have made significant contributions to the understanding of complex military systems before Congress. The 1973 report on the AX-Harrier and Cheyenne and the report on the Trident are two that come to mind.

The site defense of Minuteman report deserves special attention since it follows up a logical position taken during the 1969 ABM debate. In short, the paper concludes that SDM is not a cost-effective means of protecting Minuteman sites and that the requested $170.1 million should be pruned to a stable research and development level of $80.1 million.

Mr. President, I ask unanimous consent that the excellent report by Congressman LEGGETT be printed in the RECORD.

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

RESEARCH REPORT ON THE SITE DEFENSE OF MINUTEMAN (SDM)

SUMMARY

The present ballistic missile defense system of the U.S., known as Safeguard, represents an investment of $8 billion dollars in an attempt to provide, first, a wide-area anti-ballistic missile defense of the U.S., and, more recently, a point- or terminal-defense for a single complex of Minuteman intercontinental ballistic missiles. An additional expenditure of $2 billion will be required to complete and operate for ten years the single Safeguard site now under construction at Grand Forks, North Dakota. The Department of Defense has attempted to justify this expense on the grounds that it will provide experience and data that could be valuable in developing more advanced ballistic missile defenses. However, Safeguard is based on obsolete technology, not applicable to a modern ABM system. Furthermore, when the cost of defending a Minuteman offensive missile with Safeguard is compared with the cost of alternative methods of assuring the survivability of the U.S. nuclear deterrent force, Safeguard is glaringly cost-ineffective.

The new planned ballistic missile defense system, now in the research and development stage, is known as Site Defense of Minuteman. It is designed specifically to protect Minuteman missile sites from attack by Soviet missiles, rather than to protect soft targets such as cities or industrial complexes. SDM has distinct design advantages over the Safeguard system and could, under certain assumptions, be considered a cost-effective means of protecting Minuteman sites. Nevertheless, SDM suffers from the following deficiencies:

1) It is not as cost-effective as other means of assuring the survivability of the U.S. nuclear deterrent force, such as developing the Trident I missile for the Polaris/Poseidon submarine fleet.

2) It would constitute an effective addition to U.S. security only under an extremely remote set of contingencies, involving the failure of SALT II, a U.S.S.R. abrogation of the ABM Treaty, Soviet development of a break-through in anti-submarine warfare technology sufficient to threaten the U.S. submarine force, Soviet development of a MIRV system fully effective against the U.S. ICBM force, and Soviet development of a leak-proof air defense system against U.S. manned bombers.

3) It would likely provoke a similar response from the U.S.S.R. in the form of an advanced ballistic missile defense system, thus reducing U.S. confidence in the effectiveness of its own ICBMs and increasing the chances of the very nuclear war it is supposed to insure against.

RECOMMENDATIONS

1. Delete all funds for Safeguard in the FY 1974 DOD budget and subsequent budgets.

2. Reduce funding for SDM from the FY 1974 request of $170.1 million to the FY 1973 level of $80.1 million to permit continuing R&D at a slower pace as a hedge against possible abrogation of the ABM Treaty.

BACKGROUND

The Site Defense of Minuteman (SDM) program is aimed at developing ballistic missile defense (BMD) components for partial or eventual deployment, if necessary, to augment the Safeguard anti-ballistic missile (ABM) system. The Department of Defense characterizes the SDM program as providing the U.S. with an "option" to deploy a more comprehensive BMD system, if "the Soviet threat to Minuteman becomes greater than that which Safeguard is designed to meet."

In February 1972, Secretary of the Army Robert F. Froehlke announced that McDonnell Douglas Astronautics Corporation of Huntington Beach, California, had been selected as the prime contractor for the prototype demonstration program for SDM. The SDM project office is an element of the U.S. Army Safeguard System Command in Huntsville, Alabama.

In the 1972 contract, McDonnell Douglas was awarded an initial $10 million for the first phase of a 60-month cost-plus-incentive-fee contract totalling $382 million. The cost of the entire demonstration project is estimated at $700–800 million, including the cost of missiles, which will be furnished by the government.

The prototype, including radars, computers, and missiles, is to be installed and tested in the late 1970s at the Kwajalein Missile Range, where Safeguard system tests have been conducted.

The Site Defense ABM is in some respects a hangover from the earlier Safeguard system, which was an attempt to build a hard-point defense from components designed to defend soft targets such as cities. However, in most respects SDM is specifically designed for hard-point defense.

Originally proposed in 1969 as a 12-site system to provide thin "area" defense for the entire continental U.S. and light "point" defense for Minuteman ICBM farms and a few other military targets, Safeguard met with rising costs (from $9 billion in 1969 to $16 billion in 1972) and increasingly evident technological inadequacy, which forced the Administration to shrink its plans to a 4-site system.

Finally, in 1972 the Strategic Arms Limitation Talks produced a treaty limiting all U.S. ABMs to one 100-missile complex at an ICBM base plus one 100-missile complex defending the National Command Authority (NCA), presumably Washington, D.C.

The current DOD Safeguard-SDM program calls for:

I. Completion of the Safeguard complex at the Grand Forks Minuteman base in North Dakota for the purposes of:

A. Defending a small number of Minuteman ICBMs against heavy Soviet attack.

B. Providing operational experience with an ABM system.

II. Research, development, testing, and evaluation of Site Defense of Minuteman for the purposes of:

A. An expanded heavy Minuteman defense in the event the SALT agreement is abrogated;

B. A possible National Command Authority (NCA) defense. (At this time the Administration is not committed to an NCA defense, and Congress has refused to authorize one);

C. Continuation of a research base for a next generation of ABMs beyond SDM.

D. Continuation of research base in order to understand possible Soviet ABM developments and to improve our offense to counter them.

Earlier MCPL Military Spending Reports[1] have described ABM systems in general and have analyzed the technological inadequacy of Safeguard in detail. The principal contentions of the previous studies, both of which have been vindicated, were:

(1) The system would be obsolete before it could be built. On April 12, 1973, a year and a half before the expected operational readiness of the first Safeguard complex, Dr. John Foster of DOD Research and Development disparagingly described Safeguard as "based on technology developed in the 1960s," and observed that "when the Soviets begin to develop a silo defense system,[2] it will embody their latest technology."[3]

(2) The use of a single large expensive radar, which could easily be taken out at the beginning of a heavy attack, rendering Safeguard incapable of defending an ICBM base against heavy attack. Expansion of Safeguard to deal with heavy attacks would be prohibitively expensive and would cost far more than the cost to the Soviets to offset Safeguard by expanding their offense.

(Security classification prevented a third major criticism which would have discredited Safeguard still further: The number of interceptor missiles that could be provided at the specified cost could be easily exhausted by any Soviet ICBM force large enough to threaten Minuteman. The validity of these criticisms has been demonstrated by the design of the Site Defense system (see below).)

If Safeguard were cancelled today, the program would have cost the American people

Footnotes at end of article.

about $5 billion, plus another $3 billion spent on earlier ABM systems beginning in 1956.[4] Completion of the Grand Forks complex will cost another $0.5 billion; operation and maintenance will cost about $160 million per year. Thus, there is a choice between abandoning an $8 billion investment, and spending another $2 billion over 10 years to buy a single operation complex. Before deciding "we've sunk so much into it we might as well get something for it," we should keep in mind that even if we consider only the unspent $2 billion, the cost per Minuteman defended is several times higher than any of the following:

(1) The cost of deploying equal megatonnage of surviving retaliatory power in the Trident system.

(2) The cost of the Minuteman missiles we would defend.

(3) The cost of the Soviet Union of increasing or retargeting its offense to incapacitate Safeguard by destroying the missile site radar.

The final rationale for Safeguard deployment at Grand Forks—the operational ABM experience to be gained—is untenable. Test re-entry vehicles cannot be fired at Grand Forks, whereas they can be used at the already completed Kwajalein test site in the Pacific. Moreover, Safeguard has so little in common with Site Defense (or *any* effective ABM system) that operational experience with the former would be of little use in any case.

SDM SYSTEM DESCRIPTION

The proposed SDM system is made up of self-contained "modules". Each module, which defends an egg-shaped area several miles across, contains several ABM missiles and several radars. SDM differs from Safeguard in these respects:

(1) There are no long-range area defense components such as the Perimeter Acquisition Radar or the Spartan missile.

(2) The radar, called Site Defense Radar, is smaller, cheaper, shorter-range, and more capable of operating in the environment of a heavy nuclear attack than is Safeguard's Missile Site Radar (MSR).

(3) Multiple radars are used in each module; several modules could be used at each Minuteman base. Within a module, the radars are netted and spaced so that up to a point they can protect each other by looking around "blackout" clouds caused by "precursor" explosions or by Sprint detonations.[5] Loss of some of the radars in a given module will degrade but not destroy the module's performance. In comparison, Safeguard uses a single fragile radar for an entire Minuteman base; destruction of this radar at Grand Forks—an easy task for a Soviet ICBM force—would neutralize our entire $10 billion investment.

(4) The SDM missile, called Sprint II, differs from Safeguard's Sprint chiefly in its greater ability to operate in a nuclear environment.

(5) Safeguard, having been derived from a city-defense system, is set up to attempt an air-tight defense of the point it protects; since this point includes the system's single radar, the defense must either be 100 percent effective or be worthless, since a single enemy warhead penetrating and reaching the radar will incapacitate the system.

SDM abandons this impossible goal of perfect defense, and instead attempts to maximize the number of surviving ICBMs within its footprint.[6]

Against a given level and configuration of heavy enemy attack, there are always several equally plausible defensive strategies. For example, the ABM system can defend all ICBM silos equally, or it can use all its interceptors to give a super-heavy defense to some ICBM silos while allowing the enemy warheads a free ride to other silos.

Similarly, the defense can defend each of its own heavily, lightly, or not at all. The SDM computer is designed to choose among the several acceptable strategies on a random basis no human can predict beforehand. Thus, the offense, which does not know which defense plan will be used, will almost certainly waste warheads by "killing" lightly defended silos more than once, and waste additional warheads by attacking heavily-defended silos in numbers too small to penetrate. Theoretically, this allows SDM to neutralize more than one offensive re-entry vehicle per Sprint.

(6) In the interest of economy, a commercial data-processor is used, rather than a custom unit as in Safeguard.

(7) Operation and maintenance costs are reduced. Like Minuteman—and unlike Safeguard—the SDM silos and radars would be unguarded and unmanned, with all operation personnel in the module control center.

Operational manpower requirements for an SDM module are planned to be 10 percent to 20 percent of those for a Safeguard site. Logistics support costs for an SDM module will be about one third of that of a Safeguard site.

(8) Construction and installation are simpler for SDM than for Safeguard, with the result that deployment time is quicker. It is possible to build and "warehouse" the SDM components, thus having them ready for deployment within a relatively short time in the event of abrogation of the ABM Treaty.

Decision-to-deployment time on a Safeguard site is more than five years. DOD claims pre-deployment expenditure of 7 percent of total investment costs on an SDM module would cut this time in half, and claims per-deployment expenditure of 40 percent could cut the time to about one-third.

COSTS

All figures are DOD only; AEC warhead costs are not included.

ABM expenditures pre-Safeguard (before 1968): $2.981 billion.

(1) Safeguard total costs if system were cancelled in FY 1974 and all succeeding budgets: $5 billion.

(2) Cost beyond stop-now cost sum to complete one-site Safeguard: $0.5 billion.

(3) Annual operation and maintenance of one-site Safeguard: $.16 billion.

(4) "Decision cost:" Ten year cost of completing and operating one-site Safeguard, above stop-now cost (i.e., completion cost plus 10 year operations and maintenance): $2.1 billion.

(5) Total SDM research, development, test, and evaluation costs: $1.7 billion.

(6) Total SDM investment: $6.5 billion.

(7) Annual acquisition costs:

ACQUISITION

[In millions of dollars]

	Expended Fiscal year 1968–72	Fiscal year 1973 approved	Fiscal year 1974 request
Safeguard:			
R.D.T. & E.	[1] 1,815.4	239.7	216.5
Procurement	2,118.2	300.0	185.0
MCA	646.8	0	0
Total	[1] 4,580.4	539.7	401.5

[1] Includes $60,000,000 which Congress approved for carryover to fiscal year 1973.

	Approved fiscal year 1971–72	Fiscal year 1973 approved	Fiscal year 1974 request
Site defense:			
R.D.T. & E.	84.7	80.1	170.1
MCA		20.4	0

COMMENTS

Unlike Safeguard, and within the inherent limitations of ballistic missile defenses, Site Defense appears to be an intelligently planned system. It appears to offer some hope of increasing the number of Minuteman missiles that would survive a Soviet heavy attack. However, before committing ourselves to a multi-billion dollar expenditure, a number of questions must be considered.

I. Under what circumstances would the system serve a vital national security function?

In order for Site Defense to become necessary to an effective U.S. nuclear deterrent force, all of the following would have to occur:

(1) Failure of SALT II to limit offensive strength to a level at which each side is incapable of destroying the other's hardened silos.

(2) Catastrophic degeneration of U.S.-Soviet relations to the point that the ABM limitation treaty is abrogated.

(3) Development and deployment of an unforeseen and presently inconceivable Soviet breakthrough in anti-submarine technology that would threaten not only our present Polaris/Poseidon deterrent but also the various longer-range SLBM options.

(4) Development and deployment of a Soviet MIRV with sufficient accuracy and quantity to threaten to destroy our ICBM force while still retaining sufficient power to destroy U.S. society.[7]

(5) Development and deployment of a Soviet anti-aircraft system capable of very high effectiveness against a heavy low-altitude attack using SRAM and whatever more advanced penetration aids we develop over the next decade.

II. Is the system cost-effective in comparison with other options for increasing U.S. confidence in its nuclear deterrent? The estimated investment cost of $6.5 billion is alleged to insure the survival of at least 200 Minuteman against a presently conceivable Soviet attack. Thus, the U.S. would be paying approximately $33 million per Minuteman protected. Since more than one Minuteman silo is necessary to give a comparable probability of having an additional Minuteman survivor, SDM compares favorably with the alternative strategy of simply increasing the number of Minuteman silos. While it does not compare favorably with the cost-effectiveness of the Polaris-Poseidon force, or of the proposed Trident system (assuming its costs are controlled), the argument can be made that the comparison is not legitimate, since the Minuteman-cum-Site Defense system could serve as a hedge against a Soviet ASW breakthrough that would neutralize the submarine-based deterrent.

III. Is the system cost-effective in comparision with the expense to the Soviet Union of neutralizing it?

DOD has published an unclassified cost-exchange ratio of between 4 and 1.5 to 1 in favor of the defense, depending on the specifics of that attack. However, this is derived from SDM costs excluding R&D. Moreover, U.S. planning should assume the Soviets will choose the most cost-effective method of attack. Finally, all such calculations are based on a very high level of SDM effectiveness, when in fact the system has yet to be built and tested, and in any case can never be tested under combat conditions. The best tentative assumption is probably that the cost-exchange ratio is about 1 to 1 (i.e., the Soviets could neutralize the benefits of SDM by investing a like amount in offensive systems.)

CONCLUSIONS AND RECOMMENDATIONS

(1) Safeguard is a unconscionable waste of the taxpayers' money. The only rationale that can be made for its completion is something like, "If we drop it now we'll be admitting it never was any good." It is

Footnotes at end of article.

abysmally cost-ineffective as a hard-point defense. The operational experience to be gained at Grand Forks is useless.

Recommendation: Delete all Safeguard funds.

(2) At this point SDM appears to be a well-designed terminal defense system, possibly but not certainly cost-effective, which might make a useful contribution to deterrence if it were not banned by the ABM treaty. But the treaty puts SDM in the position of a very expensive insurance policy against a very unlikely series of contingencies—contingencies the development of which will be visible years before they materialize, thus providing adequate time to defend against them. In addition, it would probably provoke a similar Soviet response, thereby increasing the probability of the catastrophe against which it is designed to insure.

The best course would be to keep the R&D program going, but to slow it down and thereby reduce the cost. Should the Strategic Arms Limitation Treaty collapse and the Soviets test an effective full MIRV system, the U.S. would then have to consider accelerating SDM. However, technological advances which presumably will be available by that time could moderate the cost increase that inevitably accompanies acceleration.

Recommendation: Reduce SDM funds to last year's level of $80.1 million.

FOOTNOTES

[1] *The Economics of Defense, a Bipartisan Review of Military Spending,* Members of Congress for Peace Through Law Military Spending Committee; Praeger, Washington, 1971, pp. 51–62.

[2] Dr. Foster should have said "If" rather than "when" the Soviets develop a silo defense system, since there is no evidence they are pursuing silo defense in any way. Moreover, there is no reason why we shouldn't have an extended SALT agreement banning all Soviet silo defense as well as all U.S. NCA defense.

[3] Dr. Foster's April 21, 1973 testimony before HASC.

[4] These are DOD costs only; AEC warhead costs are additional.

[5] Blackout clouds are large, radar-opaque areas of ionized particles caused by nuclear explosions, capable of refracting radar beams; such clouds could be deliberately created by an attacker using an advance (precursor) wave of large low accuracy warheads.

[6] An ABM missile's "footprint" is the area it can defend.

[7] Lt. Gen. Otto J. Glasser, the Air Force Deputy Chief of Staff for Research and Development, described the survivability of the Minuteman system in *Air Force Magazine;*

"It is an arrant overestimation to say that Minuteman is vulnerable, if 'vulnerable' means that it is wiped out in *toto.* When we talk about future vulnerability of Minuteman, we think, in a statistical sense, of the number of missiles that might be lost to a concentrated wave of attacking enemy missiles. Everything that can be reasonably extrapolated from present Soviet capabilities confirms that no matter how we set the scenario, a sufficient number of Minuteman missiles can be expected to survive to carry out the system's assigned assured destruction role."

ELMA LEWIS SCHOOL OF FINE ARTS, BOSTON, MASS.

Mr. BROOKE. Mr. President, it is no accident that Boston, Mass., is often called the Athens of America.

From the Boston Symphony to the arboretum, from the colleges and universities which dot Boston's landscape to the athenaeum, from the Old North Church to the public garden; history and culture are one—an integral part of Boston life.

Most of these wonderful institutions are also venerable institutions which have been a part of Boston for generations, even centuries.

The Elma Lewis School of Fine Arts is an exception. It is new, and welcomes extra dimension to Boston's yeasty cultural life.

Its founder, and leader—the keystone of its success is a remarkable woman whose friendship I cherish.

Her story and the school's is well told in the July issue of Essence magazine. Suzanne Bailey's article "The Undeferred Dream of Elma Lewis" deserves the widest possible audience.

I ask unanimous consent that this article be printed in the RECORD.

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

THE UNDEFERRED DREAM OF ELMA LEWIS

(By Suzanne Bailey)

Children start arriving at the Elma Lewis School of Fine Arts in Boston's Roxbury section around three o'clock in a flurry of coats, scarves and lost schedule cards. Some of the younger ones are brought by their mothers: little girls encased in leggings, wide-eyed boys whose long pants make them look even younger. They come directly after public school every Monday through Friday as well as Saturday mornings. The school's program is based upon the old-fashioned concept of hard work, but the children are not bothered by this, not at all.

They greet their friends and, at once, a game of jacks begins in the middle of the floor while they wait for classes to start.

Teachers, who are artists in their own right, and members of the office staff mingle with parents and students in the crowded lobby. Among the teaching staff, the dancers stand out, easily recognized by the way they move.

Elma Lewis, who founded the school in 1950, enters with a young man. They are deep in conversation. The young man's appearance is striking—he wears a knitted wool poncho over his casual clothes. But it is Elma Lewis one notices, for she is a legend in Boston.

Elma Lewis was born 51 years ago to proud, hardworking parents who had come to Boston from Barbados. Their income was modest, but their aspirations for their children and Black people were extremely high.

One of her older brothers taught her to read when she was three years old, and she has always "read everything, even phone books." It was also at the age of three that she recited a poem at a meeting of Marcus Garvey's Universal Negro Improvement Association—a poem about the beauty of Black women. She grew up with pride in herself and her heritage.

She attended Boston public schools. One of her early settlement-house teachers, Ms. Bethra Muzzy, a white woman and a graduate of Emerson College, thought little Elma to be talented, and persuaded the Lewises to pay one dollar a week, a lot of money in those days, for private elocution lessons. Today, one is immediately struck by the beauty of Ms. Lewis' voice which is proper and warm at the same time.

While growing up, she studied voice, piano and dance and financed her education at Emerson College by working in Boston theatrical productions. She dreamed of pursuing a dramatic career in New York, but was discouraged by the fact that Black performers were offered few roles in the theater, and those were usually humiliating.

Reluctantly, Elma deferred her dream of being an actress and took a Master's Degree in Education at Boston University. For a short while, she taught third grade in an elementary school, and later remedial reading, dance and drama. For a time, she was a social worker in Boston's South End.

Then recovery from a serious illness made her re-examine her life. She questioned why she lived when others died. She felt a compelling need to do something truly significant with the rest of her life. Her mother, with characteristic directness, pointed out that she was too smart to work for other people and suggested that she start a school of her own. Elma considered this—a school of her own that would teach theater arts to Black children. It seemed an audacious idea, but it was obvious that there was a desperate need for a school of fine arts in the Black community, a school that could some day reach throughout Boston to the whole country. The decision made, the Elma Lewis School of Fine Arts began in a six-room apartment in Roxbury with an enrollment of 25 students.

Today, the school has over 500 pupils ranging in age from four to 75 with some 350 on a waiting list. The young children study dance, drama, art, music and costuming and at age 13, they begin to specialize.

Many who have studied at the Elma Lewis School of Fine Arts have gone on to achieve professional status. Kenneth Scott, who attended the school, has Broadway credits that include *Hello Dolly, Golden Boy* and *Hallelujah Baby!* among many. For a year he toured with the Harry Belafonte Singers and Dancers and has also danced with most of the major American ballet companies. Lauren Jones, another Elma Lewis student, has appeared in many roles on Broadway and television. She has acted at the American Shakespeare Festival in Stratford and starred in *The Liberation of L.B. Jones.* In a newspaper interview, Ms. Jones laid her success to "a fantastic woman in Boston named Elma Lewis."

Teachers trained at the school have gone on to develop similar schools in Houston, Texas, and in New Haven, Connecticut. Ms. Lewis receives many letters asking her advice in starting arts training centers. Her advice is to "get something going and then people will help you."

Today, the Elma Lewis School of Fine Arts is part of a larger organization, the National Center of Afro-American Artists, founded in 1968. Ms. Lewis says, "The center is where we are stating Black heritage, and sharing the beauty of our arts with all people." The center includes an experimental theater, the Elma Lewis Playhouse in the Park, professional center, dance company, jazz orchestra, museum, classical orchestra, chorus and a series of free outdoor concerts, which last year included a concert by the Duke Ellington Orchestra.

Ms. Lewis is a hard-headed idealist who believes in making dreams come true. "I'm in the business of being successful," she states matter-of-factly. Believing that ". . . . it is not in the realm of *luxury* but of *necessity* that the creative energies of the nation's Black population will be nurtured and preserved for posterity," Ms. Lewis is a tireless fund raiser. The activities of the school are budgeted at an annual figure of $900,000.

Students who can afford it are charged a monthly tuition of $15. They are taught by a staff that includes a choreographer, Billy Wilson; drama directors, Vernon Blackman and Larry Blumsack; the costume-designing team of Gus and Lucy; jazz pianist, Jaki Byard; a primitive dance instructor, George Howard, a visual arts director, Barry Gaither; and music director, John A. Ross.

Writing in *Forum* Magazine, the official organ of the Greater Boston Junior Chamber of Commerce, Ms. Lewis notes that the National Center of Afro-American Artists gives services to 332,744 persons a year at a per-person cost of $2.25. "One would expect," comments Ms. Lewis, "congratulations

for providing Boston with the most remarkable bargain in the world. Instead, we are constantly asked to prove the validity of an arts organization. How many parents, who otherwise would be on welfare, are able to work, knowing that children are engaged in beneficial activity? How many students have the course of their lives changed from destructive to constructive by the improvement of their self-image?"

The Parents' Organization of the Elma Lewis School helps the young graduates of the school by maintaining apartments in New York for boys and girls who go there to prepare for professional careers. The organization also provides clothing, tuition money and strong moral support for these young people, many of whom are away from home for the first time.

At the school, there's a sense of purpose, a happiness that extends from the artist-teachers to the very youngest pupil. Aristotle's definition of happiness, "activity in accordance with virtue," comes to mind. The 125 employees of the school, including office personnel who sometimes, of necessity, work for periods of up to eight weeks before they are paid, embody this concept.

This quality is very noticeable on this particular afternoon as the children leave their mothers and the games of jacks to go to their classes.

One of the most popular courses at the school is Michael Babatunde Olatunji's African drum class. His class for beginners meets at 3:30 p.m. in a small back room on the second floor.

African drums speak a language, he tells the class, and the language has its own alphabet. African music is based upon sounds, like the "gun" (pronounced "goon") sound from Nigeria. This sound is found today in parts of Brazil, Haiti and Trinidad—wherever Black culture has survived over the centuries. The rhythms of our spirituals and blues, calypso, bossa nova and the rhythms of rock music originated from African sound patterns. It is moving to watch very little boys, each not much bigger than the drum he sits behind. Olatunji, a Nigerian, flies to Boston from New York twice a week to teach. His first class meets every Monday at one o'clock, not at the school, but in the Massachusetts Correctional Institution at Norfolk, where the school has been running a technical theater training program since July, 1970.

Instructors from the school visit Norfolk four times a week to teach courses in music theory, African heritage, primitive dance, technical theater, art, Black studies, percussion, wind instruments and drama. The men receive rehabilitative training for jobs as stage managers, stage carpenters, stage electricians, property men, sound men and fly men.

The success of the program may be measured by the favorable press reviews of four stage productions, *The Plague, Cadillac Alley, Black Rhythms* and *The Installment Plan,* that were conceived, written and performed by the men inside the walls and by the enthusiasm of inmates and correctional officials who have requested more courses in art, music, writing and dance—courses involving hard, creative work.

At Norfolk, as at the Elma Lewis School in Boston, hard work works. Late last fall, ten men, nine of them inmates at the Correctional Institution at Norfolk and one a former inmate who is now a student at Rutgers University in New Jersey, signed a contract with the Boston publishing house of Little Brown & Co. for a book of poems, short stories, essays and plays. All ten of the contributors had been involved in the Elma Lewis Norfolk program and had been encouraged by Ms. Lewis to develop their writing talents. The book, called *Who Took the Weight,* from a popular recording by Kool and the Gang, features a foreword by Elma Lewis.

Housed in a former Hebrew school and synagogue which were "sold" to Miss Lewis in 1968 for one dollar by the combined Jewish philanthropies of Boston, the new school's conversion and renovation has almost been completed although work on the synagogue hasn't begun because of insufficient funds. Some classrooms have an unfinished appearance. Yet, when teachers and pupils meet and start working, the rooms assume a life of their own. Lines from Langston Hughes' *Fields of Wonder* seem apropos:

It had no dignity before.
But when the band began to play.
Suddenly the earth was there,
And flowers,
Trees,
And air,
And like a wave the floor—
That had no dignity before!

Elma Lewis works with the energy of a woman who has made up her mind to change things. Her activities are never random, and her vitality permeates the school.

On the outside top wall of Ms. Lewis' school, there are big letters deeply engraved in granite. With an almost auditory quality, they proclaim "Not by might, nor by power, but by My Spirit, saith the Lord." These words from the Book of Zechariah, translated into two African languages, will be added beneath the English original, adding that other dimension to this school where instruction is available to Americans of all colors and where Shakespeare and Langston Hughes, cassical ballet and primitive dance, Beethoven and African drumming coexist in a mileu that is peculiarly our own. All made possible by a determined Black woman who believes in making her dreams reality.

FUTURE DIRECTIONS IN SOCIAL SECURITY, NRTA–AARP TESTIMONY

Mr. CHURCH. Mr. President, the Senate Special Committee on Aging began hearings early this year on "Future Directions in Social Security." Our objective is to explore the issues which relate directly to our overall objectives for the social security system.

On July 26, the committee heard from representatives of the National Retired Teachers Association and the American Association of Retired Persons. The complete presentation of NRTA–AARP was 135 pages, not including appendices and charts. The quality of the statement was as impressive as the quantity; the Committee on Aging is fortunate to have such a rich source of analyses and proposals. It will receive careful, sustained attention from the committee.

Mr. Cyril Brickfield, legislative counsel for NRTA–AARP provided a summary of the total presentation in his remarks at the hearing. It is a useful checklist of NRTA–AARP views, and I ask unanimous consent that it be printed in the RECORD.

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

TESTIMONY OF CYRIL F. BRICKFIELD

Mr. Chairman: I am Cyril F. Brickfield, Legislative Counsel to the country's largest organizations of older Americans—the affiliated, nonprofit National Retired Teachers Association and the American Association of Retired Persons. The combined membership of our Associations presently exceeds 5.5 million.

I am accompanied this morning by Mr. John Martin, former Commissioner of the Administration on Aging, and Mr. William Mitchell, former Commissioner of Social Security. Both are consultants to our Associations.

Also accompanying me this morning are Mr. Thomas Borzilleri and Mr. James Hacking, both of whom are members of my staff.

I would like to begin by expressing our Associations' appreciation for the opportunity to participate in this second phase of hearings into future social security directions.

If you will examine the Table of Contents of our prepared statement, which, with the permission of the Committee, I shall now introduce for inclusion in this hearing record, you will find that it treats, in some considerable detail, a broad spectrum of retirement income security topics, including the present income situation of the elderly and prospects for the future, Old Age Survivors and Disability Insurance, Supplemental Security Income, private pensions, employment, the retirement income credit, and the need to coordinate existing public pension systems. Time constraints precluded our treating adequately health care and property tax relief—both of which substantially erode retirement income; consequently, these items were not included.

I would, however, like to stress at this juncture the increasing concern of our Associations with the development of the Medicare and Medicaid programs and the level of care they provide. Instead of progressing with respect to health care for the elderly, we seem to be regressing. The enactment of the Administration's Medicare cost-sharing proposals would tend to reinforce this trend.

I would, however, add that we are encouraged by Congressional concern with improving the health care situation. We commend the Chairman and Senator Mondale for expressing their sense of concern through Senate Resolution 124.[1]

Because the scope of the material contained in our prepared statement is so comprehensive and exhaustive, we shall confine our remarks this morning to:

(1) present and future retirement income needs;

(2) Old Age, Survivors and Disability Insurance—with respect to future standards of adequacy for the replacement of earnings lost due to retirement, the financing of OASDI, the retirement test, and the need to establish a bipartisan social security board;

(3) revision of the retirement income credit;

(4) the increasing economic necessity to retain older persons in the labor force; and

(5) the need to better coordinate this country's basic public pension systems.

I. INTRODUCTORY REMARKS

Today, it is generally accepted that, over the years, the Social Security program has actively attempted:

(1) to provide an adequate minimum level of income support for the aged; and

(2) to provide a retirement benefit that will prevent a serious decline in income due to earnings loss.[2]

As we attempt to demonstrate in Part One of our prepared statement, while the Social Security system has made great progress since its inception, an adequate floor of income protection remains elusive for large numbers of elderly Americans. Moreover, the second goal of preventing a serious decline of income due to retirement also has a long way to go. The lack of complete success in achieving these two goals may derive from the attempt to use a single mechanism, OASI, to accomplish separate objectives. However, now that the goal of providing an adequate income floor will be primarily the responsibility of the SSI program, it is hoped that the income adequacy problem of the elderly will be alleviated. Divested of the income support function and, hopefully, of

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Footnotes at end of article.

the "floor of protection" philosophy, OASDI can now function primarily as a mechanism to replace an adequate degree of earnings lost as a result of retirement, disability or death.

The awareness of aging population trends should motivate the planning necessary to accommodate the income security needs of the future aged. Not only must we anticipate that the aged population will continue to increase in terms of sheer numbers, but taking into account such factors as improved health care, ever-earlier retirement policies and practices, and estimates of diminishing labor force participation, we must also anticipate that they will be living longer and spending more years in retirement. Moreover, since the aged of tomorrow will be better educated, more skilled and more sophisticated than the aged of today, they appear far less likely to accept the lower standard of living which presently attend retirement. The projected dimension of the future aged population and the assumed unwillingness on their part to accept in retirement a standard of living below that experienced prior to retirement, define the challenge which confronts us here today.

II. OASDI: STANDARD OF ADEQUACY FOR THE REPLACEMENT OF EARNINGS LOST DUE TO RETIREMENT

Since social security will probably remain the primary instrument of earnings replacement for the foreseeable future, the optimum degree of earnings to be replaced through social security should be determined now in order that the modifications in the benefit structure and financing mechanism may be carried out in time to accommodate future needs in the most efficient manner.

Our Associations believe that the living standard of the future aged should be related directly to a standard of living experienced prior to retirement.

Moreover, the standard selected should not, in any case, result in a post-retirement living standard appreciably lower than that enjoyed immediately prior to retirement.

Professor James H. Schulz of Brandeis University suggests that the appropriate standard could be based on the average highest earnings in ten of the fifteen years immediately prior to retirement. Others have suggested standards based on average earnings in five of the fifteen or twenty years immediately preceding retirement, the average of the highest earnings in any five years, or in any ten years.[3]

While our organizations tend to agree with the recommendation of Professor Schulz, we also believe that a standard based on average lifetime earnings adjusted, however, to account for cost-of-living and real wage increases, has considerable merit. However, the administrative burden and attendant cost consequences of such a standard may be so onerous as to render it unfeasible.

Once an appropriate pre-retirement living standard is selected, the percentage of earnings to be replaced by the public and private mix of retirement income mechanisms in order to maintain that standard must be determined. Professor Schulz has estimated the appropriate replacement rate to be from 60 to 65 per cent. Others have suggested higher rates.

While our Associations concede that private pension plans will assume an increasingly significant role in the earnings replacement function for the future aged, we tend to believe that social security will continue in its present capacity as the primary earnings replacement mechanism. An appropriate rate for social security must, therefore, be determined. Professor Schulz suggests an optimum earnings replacement rate of 55 per cent.

While our Associations are unwilling to commit ourselves to the 55 percent figure without further study, we do not find this figure to be unreasonable.

III. THE FINANCING OF OASDI

In recognition of the increasing burden which the social security payroll tax is imposing on the active working population, our Associations have adopted the following position:

We urge the enactment of legislation to lessen the existing regressivity of the taxes imposed by the Self-Employment Contributions Act and the Federal Insurance Contributions Act.

In view of the regressive impact of the payroll taxes on lower income groups, our Associations would support initially, limited reform within the existing tax structure, provided, however, that the contributory principle is not broken.

If the OASDI is to be used as the primary earnings replacement mechanism to permit the future aged to maintain in retirement a pre-retirement standard of living, more fundamental reform of the tax structure would seem to be required. Without increasing the tax rates and taxable wage base to prohibitive levels, we doubt that the present structure could, by itself, generate enough revenue to finance an adequate earnings replacement ratio.

Within the limits of our present policy position, we could support a change in the payroll tax structure to provide a system of exemptions or allowances designed to reduce substantially the payroll tax burden on lower-income groups. Such relief should be subject, however, to some minimum percentage contribution designed to preserve the contributory principle. We believe that the cost of such internal reform would be modest and could be offset by increases in the tax rates and/or the taxable earnings base.

We would, however, hope that any exemption formula would tend to concentrate the benefits of exemptions among lower-income family units and phase out such benefits as the family income increases.

To accomplish more fundamental reform, the use of general revenues, even if only as a supplement, appears necessary. A number of limited proposals have been suggested, including the use of general revenues to pay benefits to "late arrivals," as for example those who were self-employed,[4] and the use of general revenues to finance the Hospital Insurance program. John Brittain, of the Brookings Institution, has suggested that a system of payroll tax exemptions could be financed from general revenues at minimal cost.[5]

Wayne Vroman, an economist with O.E.O., has suggested the use of general revenues to finance the already anticipated revenue needs of social security as an alternative to the payroll tax rate increases scheduled for 1978.

Other more radical proposals for increased reliance on general revenues have also been made. For example, it has been proposed that payroll tax contributions should constitute a credit against federal income tax liability with any contributory amount in excess of such liability treated as an overpayment of income tax. Any such overpayment would be refunded to the taxpayer.[6]

In the view of our Associations, the complete financing of social security through general revenues is simply not feasible at the present time.[7] Moreover, since the distribution of the tax burden under the income tax is far from equitable, it is an unsuitable vehicle on which to cast the full burden of social security. More limited reliance, however, should be considered to meet additional OASDI revenue needs in the immediate future.

IV. THE RETIREMENT TEST

Our Associations favor the further liberalization of the retirement test to $3,600. The cost estimates for this proposal range from $1.2 to $1.4 billion annually. Since the Chairman's bill, S. 632,[8] is within the scope of our position, we support it.

In our view, the liberalization of the retirement test is an emotional, as well as philosophical and economic issue. This was clearly demonstrated at the 1971 White House Conference on Aging and continues to be reflected in our membership.

We must be mindful that though it has been argued that only a minority of the aged would actually be affected by further liberalization—this "minority" is in fact a great number of people—1.5 million.

We must also keep in mind that the American retiree continues to feel abused by the retirement test and he argues that he should not be deprived of his benefits because he engages in paid employment, particularly in the light of the fact that his non-working neighbor, with income from stocks and bonds, receives a full pension. To the older American, this is discrimination in favor of the well-to-do and reward for idle living. Since the test penalizes productive work, he considers it a violation of the work ethic. No amount of logical argument as to cost or the need to make way for younger workers is likely to dissipate this feeling.

V. ESTABLISHMENT OF A BIPARTISAN SOCIAL SECURITY BOARD

Our Associations believe that steps should be taken to assure the type of continuity with respect to supervision, direction and development in social security that the country enjoyed in the past. We think one important step in this direction would be a return to the former three-member bipartisan board form of administration which, in our judgment, contributed so importantly to the early success of the system and to the public's confidence in its administration.

Now that the Social Security Administration has the responsibility for Supplemental Security Income as well as the Old Age, Survivors, Disability and Health Insurance programs, we believe that a three-member bipartisan board would best assure integrity, competence and impartiality and provide protection against purely partisan political intervention.

We recommend that two of the three members be from the majority party and that all three be named by the President with the advice and consent of the Senate. The President could select the Chairman and all members would serve for fixed terms. The Board would be concerned primarily with policy formulation but would operate through an Executive Director who would have to qualify under Civil Service rules and serve at the pleasure of the Board.

VI. THE RETIREMENT INCOME CREDIT

Retirement Income Credit of Section 37 of the Internal Revenue Code was designed to help relieve part of the tax burden of those retired people who are living on taxable retirement income (e.g. pensions, annuities, rents, interests, etc.) and equalize their tax treatment with that of retirees receiving Social Security and Railroad retirement benefits which are basically tax-exempt.

Since 1964, when the Credit was last amended, there have been substantial liberalizations of social security benefits with the result that the present maximum amount of income eligible for the credit is considerably below the maximum social security primary benefit. In addition, the complexity of the credit prevents it from providing the full measure of relief intended. To claim RIC, the taxpayer must fill out a separate page on the income tax form with nineteen possible calculations. This is in addition to his regular tax schedule computations. As a result of these complexities, it has been estimated that as many as 40% of all those eligible for RIC either fail to claim it or else make errors in calculating their credit.

Footnotes at end of article.

In order to restore tax equity in the treatment of retirees, the amount of retirement income eligible for credit computation ($1,524) should be increased to the present maximum primary benefit under social security ($2,500). We further believe that the credit's limitation on earned income should be liberalized to correspond with the social security retirement test. In his respect, we would support the Chairman's bill, S. 1811.[9] Moreover, computation of the credit should be simplified.

We note that Treasury Secretary Schultz proposed, in testimony before the House Committee on Ways and Means, a simplified substitute called the Age Credit. We have examined the Age Credit proposal and have attempted to estimate its impact. Unfortunately, the Age Credit would not be available to those who are retired and under age 65 and presently eligible for RIC. In other words, 130,037 returns presently eligible would be cut off. This represents over $23,818,000 in lost tax benefits, or nearly 10% of all returns requesting the RIC at the present time.

To some of these people, the RIC benefit comprises as much as 4% and 5% of their adjusted gross income. For people making less than $7,000 per year, this Age Credit would be a hardship.

Chart D, which appears on page 138 of our prepared statement, indicates rough percentages of where the benefits under various proposals would be applied. Specifically referring to the last two columns (5 and 6), we see the Age Credit to be a program which would tend to unduly benefit persons in the higher income brackets. For example, only 43% of total Age Credit finances would go to returns having an adjusted gross income of less than $10,000.

We have examined the Senate and House proposals contained in their respective versions of H.R. 1 last year. While they would allow for as much as 80 percent of the benefits to go to those with incomes under $10,000 and are therefore preferable to the Age Credit, nevertheless, according to our projections in Chart D, the benefit distribution under the Senate and House proposals would be of less advantage to lower income groups than under present law. Obviously, in the opinion of our Associations, it is the less well-to-do members of society who are in need of federal assistance of this nature, and programs which actually assist those in need are to be favored over those which do little to correct a bad situation.

In summary, Mr. Chairman, we oppose the Age Credit proposal. We have mixed feelings about the Senate and House proposals of last year. While we feel the present system provides the best alternative, it is necessary to raise the amount of retirement income for computation purposes to $2500—the maximum primary benefit under Social Security. For this reason we support Senator Church's bill S. 1811.

We feel too that the committee should look beyond this primary benefit ceiling and consider the simplification of computation and filing procedures. Since over 40% of eligible older persons fail to benefit fully from the present law because of its complexity, this could well be the greatest inequity of all.

VII. EMPLOYMENT

We would like to refer the members of the Committee to the employment section of our prepared statement beginning on page 110. We believe that the elderly ought to have the option to continue to work as long as they are able and willing. Within this older age group, there are many who are being forced to retire, despite their willingness to stay in the labor force and despite their work capacities. Apart from the socio-psychological reasons for a reexamination of the current retirement and employment policies. The longer persons are retired, the more thinly will available retirement resources be spread and the greater will be the demands for pensions on employers. As we move increasingly away from a large proportion of manual workers in our labor force, the developing industry-occupation structure could allow continued employment of a larger portion of our "younger" aged.

If current retirement trends continue, the attainment of an adequate retirement income goal may be impossible. By encouraging the older person to remain employed, we would also be making it possible for more persons to be covered by better private pension and to receive increased social security benefits. Furthermore the retiree will have additional years of earning and be less dependent on pension resources.

VIII. THE NEED TO COORDINATE PUBLIC PENSION SYSTEMS

Finally, Mr. Chairman, we would like to make one last point. Social Security and other public pension systems, such as Railroad Retirement, might well be coordinated with each other. Multiple eligibility for basic retirement benefits can be costly. While such an overlap is understandable and indeed desirable in some cases, such as military retirement and private pensions, because of the need to recruit and retain personnel, multiple eligibility for basic retirement benefits under public pension systems may create inequity and injustice.

FOOTNOTES

[1] S. Res. 124, 93d Cong., 1st Sess., 119 Cong. Rec. p. 10569 (June 7, 1973).

[2] J. Pechman, H. Aaron, M. Taussig, *Social Security: Perspectives for Reform*, p. 55, (2d ed. 1968), (hereinafter referred to as J. Pechman, H. Aaron, M. Taussig, *Social Security: Perspectives for Reform*.

[3] Pechman, Aaron, Taussig, *Social Security: Perspectives for Reform*, supra note 2, at pp 98, 219, 226.

[4] J. Brittain, *The Payroll Tax for Social Security*, 32 (1st ed. 1972).

[5] *Id.*, at p. 142.

[6] J. Pechman, H. Aaron, M. Taussig, *Social Security: Perspectives for Reform*, supra note 2, at pp. 221–22.

[7] Brittain, *The Payroll Tax for Social Security*, supra note 6, at p. 143.

[8] S. 632, 93d Cong., 1st Sess. (1973).

[9] S. 1811, 93d Cong., 1st Sess. (1973).

PATRICK E. GORMAN: MR. AMALGAMATED

Mr. HUMPHREY. Mr. President, Roosevelt University in Chicago honored Patrick E. Gorman, the secretary-treasurer and chief executive officer of the Amalgamated Meat Cutters and Butcher Workmen—AFL–CIO—on June 2, 1973, for his 50 years of distinguished labor leadership.

This honor is richly deserved. Pat Gorman has long been a nationally prominent labor leader. He has presided over the growth of his union from when it had only a few thousand members—and most of those blacklisted by employers—until its present strength of 550,000 members organized throughout the Nation and protected by excellent contracts.

Pat Gorman, the union leader, is only part of the story of this great individual. He is a many-sided and complex person. He has written songs, poems, and novels. He is an attorney. He has mediated many an important dispute. But most of all, he has acted as a sensitive, deeply socially conscious human being throughout his life.

It is Pat Gorman who led his union to fight for effective poultry inspection, meat inspection and other consumer-protective legislation long before consumerism was popular; for farm labor reform before the Nation had awakened to the need, and for an end to the Vietnam war before the peace movement got off the ground.

Pat Gorman's views, which he articulates with vigor and conviction both in writing and in speech, do not please everyone. He is an independent. The Irish rebel in him often comes forward.

I am proud to have been a friend of his for nearly 30 years. I have worked with this strong-minded, intelligent, and decent human being in many a campaign and many a cause. We have shared many successes and some defeats.

I therefore greatly enjoyed a booklet about Pat Gorman which was published by the Labor Division of Roosevelt University. It contains some brief narrative concerning Pat's work and accomplishments interwoven with a number of his writings and speeches. I believe Senators would enjoy reading some excerpts from the narrative. Mr. President, I therefore ask unanimous consent to print in the RECORD some parts of the Roosevelt University booklet, "Mr. Amalgamated, Patrick E. Gorman."

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

EXCERPTS FROM "MR. AMALGAMATED, PATRICK E. GORMAN"

Whether one views the title statistically or metaphorically, Patrick E. Gorman is Mr. Amalgamated.

His concern, the sharing of his own life, being on the picket lines, visiting members in their homes—these acts evoke in the members—whether they know Pat personally or hear of his deeds—respect and admiration.

To the employers he is Mr. Amalgamated. They see him as a hard fighter for the rights of his members, and a fair and square negotiator whose word is always as good as his bond.

When he assumed the presidency of the Amalgamated Meat Cutters and Butcher Workmen in 1923 at the age of 30, there were only 10,000 members in the union (there had been as many as 80,000 before the 1921 packinghouse strike). The membership has now grown to almost 550,000.

Gorman served as international president for 19 years from 1923 to 1942, and international secretary-treasurer for over 31 years, from 1942 to the present. For over 50 years he has been elected as top officer of one of the major unions in the United States and the largest food workers' union in the world.

IRISH WIT

For a labor leader Pat Gorman is a rare specimen of the species—musician . . . lawyer . . . novelist . . . poet.

In his poetry probably more than in any of his other endeavors his Irish wit and background, and his curiosity and love of life, comes to the fore.

These ideas come to him at odd moments of the day. Some have been written on laundry cardboards for shirts when he was shaving. Others have been composed on the dais while waiting "to say his piece."

. . . While Pat Gorman's symphonic compositions include "Novena for Manila" and "The Pawn Shop Suite," his reputation is essentially that of songwriter.

He has written over 750 songs . . . he is a member of ASCAP . . . and a member of the Song Writer's Hall of Fame.

He develops the melodic line of the music by plunking the piano and depends upon his felicity of phrase for the lyrics. Since he is an untrained musician, he works with a

collaborator in the harmonization and orchestration of his published songs.

LABOR MEDIATOR

In two crucial events in the labor movement, Gorman played important mediator roles.

In the big split in the house of labor—the CIO breakaway from the AFL in 1935—the Meat Cutters were torn between the two federations.

The Amalgamated is essentially an industrial union, and it looked to its future successes in organizing their jurisdiction "from the cellar to the ceiling." So there was great sympathy and ideological commitment to the CIO.

But the Meat Cutters was an AFL stalwart from its founding in 1897, and knew the perils of a split in the labor movement.

What the Amalgamated wanted was something that was not to be—for the 1935–1955 period—a united movement encouraging wide organizing of both the skilled craftsmen and the semi-skilled and unskilled mass production workers.

Gorman had great respect for John L. Lewis—a feeling that was mutual—and by letters and meetings he worked mightily to prevent the rupture, because he was convinced that the interests of the workers of the nation were built on the philosophy "in union there is strength."

To that end Gorman and the Amalgamated exerted every effort to prevent the breach, but after it occurred worked steadfastly to bring the federations together again.

Gorman's role as mediator is again illustrated by the part he played in trying to keep the Teamsters union as part of the family of labor.

During the crucial period leading up to the expulsion of the Teamsters from the AFL–CIO in 1957, he was the official link between Hoffa and Meany.

When his efforts failed to bring Hoffa and Meany personally together, and the vote for expulsion of the Teamsters was taken, Gorman and his Amalgamated delegates were conspicuous for their vote against the ouster. In the years that have followed, Gorman and the Amalgamated have continued to work for the re-admission of the Teamsters.

RACIAL BROTHERHOOD

Working for the laboring man meant fighting the bosses. It also meant fighting the occasional divisions that occur within the work group—picket against scab . . . black against white.

With Negroes pouring into packing plants as a result of the labor shortage in World War I, Pat early had to face the objections of his members to the inclusion of Blacks into the union. Speaking also for his partner he said:

"As business agents, it is our job to organize anyone eligible for organizing, who come into the plant. If this local union is too good for the Negroes, then it's too good for me. If they can't come in, I won't stay in."

Gorman's concern for fairness and decency continued to be expresed in another medium. He must have recognized early that effective writing could reach and influence more people than personal contact ever could. His unpublished novel "Early Frost" involves an inter-racial love affair. While the theme was too advanced for its day, it shows that the author, a border state citizen, recognized that problems such as this should be grappled with.

The concern to strive for the recognition of each individual as a human being, entitled to all of his inalienable rights, constitutes one of the burning drives of Pat Gorman's entire life.

REBEL STRAIN

Gorman springs from a poor, devout Irish family and there is a continuous strain of rebel running through his life reflecting this heritage. He is an independent thinker and he is not adverse to challenging sacred cows and hallowed institutions if they do not agree with his views . . .

"Mavericks of the world, unite! You have nothing to lose but public acceptability."

GENOCIDE AND THE INTERNATIONAL COURT

Mr. PROXMIRE. Mr. President, one of the arguments frequently raised against U.S. ratification of the Genocide Convention is that we will be brought before the International Court at The Hague and be forced to do something that is unconstitutional. This simply is not true.

For example, the Senate has ratified the Supplementary Convention on the Abolition of Slavery, which allows the International Court to resolve disputes between nations. This provision is identical to the passage in the Genocide Convention concerning the use of the International Court.

The United States has never been "hauled" before the International Court in response to charges of slavery.

And there is no reason to believe that the United States will ever be "hauled" before the International Court in response to charges of genocide.

Neither the Slavery Convention nor the Genocide Convention gives authority to the International Court to compel us to do something contrary to our constitution. There is no reason to fear the International Court of Justice.

Mr. President, I urge the Senate to ratify the Genocide Convention now.

LIMITS WHICH SHOULD BE IMPOSED ON WASTE WATER EFFLUENTS

Mr. HANSEN. Mr. President, the past 10 years have witnessed a growing concern for the quality of the natural environment. Effluent waste water discharge has become one of the paramount issues in this field.

Recently, Mr. John E. Kinney addressed the subject of the limits which should be imposed on waste water effluents. Mr. Kinney has been working in the field of water pollution for over 25 years. In addition to his credentials as a water pollution control expert, he is a contributing editor for Industrial Week magazine. Mr. President, I ask unanimous consent that Mr. Kinney's remarks be printed in the RECORD so that a larger audience may have the benefit of his astute observations on this subject.

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

IMPRESSIONS FROM SYMPOSIUM ON WASTEWATER EFFLUENT LIMITS

(By John E. Kinney)

Establishment of "best practicable treatment" effluent standards for industry will be based solely on technical capability considerations and ignores costs, and cost-benefit ratios and economic impact on either the company or the community.

That was the recurring theme in the symposium on wastewater effluent limits at the University of Michigan July 18–20, 1973.

The blame (or the responsibility, depending on the viewpoint of industry or government) was placed squarely on the Congress. EPA spokesman Robert Sansom, Assistant Administrator for Air and Water Programs, developed at length how the agency is considering costs for municipal treatment in terms of incremental costs to achieve added increases in reduction of BOD and suspended solids but that concept of determining whether extra costs result in commensurate reduction in waste load does not apply to appraisal of industrial treatment standards.

The double standard was spelled out by other EPA spokesmen on the program and by Drs. Martha Sager and Blair Bower of the Effluent Standards and Water Quality Information Advisory Committee who are reviewing the reports of EPA consultants who recommend the effluent standards. In their opinion the 1972 law is explicit. "Best practicable" does not have any modifiers requiring consideration of costs. "Best available" called for by 1983 does.

Phillip Cummings of the Senate Public Works staff criticized the EPA agency for misinterpreting the 1972 Act. In his opinion—but he continually stated it in terms of "Congress intended"—the law allows EPA no leeway in administrative decision making. "Best practicable" means what can be physically done now. Both he and Dr. Sager denounced the failure of the stream standards approach and both anticipate clean streams in the near future with effluent standards because this approach forces industry to plug its sewers.

Their optimism was not shared by most of the other speakers or by comments from the audience. Morever, there were serious concerns expressed that the 1972 Act has in fact set the stage for long term delays and long court battles even if the present bottleneck of federal funds is corrected. This last, incidentally, was described as the most serious flaw in the plan to get stream improvement. Pennsylvania, for example, reported $1 billion of municipal construction of approved plans immobolized by the federal funding fiasco. The 1972 Act according to the consensus, has stopped progress and diverted state personnel from field inspection and promotion of abatement to duty as clerks on permits.

Among other concerns were these:

The environment is not considered as an entity so these standards, predicated solely on the basis of technical capability, will require extra power generation and extra natural resources and result in extra solids residue which must be disposed of as well as expel extra gaseous combustion products into the atmosphere. Whether these extra demands on limited resources are of less or greater value than the additional benefits which would derive from higher treatment of the wastewaters can not be considered according to the wording of the 1972 law.

Over the years riparian rights in water undiminished in quality and quantity were replaced by the doctrine of reasonable use wherein streams would be used for waste discharges as long as there is no interference with another user. This is now being supplanted by the doctrine of zero discharge which would eliminate the use of assimilative capacity inherent in reasonable use. Entirely apart from the concern that the disuse of this renewable natural resource necessitates unnecessary use of other resources is the constitutional question raised by William Eichbaum of the Pennsylvania Department of Natural Resources, as to whether there is a taking of vested property rights in water without due compensation. He likened it to the declaration of the courts that legislation preempting wetlands without compensation was declared void.

States which adopt federal standards will find many are indefensible by the states because the federal standards are not related to factual data or to data applicable to specific state needs. This was emphasized by

the information that EPA has been holding up publication of the National Academy of Science panel report on criteria of water quality (the "Blue Book") and that the EPA draft of quality criteria called for in the 1972 law by October 1973, does not in many instances agree with the Blue Book.

Magic dates for compliance were set in the 1972 law but the dates ignored the realities of data collection, interpretation, design and construction as well as funding and economic impact. Experience in states has shown that permits issued in haste to meet such dates are often conflicting and even useless when enforcement is attempted. The result is that the law is really unenforceable or won't be enforced although many sections are enforceable.

The 1972 Act was a victory of lawyers over engineers. Engineers may not have moved fast enough but the substitute is an "ungodly long, complicated and confused directive." Accelerated action is not imminent.

There will be many legalistic battles but unfortunately they can't clean up the environment. The authors of the 1972 law failed to understand that pollution is not a fixed entity but only one facet of a continuum wherein the dynamics must be recognized if there is to be effective control of the quality of the environment. The dynamics include the hydrologic cycle, changes in the waste sources, changes in the regulatory process, and a growing recognition that control of point sources is of less and less importance in controlling water quality. Other factors of increasing importance include land erosion, sediment control, chemicals carried in air from natural as well as man-made sources, transportation sources, land wash, agriculture practices, sludges from wastewater treatment, spills and accidents. The 1972 Act talks about planning which should include these factors but makes no specific mandates on their control. The significance of these influences is being ignored in setting standards, time schedules and implementation programs.

Industrial management generally does not understand the impact of the permit program. Neither does the Congress nor state legislators. Boards of directors are asked to approve funds for expenditures for projects which can not be described as adequate to meet standards which may be imposed in one or five years. Moreover, the imposition of criminal liability provisions will influence decisions of persons seeking management positions because the permit requirements and standards being proposed exceed levels which can be reasonably maintained even with well designed and operated equipment. Industrial management must learn courts may be the only recourse, despite adverse publicity, if there is no reasonable administrative route and if plants are to be kept operative without harassment or inordinate financial stress. If guidelines were truly that instead of inflexible standards as EPA interprets the law, there would be room for negotiation. Moreover, EPA consultants' reports proposing standards are mostly based on meager data and reported as rationalized to the point of acceptability and then reduced to a single value to be applied to a generic industry.

Concerns and questions which are appearing in review of EPA consultant reports proposing standards were described by Drs. Sager and Bower to include:

Concern over recommendations that the solution is to place the waste on the land without appraising that impact;

Whether the standard is reasonable not only from the technical but also the cost-effective basis even though this is proscribed by the law;

Whether the EPA consultants understand all the factors which dictate the waste load in any plant (source of raw material, product, material mix, product mix, . . .) and propose standards which allow variation with such variables;

Whether the proposed standards recognize variation of waste load with change in production and with differences in season or area climate;

"Best control technology" required by the law is not the same as "best waste control technology" so new attitudes are needed towards process change rather than rely on waste treatment;

"Best available treatment" (BAT) standards must be announced simultaneously with "best practicable control technology" (BPCT) if there are not to be decisions to provide BPCT only to find later that these facilities could not be part of BAT facilities;

BPCT standards set regardless of cost implications unless they can be introduced via an impact statement, which is expressly not required by EPA. More than BPCT must be provided if that is not adequate to meet stream standards and again with no consideration to costs. Beyond BPCT to set BAT requirements cost is to be considered only in terms of incremental benefits;

Consultant reports recommending zero discharge as best practicable when the law does not mandate zero discharge before 1985 at the earliest. (This caused the advisory council to require two reports to be modified.) (Incidentally, all advisory committee meetings and workshops (wherein some committee members meet with the contractor, the EPA representative, industry representatives and others) are public and the scheduled dates can be obtained by calling Dr. Sager's office—703–557–7390.)

The subject of standards of quality for streams and for discharges into streams and into sewers strengthened the conviction of those who felt the Congress was ill-informed when it adopted the 1972 enactment. Under the pressures of environmentalists seeking zero discharge the Congress voided the 1965 law wherein cause and effect were to be determined. As a result there are now standards for sewer discharges which are one-tenth to one-fiftieth of the concentrations permitted in drinking water.

Moreover, bedroom communities with no industry are showing as high concentrations of mercury, cyanide and hexane solubles (supposedly a measure of oil and grease) as communities with industries. The source is food wastes and there is no industrial wastewater or infiltration to dilute the concentrations.

Are the concentrations harmful? Obviously not if the drinking water standards are higher but the conference emphasized that the new philosophy ignores effect and is directed solely towards enforceability. But even that is not clear-cut because other speakers provided data to prove the analytical procedures are not accurate at those levels and that the range in operational control for well designed and well operated treatment plants, municipal and industrial, can not maintain compliance with standards as now written.

The 1972 Act was also criticized in its sections which discourage joint municipal-industrial waste treatment. Gerald Remus, head of the Detroit metropolitan district, reviewed reasons why joint treatment is essential for stream quality control as well as for practical reasons and then went on to explain the need for technically qualified persons to reassert leadership. He argues the public has had so many false scares and unfulfilled promises that it is getting confused and confusion leads to boondoggling. In his opinion the program will soon be chaotic unless the technical people do speak out and the well intentioned members of Congress heed their advice.

However, he warned that the attention of Congress and EPA, now limited to what can be done technically, must be broadened to include financial capability and adequate administrative capacity or failure is assured. By administration he meant a new look at regional local government because that is the only place the job will be done.

Mr. Remus was not impressed with the effort prompted by the 1972 Act to develop a complicated sewer user rate to assure industrial funding of its just share. He questioned the benefits of expanding large funds on complicated formulas and billings but noted that a district such as Detroit with 77 communities connected to it would have an impossible task of interfering with administrative activities in all the communities. Mr. Remus noted that many industrial wastes considered undesirable a few years ago are now purchased as coagulant aids and further that controls to prevent slugs or sewer damage would be adequate pretreatment for most wastes.

The Chicago story by Earl Knight was different. There the effort is to further restrict industrial connections to allow the district plants to meet state adopted stringent standards. The report on Los Angeles was to the effect that if all metal plating establishments were disconnected from the sewers, the municipal effluent would still not meet standards adopted by the state and approved by the federal agency for discharge to the ocean. Trace metals in foods are more than enough to violate the standards. Data on the analytical methods showed that the adopted standards for ocean waters can not be measured because of interference from the high sodium concentration in sea water.

Despite the deficiencies in data and justifiable standards EPA spokesman Srini Vasan assured the audience that permits will be issued—some 10,000 permits in Region 5—and at an expected rate of 500 a month over the next 18 months to meet the deadline. The EPA statement that the permit may not be perfect but will allow industries five years of compliance was questioned by a reference to the arguments of the Justice Department in the Pennsylvania Industrial Chemical Company case that no one can place reliance on the assurance of a federal agency employee when there is a specific law which provides requirements. In this case the 1972 Act requires changes in permits if there is a change in plant operations or if a new standard is adopted. And Dr. Sager did report that her committee will be revising standards regularly. In fact, the law calls for yearly revisions.

Dr. Sager bemoaned the negative attitude which prevailed at the conference and announced her committee had a positive attitude, with a recognition that completion of adoption of standards to meet the 1972 Act deadline does not imply perfection or even the best of standards but they can always be changed.

That moving target with a double standard for industry and city and disagreement between EPA and the Congressional staff man offered the reason for the prevailing negative attitude. And the dominant role of the lawyer in designing a system which prevents not only an evaluation of standards to protect the environment but also the design of facilities which will with assurance meet those standards prompted the remark from the audience to Mr. Cummings that there is merit in the bumper sticker which reads, "If you want to improve the environment, shoot a lawyer."

IMPACT AID FOR IDAHO

Mr. CHURCH. Mr. President, the Public Law 874 program which provides Federal aid to schools in impacted areas has in past years provided the necessary funds to keep many Idaho school districts afloat. Thus, I find the current at-

tack on this program by the administration quite alarming.

After President Nixon expressed an unwillingness to expand the fiscal 1973 funds appropriated by Congress for this purpose, repeated efforts were made in both Houses of Congress to mandate the release of these vital funds. On two occasions, Congress passed legislation, subsequently signed into law, which provided for the release of these impounded funds.

The first, the urgent supplemental Appropriations bill, released approximately $415 million in Public Law 874 funds. I am pleased that, soon after its passage, these funds were disbursed to our Idaho school districts. The second, the supplemental appropriations bill passed by Congress on June 29, released an additional $59 million of the fiscal 1973 funds appropriated for this purpose. Unfortunately, President Nixon did not sign this legislation into law until July 1, 1973—1 day after the fiscal year expired. Now the administration claims that it is not bound by the terms of the bill, because it was not signed before the close of the fiscal year. Hopefully, alternative efforts underway to release these funds will be successful; $59 million may not be much when it comes to financing 20 days of bombing missions over Cambodia, but it goes a long way in helping public school districts eligible for such aid. It is imperative that education receive the priority attention that it requires; and I urge my colleagues in the Senate to support the retention of the Public Law 874 support, as well as other necessary education programs.

I applaud the recent action of the House Appropriations Committee in allocating $591 million for Public Law 874 in fiscal year 1974. This allowance would continue the program at nearly the fiscal 1973 level authorized by Congress. Mr. President, as the Members know, only $41.5 million was requested in the fiscal 1974 Nixon budget for the program—wiping out all funds for category "B" students and providing only for the funding of category "A" students at State-local option under education revenue sharing. I feel confident that the Senate Appropriations Committee will give careful attention to the recommendations of the House and I urge their support for comparable funding levels.

Recently, I presented testimony before the Labor-HEW Subcommittee of the Senate Appropriations Committee in which I reiterated my interest in this program and shared with them many letters of support I had received from our Idaho school superintendents earlier this year. I ask unanimous consent that my testimony before the committee and the letters from my constituents be printed in the RECORD.

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

TESTIMONY BY SENATOR FRANK CHURCH BEFORE THE SUBCOMMITTEE ON LABOR, HEW, SENATE APPROPRIATIONS COMMITTEE

Mr. Chairman and members of the Subcommittee, I am pleased to have this opportunity to present testimony on behalf of the P.L. 874 program which provides aid for federally impacted areas. Since its inception, this program has been vital to many school districts in Idaho as well as across the nation.

In Idaho, we experience a problem in raising revenue for education quite different from that of more densely-populated states. In Idaho, as in other states, property taxes constitute the base of education revenue. However, with two-thirds of the land in Idaho owned by the Federal Government, there is not a large property-tax base upon which to draw, and the procurement of P.L. 874 funds to compensate for this tax loss has kept alive many of our Idaho School Districts. In several of the Idaho school systems, P.L. 874 funds account for over 11% of the total budget and the absence of these funds would mean the dismissal of teachers, the loss of important programs, and the inability to maintain adequate facilities. The Fiscal 1973 entitlement under this program for Idaho is $2,890,889.00; the actual payments to date have amounted to $2,601,775.00. The entitlement figure constitutes approximately 4.3% of the total budget picture for those schools participating in the P.L. 874 program. I fear the loss of nearly 3 million dollars in impact aid could result in severe consequences for the public schools of Idaho.

I applaud the recent action of the Senate during the consideration of the Urgent Supplemental Appropriations Bill, which mandated the funding of Category A students under the P.L. 874 program at 90%, heavy impact areas at 100%, and all Category B students at 54%. The previous witholding of these funds by the Administration had endangered many school operations where administrators had budgeted in the good faith expectation that the money would be received. I hope, too, that the additional increase in the funding level of the Category B students to 68% of their entitlement, as agreed upon by the Senate and House in the Second Supplemental Appropriations Bill, will result in an additional release of the funds appropriated by Congress for this purpose.

Earlier this year, in the midst of the President's impoundment of P.L. 874 funds, and in face of the Administration's budget request for the funding of Category A students at State option under Education Revenue Sharing, I received numerous letters from Idaho school superintendents in support of the retention of categorical aid for the P.L. 874 program. Their letters relate, far better than I can, the importance of this program to the education needs of Idaho. Much can be gained by viewing the concern of the people who work most closely with this program. Accordingly, I ask that these letters be made a part of the hearing record.

In closing, I urge the Committee to give utmost consideration to the full funding of the P.L. 874 program. Education must not be set on the backburner for a few years and then rekindled again. Congress must not abandon its responsibility to the younger generation. We must continue our pursuit of high standards for education.

SCHOOL DISTRICT 193,
Mountain Home, Idaho, March 30, 1973.
Hon. FRANK CHURCH,
U.S. Senator, Senate Office Building, Washington, D.C.

DEAR SENATOR CHURCH: As you are aware School District No. 193 is a heavy P.L. 81–874 impact aid school district; 64% of our 1972–73 enrollment are impact students. Our 1972–73, RSF–1 report to the USOE reflected 1725–3 (A) pupils, 347—dependents, uniformed services 3 (B) pupils and 450—civilian 3(B) pupils.

Approximately 75% of School District No. 193 is under Federal ownership; these lands are exempt from local taxes which support the public schools. According to the State Board of Education, ad Hoc Education Committee Report issued November 9, 1972, School District No. 193 ranks 112 out of 115 Idaho School districts in assessed valuation per average daily attendance for 1971–72.

For Fiscal 73 impact funds are provided under a continuing resolution. To date we have received, for Fiscal 73, $653,310.00 which is 80% of our entitlement based on 100% of 1725 3(A) pupils, 347, 3(B) pupils (dependents, uniformed services and 0% for 450 3 (B) pupils (civilian).

Zero percent of zero entitlement for 450—3 (B) pupils (civilian) means a loss of approximately $95,000.00 to School District 193. In terms of local tax levy to raise this amount of revenue would require a levy of seven (7) mills on our local property taxpayers.

During a recent phone conversation with the U.S.O.E. in response to an inquiry about another payment later this spring (during April or May) the reply was that the outlook for another payment was not encouraging. This payment is for the previously approved entitlement, cited above, which does not include any entitlement for 450 3(B) pupils (civilian). We have submitted a written request for an emergency payment for the balance of this entitlement to be received hopefully no later than May, 1973. If this request is not approved and the funds received, the loss of P.L. 81–874 to the school district will be in excess of the $95,000.00 referred to above. Accordingly, the local mill levy needed to raise an equivalent amount of money would also exceed the seven (7) mills specified above.

With reference to Fiscal 74; the Administration's budget proposal includes funding for 3 (A) pupils only. Hence, a further reduction in funding for P.L. 81–874.

These funds (P.L. 81–874, 3(A)) are within a conglomerate entitled—Education Revenue Sharing. To date, we have not received detailed information on this proposal, therefore, we do not know if these funds, or for that matter, if any of the Education Revenue Sharing funds are to be distributed as flow-through to local school districts. Therefore, we envision the potential for a further reduction of P.L. 81–874 funds to School District No. 193.

I wish to reaffirm my appeal of January 16, 1973 that in the event Congress approves Education Revenue Sharing legislation, you will propose and/or support requirements in the law, whereby, distribution of P.L. 81–874 funds within the Education Revenue Sharing package are on a flow-through basis to the local district. I encourage provisions whereby all Education Revenue Sharing Funds be on a flow-through basis with support funds to the State Department of Education for administration and supervision of the Education Revenue Sharing Program.

Financial burdens are created for local school districts by federal activities and these burdens are not limited to the initial impact but are continuous in nature. Therefore, the federal government should continue to provide a program of school assistance in federally affected areas. The current provisions of this Act are sound, administration requirements are not cumbersome and complex and can be administered with relative ease. Also, the present distribution formula of P.L. 81–874 has a built-in provision that takes into consideration local tax effort.

The rationale and justification for P.L. 81–874 has been clearly developed and consistently supported by research and testimony. The federal government has a responsibility to dependents of all federally connected families and to those school districts which provide education to those dependents; these dependents are entitled to a sound, stable educational program.

It is to the best interest of all concerned that these school districts continue to provide educational services for these federally connected pupils and P.L. 81–874 is the best vehicle for discharge of this federal responsibility.

Our school district fiscal planning is constantly in jeopardy and haphazard because of the hesitancy on the part of the federal government to give us assurance and direction in meeting their financial obligation in supporting federal impact areas. These funds are used to pay salaries, purchase supplies and equipment, provide support services and general maintenance and operation activities. In addition, educational growth in terms of personnel staffing, curriculum enrichment and school construction are real every-day problems that we must face, yet we cannot budget and plan without knowing what monies are available in support of our local needs.

School districts commence detailed budget planning and projections for the next fiscal year early in the calendar year. By this time in the calendar year we need to know with a realistic degree of certainty, the level of federal funds we can anticipate for the ensuing school year. P.L. 81–874 funds are an integral part of our school district operation and financial structure; they are a basic element in our total educational program.

Therefore, we earnestly solicit your support for continuation of P.L. 81–874 with 100% of entitlement for all 3(A) and 3(B) pupils. Your assistance in our behalf in promotion of this vital program will be appreciated.

Respectfully,

JACK E. JONES,
Superintendent.

MADISON SCHOOL DISTRICT 321,
Rexburg, Idaho, March 20, 1973.

Hon. FRANK CHURCH,
Senator for Idaho,
Senate Office Building,
Washington, D.C.

DEAR SENATOR CHURCH: We are, along with the rest of the other school districts in Idaho, very concerned with the availability of P.L. 874 funds. Our school district has not used these funds in the past. However, this year because of the activities and the construction of the Teton Dam, we do qualify for funds under the B part of the 874 program.

We have identified 168 students whose parents are federally employed, which represents 6% of our school enrollment.

Our district has one of the lowest expenditures per student ratios in the state of Idaho, and these additional students only add to the burden of being able to support an adequate educational program.

We urge you to use whatever influence possible to bring about the availability of 874 money to cover the students in the B category as designed in the P.L. 874 program.

Sincerely,

Dr. J. H. WAITE,
Superintendent.

BOUNDARY COUNTY SCHOOL DISTRICT
No. 101,
Bonners Ferry, Idaho, March 9, 1973.

Hon. FRANK CHURCH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CHURCH: In response to a request concerning testimony for Public Law 874 appropriations we herewith are providing information concerning the effect the loss of PL874 funds will have upon the fiscal and educational program of Boundary County School District 101.

The entitlement for Boundary County School District 101 for the 1971–1972 school year was $28,690. Approximately the same amount of Public Law 874 funds were budgeted in the 1972–1973 fiscal year budget. Not only would the loss of these funds seriously curtail our maintenance and operation budget for the coming year, but would in the final analysis mean that it would be necessary to cut back our costs this coming year in those areas that we can least afford, namely in the area of textbooks, supplies and other teaching materials. Since teaching staffs are already under contract it is obvious that any cutbacks during the current year have to be made in other areas. For example, if we are to assume that we would have received $28,690 again for the 72–73 school year, this would have supplied most of the teaching supplies and consumable items at both the elementary and secondary level this year. Inasmuch as the funds were not received, this simply means that either we do with less teaching supplies and consumables or we overexpend our budget in those areas. It is also extremely unfortunate that our budgets have to be prepared prior to the time that Public Law 874 comes before Congress for consideration. When a district stands to lose five or six percent or even more of their operating budget this creates an intolerable situation as far as school districts in Idaho are concerned.

Boundary County School District is composed of approximately 800,000 acres of which 458,000 are federally owned and 75,600 state owned. Thus approximately 66 7/10 percent of the acreage in Boundary County is non-revenue producing land. It seems inconceivable consideration is being given to further penalizing our district through withdrawal of additional federal funds. In addition, our district is levying 30 mills at the local level which is the maximum levy allowed by the State of Idaho. Thus it is readily apparent that this loss of funds could not be made up by additional local levies. Calling to your attention a letter dated February 1, 1973 and signed by Dr. S. P. Marland, Jr., Assistant Secretary of Education, he states under the highlights of the 1974 budget in Item 7 that programs recommended for elimination include impact aid payments for children whose parents work for the federal government but do not live on federal property. His rationale for this elimination is that since parents pay local property tax like other citizens these children do not constitute any exceptional economic burden on local schools. However, it must be perfectly obviously to even Dr. Marland that if 66 7/10 percent of the land area in a school district is not on the tax rolls then certainly this school district is being penalized and in addition the taxpayers of the school district are being penalized. Without taking into consideration that there may be some injustices in the administration of Public Law 874, the fact remains that at the present time this is the only method by which a school district may recover federal monies to replace the loss of revenue incurred as a result of the Federal non-revenue producing land in our school district.

Thank you for your interest in the school districts of the State of Idaho and we urge you to make every effort to see that Public Law 874 is funded at not less than its current level.

Sincerely,

RICHARD D. HAWORTH,
Superintendent of Schools.

BOISE, IDAHO,
March 7, 1973.

Hon. FRANK CHURCH,
U.S. Senate Office Building,
Washington, D.C.

DEAR SENATOR CHURCH: I am pleased to hear that you will be testifying on P.L. 874. If schools in Idaho ever needed a strong voice on their behalf, it is now.

I strongly urge your support in retaining P.L. 874 and Part B students of the Act even though there seems to be a general feeling that some wealthy districts are receiving funds whose needs are not great. Any loss of revenue, no matter how small, is very hurtful to us.

Last year the Boise schools received $263,609 which in terms of local taxes is 2 mills. To further break it down, we had 1,744 Part B students with an entitlement of $258,412 and 14.8 Part A students at 5,197 making the total $263,609. Using our new survey count and the same computational formula, next year we would lose about $250,000 if appropriations for Part B were deleted from the bill.

It seems to me that the Part B student allotment is more than justifiable for two reasons:

1. Over 65% of the land in Idaho belongs to the Federal Government and is non-taxable.

2. If the Administration is truly interested in providing non-categorical funds for education with less red tape, I can think of no better way than through P.L. 874 as this is the only federal grant with no strings attached, as far as expenditures go.

We are in the very difficult position of preparing our budget for next year with no real assurance that 1973 appropriations will be fully funded or that fiscal 1974 will include federal funds. It seems that a phase-out period would be most appropriate if special Revenue Sharing is to be the new name of the game.

Thank you so much for your past consideration and help. I know your testimony will be thoughtful and succinctly point up the needs in our state.

I am enclosing a copy of a summary of Federal funds for your review. All of these important programs seem to be in a most precarious position for next year.

Sincerely,

Mrs. GERI PLUMB,
Coordinator, Federal Programs.

JOINT SCHOOL DISTRICT NO. 241,
Grangeville, Idaho, March 9, 1973.

Hon. FRANK CHURCH,
Senator from Idaho, Old Senate Office Building, Washington, D.C.

DEAR SENATOR CHURCH: We know you are doing what your can to keep Federal money coming to Impact Area schools and we appreciate your efforts.

It should be pointed out that school districts were not aware of the cut back or cut off of funds at budget time. We have now completed 70% of the school year and no 874 money for B students seems to be in sight. If impact area programs must be phased out it should be done gradually so we can plan and make the adjustments from year to year. As you know about 70% of our budget goes to teacher's salaries which must be contracted in April of each year.

We are now pleading that congress fund the 874 program at the same level as last year.

A better solution to all of this would be for the Federal Government to just pay taxes on its holdings to state and local governments.

Again, we appreciate your efforts and if we can help in any way please let us know.

Sincerely,

EARL VOPAT,
District Superintendent.

SCHOOL DISTRICT NO. 394,
Avery, Idaho, March 8, 1973.

Sen. FRANK CHURCH,
U.S. Senate,
Washington, D.C.

THE HONORABLE SENATOR CHURCH: P.L. 874 funds are of prime importance to our school district for operation of our schools.

As our district has a very high impact from logging and the Forest Service, resulting in approximately 25% of our student population being connected with federal activities, any loss of funds under P.L. 874 would seriously jeopardize our educational program.

Our district is presently levying 35 mills for maintenance and operation, 5 mills for school plant facilities and 15 mills for Bond interest and redemption. As P.L. 874 funds

have amounted to approximately 8% of our operating funds, loss of this amount would necessitate increasing our levy by nearly 3 mills.

This would place an additional burden upon the property owners and not distribute a fair share of the tax load back to the Federal government.

As I am sure you have been amply supplied with many facts and figures concerning the total problem of inadequate funding through reduction of Federal Funds, I will not burden you with more figures but only appeal to you to use your influence to halt reduction of our P.L. 874 funds.

I have reviewed your stand concerning executive impoundment and wholeheartedly agree with the stand.

Sincerely,

PHILIP A. STANLEY,
Superintendent.

JOINT SCHOOL DISTRICT NO. 41,
St. Maries, Idaho, March 8, 1973.

Hon. FRANK CHURCH,
U.S. Senate,
Washington, D.C.

DEAR MR. CHURCH: Along with many other superintendents in Idaho I am gravely concerned about the failure of President Nixon to recognzie the fiscal position he has placed many Idaho school districts in by not properly funding P.L. 874. I realize that a man who deals with billions of dollars may have difficulty realizing that twenty-two thousand dollars is a most significant sum of money to a small school district.

We budgeted this amount in good faith with full expectation that it would help us buy critically needed instructional supplies and help fulfill other vital needs of our children.

Does the President have any suggestions as to which of our programs we should take away from the children?

Sincerely,

JAMES W. TODD,
Superintendent.

SCHOOL DISTRICT NO. 25,
Pocatello, Idaho, March 7, 1973.

Hon. FRANK CHURCH,
U.S. Senator,
Washington, D.C.

DEAR SIR: It is my understanding that on March 15, 1973, Public Law 874 will again be discussed in the Congress.

I believe it would be rebundant to review all of the rational and all of the reasons why school districts in Idaho need and depend on 874 aid. I am sure you are acquainted with our problems.

Let me again urge you, however, to do whatever is possible to have Public Law 874 continued.

Sincerely,

W. JAMES BRANVOLD,
Business Manager.

JOINT SCHOOL DISTRICT 391,
Kellogg, Idaho, March 7, 1973.

Hon. FRANK CHURCH,
U.S. Senator for Idaho,
Senate Office Building,
Washington, D.C.

DEAR SENATOR CHURCH: I would urge your continued vigorous support of full funding for Category B students under Public Law 874.

This school district will lose approximately $22,905.00 if this category of federally-connected student is not funded.

Approximately 85% of the land in this school district is federally owned forest lands and Category B students represent almost the total part of our 874 students. With this high percentage of non-taxable land in the district it is essential that the district have some avenue of recourse in lieu of taxation. It would appear entirely logical to draw 874 funds on the basis of the number of students whose parents are here because of the work on federal lands.

Sincerely yours,

LESLIE A. LARSEN,
Superintendent of Schools.

SNAKE RIVER SCHOOLS DISTRICT NO. 52,
Blackfoot, Idaho, March 6, 1973.

Hon. SENATOR FRANK L. CHURCH,
Congressional Office Building,
Washington, D.C.

SENATOR CHURCH: It has been our privilege of receiving some assistance in helping to better our educational program in the Snake River School District #52. This assistance has been in the form of Impaction Aid from P.L. 874. We have the AEC Site bordering our School District and of course we have people living in our district which work there. We have had people move to our district because of the work they have at the site.

It is unfortunate that school districts can't have the foresight to see the problems that arise when such Federal Funds are given. We feel that the Federal Government should consider a weaning program that will allow the school districts to absorb the additional burden placed on a district by its Federal Funds, which they have been accustomed to receiving, being deleted from their budgets.

This year has been hard on our school district because we built into our budget $37,-000 for P.L. 874 and this goes directly into operational expense money. We haven't received this money and normally our balance at the end of the year is only $8,000. We cut it close but have an excellent Educational Program. So you can see we must try and makeup this difference by adjusting our program downward.

If we do not have this money next year it means a reduced amount of New Money for the district operation and will create a hardship and a reduced educational program.

May, we suggest that we should be given a year or so to phase Federal Programs out in a graduated manner. Also, that if possible that this impaction money be stipulated in the future as a part of the Revenue Sharing Funds sent to the states for both A and B Students.

SHELLEY PUBLIC SCHOOLS DISTRICT NO. 60,
Shelley, Idaho, March 7, 1973.

Hon. SENATOR FRANK CHURCH,
U.S. Senate,
Senate Office Building,
Washington, D.C.

DEAR SENATOR CHURCH: The increase in costs, the growth of inflation, and the resulting desperate financial condition of our school district; as a result of the apparent elimination of P.L. 874 funds for "B" students, are the reasons for writing this letter to you. With the drastic reduction or elimination of P.L. 874 funds we will probably have to reduce our educational services to the children. If federal funds are going to be reduced or eliminated it should be done far enough in advance so we don't include these anticipated funds in our budget.

We appreciate your efforts and thank you for your continued support to restore the P.L. 874 appropriation.

Sincerely,

DONALD J. HOBBS,
Superintendent.

LAPWAI PUBLIC SCHOOLS,
Lapwai, Idaho, March 6, 1973.

Hon. FRANK CHURCH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CHURCH: I would like to emphasize the fact that loss of P.L. 874 funds would have an adverse effect upon our overall education program. In our small school with a budget of around $400,000, the loss of $50,000, that we have anticipated from 874 and have included in our budget, would simply mean that we would come up that amount short. To reduce these funds from next year's budget would wipe out any increase that might be forthcoming from the state.

Our teachers' salaries compare favorably with others in the state, however, they have not had a base salary increase in 5 years, only the increment which has not kept pace with the cost of living increase.

Our district would appreciate your efforts to keep 874 alive.

Yours truly,

JEFF WILSON,
Superintendent.

BLAINE COUNTY SCHOOL DISTRICT NO. 61,
Hailey, Idaho, March 7, 1973.

Hon. FRANK CHURCH,
U.S. Senate,
Washington, D.C.

MY DEAR SENATOR CHURCH: We have been advised by Mr. Jack Jones, Chairman of our organization in connection with P.L. 974 appropriations, that it is your intent to submit testimony to the Senate Appropriation Committee in an effort to obtain release of those funds presently impounded by the President.

For your information, Blaine County Schools has on file an application for $38,-000.00 covering students in category B under provision of this act. It is this amount our district will lose if Congress is unsuccessful in their efforts.

I'm certain you are aware, that since these funds were withheld without prior warning, most school districts in the State have budgeted this anticipated income as expenditures for the present year's operation.

We wish you to know we are deeply appreciative of your continued efforts on the part of education and most certainly wish you success in connection with this present project.

With all good wishes.

Sincerely yours,

RAY O. JEFFERSON,
Superintendent.

COUNCIL SCHOOL DISTRICT NO. 13,
Council, Idaho, March 6, 1973.

Hon. FRANK CHURCH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: I'm addressing this letter to you to reinforce the argument for sustained funding thru PL–874, and I do this realizing that the total Federal Budget must be cut somewhere.

In this particular instance, we receive varying amounts from year to year—usually around $24,000. Too, this amount goes directly to our M/O fund for teachers' salaries and etc., where a school needs it the most. I have heard that some of the "fatter" school districts which do not need the money are getting a great deal from the fund. This is no reason to wipe out the program, as it could be altered in such fashion that any school district beyond a certain wealth per child would not qualify by reason of that wealth.

Finally, I believe that there is a mis-match of priorities. I wasn't going to write this letter until I heard as a news item the plans to rebuild North Vietnam with American dollars. I simply cannot understand this kind of thinking, and neither can any other teacher in this district. I don't think that we can all be wrong here.

Thank you for permitting me to express my opinion.

Respectfully,

MORT CURTIS,
Sperintendent.

WORLEY PUBLIC SCHOOLS,
WORLEY, IDAHO, *March 6, 1973.*

Senator FRANK CHURCH,
Senate Office Building,
Washington, D.C.

DEAR SENATOR CHURCH: Received a copy of the letter that you had written to Jack Jones concerning Aid to Impact School Districts.

As you probably know we are having problems. Last spring I put $17,000 in my budget, expecting to receive at least this amount from Federal Funds (874). The year of 1970–1971 we received $19,000; last year 1971–1972 we received over $22,000. So far this year we have received nothing.

Our school district is composed mainly of Indian Land, located on the Coeur D'Alene Indian Reservation. We have 33 Indian Students attending school here. This is the basis for our 874 money. The Board of Trustees feel that we should receive some compensation for this non-taxable land to help defray expenses of these students coming to our school.

I know there are other school districts in Idaho in the same situation, so if you can derive a formula to help our schools get money to operate it certainly would be appreciated.

Sincerely,

L. J. LANTER,
Superintendent.

POTLATCH PUBLIC SCHOOLS,
Potlatch, Idaho, March 7, 1973.

Hon. Senator FRANK CHURCH,
U.S. Senate Office Building,
Washington, D.C.

DEAR SENATOR CHURCH: This letter is written to express our concern over the effects that the loss of Public Law 874 funds will have on the educational program of our school district. The school district has been receiving about $4,500.00 a year for educational programs from this source.

The plight of public education in Idaho is a matter of continuing concern to all educators. The expected loss of federal funding in most school districts causes an even greater hardship on the already over-burdened tax-paying public. Educational opportunities for our children are reduced at a time when we all know there is more to learn.

It is requested that you support the continuance of funds provided by Public Law 874, and that federal funding of public education in general merit your favorable consideration.

Sincerely,

MELVIN E. HIRSCHI,
Superintendent of Schools.

JOINT SCHOOL DISTRICT No. 171,
Clearwater County, Idaho, March 7, 1973.

Mr. FRANK CHURCH,
Senator, Senate Office Building,
Washington, D.C.

DEAR SENATOR CHURCH: We have been urged to write you concerning the drastic reduction in PL 874 funds in our district. Little urging was needed for me to do so, as we have this revenue in our budget for expenditure during the 1972–73 school year. Our loss for 1973 is $133,678.00.

Without dwelling on the reasons it appears where these funds are in the budget, a provision should be made to phase out the funds over a period of years so a financial adjustment can be made. Once funds are received from this source the income becomes locked in the expenditures and it is difficult to reduce financially to this loss without destroying educationally beneficial programs for the students. Actually this loss will never be recovered instruction wise.

Thank you in advance for your past cooperation and your continued support in this matter.

Sincerely,

MICHAEL L. CASSETTO,
District Superintendent.

JOINT SCHOOL DISTRICT No. 215,
St. Anthony, Idaho, March 8, 1973.

Senator FRANK CHURCH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CHURCH: The 874 funds, category B, represents a loss of approximately $32,000 to Fremont County Schools. As Superintendent of Schools, I must adamantly state that we can ill afford the loss, especially when it is part of our integral budget, which is already committed for this year.

The very least consideration that these federal programs should give school districts would be sufficient forewarning of cuts to adequately and efficiently budget for them. This is inefficient use of public funds in a dramatic manner. Tax dollars are extremely difficult to come by in education. It seems difficult to accept the philosophy that they can be so easily taken away.

Yours truly,

M. DUANE HANDY,
Superintendent of Schools.

CASCADE PUBLIC SCHOOLS,
Cascade, Idaho, March 8, 1973.

Senator FRANK CHURCH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CHURCH: I would like to give you a little information about the effects of P.L. 874 on Cascade School District No. 422 if it is not properly funded. Our school district generally receives between twelve and fifteen thousand dollars a year. These monies are based mostly on B students since we are a logging community. The loss of these monies will cause a cutback in our educational program, which may include one teacher and possibly two.

The Title I program has provided us with the necessary monies to help students with reading difficulties. If these funds are not allocated our program will have to be dropped.

Title II program has provided us with excellent reading materials. These provide our students to increase their reading abilities. We would not be able to purchase these excellent library materials without the aid of Title II.

Title III NDEA has helped to increase our vocational facilities. We must continue to provide the best vocational education possible since our society is geared this way. These funds will help us to continue to improve our facilities.

We hope that you will support all of these programs since they affect all the schools in Idaho.

Sincerely,

EUGENE J. NOVOTNY,
Superintendent.

BLACKFOOT SCHOOL DISTRICT No. 55,
Blackfoot, Idaho, March 9, 1973.

Hon. FRANK CHURCH,
U.S. Senate,
Washington, D.C.

DEAR SIR: I am writing this letter in regard to Public Law No. 874, Federal Impact Aid. We have passed the midpoint of this 1972–73 school year and as yet have not received any funds from the above program. This district expected to receive approximately $150,000.00 for "A" category students and $114,000.00 for "B" category students. In order to replace these funds, it would take a local mill levy of 16.5 mills over and above the 30 mill levy we are presently assessing for maintenance and operation in the school district. Such a levy, at this time, is legally impossible for this school year.

The deletion of the "B" category, in the State of Idaho, means that approximately $2,153,349.00 will be lost in benefits to Idaho public schools for education. Our present budget in District 55 includes the $264,000.00 previously mentioned. We are now facing a financial crisis. We urge you to do all that you can within your power to see that Public Law No. 874, Federal Impact Aid bill is restored and funded so that the present programs that were started at the beginning of the 1972–73 school year, which included the financial assistance of 874, can be completed.

Sincerely,

SPENCE GARDNER,
Superintendent.

AN AWARD TO DON CARTER

Mr. TALMADGE. Mr. President, the editors of Dixie Business magazine, published in Decatur, Ga., by Mr. Hubert Lee, have awarded the 1972 "Public Service in Reporting" award to Don Carter, executive editor of the Macon, Ga., Telegraph-News. Mr. Carter was cited for his series of splendid articles reflecting on his trip to the People's Republic of China. These articles have attracted widespread attention and acclaim, and I salute Mr. Carter on this award.

I ask that the article from Dixie Business magazine announcing the award be printed in the RECORD as a part of my remarks.

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

AWARD TO DON CARTER

Don Carter, executive editor of the Macon, Ga., Telegraph and News is winner of the Dixie Business Public Service in Reporting Award for 1972.

History will make much of the opening of China by President Nixon in 1972 and Don Carter's series on China reads like a Marco Polo sightseeing tour of China.

Don Carter is one of the great newspapermen I have known.

When John Pennington won our "Public Service Award" in 1957 he wrote:

Reporter—John Pennington, member of Don Carter's star-studded team of reporters for The Atlanta Journal, is winner of the Dixie Business "Public Service in Reporting" award for 1957.

Don Carter's series about China won him a special award at the Georgia AP Association convention held in Columbus Ga., June 17, 1973.

Newswriting judges were John W. Bloomer, managing editor of Birmingham News: Ernest Cutts, managing editor of The Charleston Post, and James J. Lund, managing editor of the Daily Herald, Biloxi, Miss.

Don Carter was president of the AP Managing Editors Association in 1971 when John Roderick received the reporting award for his stories from the Chinese mainland during the April 1971 tour of the table tennis players. Roderick was the first American news service reporter admitted to the mainland in two decades.

Don Carter was born in 1917, a few months after my first byline appeared in old Lone Scout magazine for February 1917 on "The Gate City of the South".

It was at an Atlanta reunion of old Lone Scout writers in 1957 when John Pennington received his reporting award.

Don is a cousin of Georgia's Governor Jimmy Carter.

Here is the "Who's Who in America" sketch on Don Carter:

Carter, Don Earl, newspaper editor; b. Plains, Ga., June 22, 1917; s. William Alton and Annie Laurie (Gay) C.; student Ga. Southwestern Coll., 1934–36; A.B., U. Ga., 1938; m. Carolyn McKenzie, Oct. 3, 1942. Reporter, Atlanta Jour., 1938–39, farm editor, 1940–41, municipal govt. reporter, assist. city editor, 1946–50, city editor 1951–59; editor Baxley (Ga.) News-Banner, 1939–40; exec. dir. Newspaper Fund, Wall Street Jour., 1959–61; founding mng. editor Nat. Observer, 1961–67; exec. editor The Record, Hackensack, N.J., 1967–71, Morning Call, Paterson, N.J., 1967–69; v.p. Bergen Evening Record Corp., 1968–71; exec. editor Macon (Ga.) Telegraph and Macon News 1971—. Tchr. journalism eve. div. Ga. State Coll., 1950–59; lectr. Am. Press Inst., Columbia, 1953—. Pulitzer award juror, 1968–70. Bd. dirs. Newspaper Fund; adv. council journalism St. Bonaventure U., N.Y.U.; trustee Ramapo Coll. of N.J., 1969–71. Served to capt. AUS, 1941–45. Decorated Bronze Star; recipient citation service to journalism Theta Sigma Phi. 1961, U. Neb. Sch. Journalism, 1962. Mem. A.P. Mng. Editors Assn. (pres 1971), Am. Soc. Newspaper Editors, Am. Newspaper Pubs. Assn., Phi Beta Kappa, Sigma Delta Chi (pres. Atlanta 1957–59, nat. dir. 1958–59, 66–67, 69–71), Omicron Delta Kappa, Phi Kappa Phi, Phi Delta Epsilon, Kappa Tau Alpha. Clubs: Nat. Press (Washington); Idle Hour Country (Macon); Atlanta Athletic. Home: PO Box 684 244 DeSoto St Sea Island GA 31561 Office: 120 Broadway Macon GA 31208.

THE LUMBER SHORTAGE

Mr. FANNIN. Mr. President, even as we debate how to solve the energy crisis which has beset our Nation, another crisis is on the horizon. This is the possibility—the almost certainty—of a critical lumber shortage before the century is out.

Gene C. Brewer, vice chairman of Southwest Forest Industries, gave extremely interesting and informative speeches on June 13, 1973, before the Forest Products Research Society's 27th annual meeting in Anaheim, Calif., and before the Portland, Oreg., Downtown Rotary Club on June 5, 1973.

The speech was very appropriately titled "America's Forests at the Crossroad—Problems or Opportunities."

In the talk, Mr. Brewer observes:

We must strive to export more of the things that we must do best, and that is produce high-value finished products. Research must lead the way to highly sophisticated production techniques which should become a way of life in this country as we go about the business of selling what we have, and buying what we don't have, in the international market for wood and wood fiber products.

Mr. Brewer believes that we have the resources possible to meet the challenge. He calls for increased annual timber harvest through improved forest management, greater utilization of forest residues, greater manufacturing efficiencies, and accelerated research and product development.

He also makes the very appropriate observation concerning Government management of Federal land:

No longer is it appropriate for the Federal role on these public lands to be custodial. Public lands must be managed productively for the benefit of all the owners. All citizens have the right to expect a fair return on their forest ownerships.

Mr. President, this speech contains a great deal of worthwhile information on world timber resources, and it provides some excellent advice on how we should proceed to head off a crisis in this industry in the future. I ask unanimous consent that it be printed in the RECORD at this point.

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

AMERICA'S FORESTS AT THE CROSSROAD—PROBLEMS OR OPPORTUNITIES

(Address by Gene C. Brewer)

My purpose today is to share certain thoughts and convictions concerning our forests, to provide perspective on our problems and opportunities; and, hopefully, to excite your interest and your pride in our forest industry.

As a nation, the United States is at a forestry crossroad. We are faced with an urgent need to make some decisions—gutty decisions—vital to the economic and social well-being of our nation and vital to our leadership role of the world forest industry.

If our nation has a social responsibility, and I think it does, it is to the future of this nation. In my opinion the most meaningful way we can discharge that obligation is to pursue a vigorous, planned, nationwide reforestation program.

Our posture at the crossroad must be one of a positive and forthright search for solutions which lead to balanced use and full productivity of our forest lands. Choices must be made in an informed and rational way. This implies tradeoffs and compromises because our country cannot afford militant, winner take-all attitudes.

While we're pondering what the future might bring, let's pause just for a moment and reflect on our accomplishments. Let's put aside the goldfish bowl syndrome and the barbs of our critics. Let's recognize that we are responsibly serving some basic needs of the people of our nation—even in the face of heavy odds at times. And, finally, let's not be apologetic for shortfalls of the past.

As we stand at the crossroads, let's hold our heads a little higher and be proud of what we are now doing and in what the pioneers did before us. But let's not kid ourselves either—we can be *proud*, but we must also be humble in our service to our fellow man and take note that our achievements, over time, will be measured in the crucible of the marketplace. So let's see what our problems and opportunities might be.

At this moment, we are faced with what might seem to be insurmountable problems; but, in reality, are great opportunities in worldwide marketing potentials for the products of American forests. However, we also must conclude that if we don't start now to practice intensive management on every forested acre available to us and begin intensive forest management of every idle acre, coupled with an accelerated research and product development program, we will fail to take advantage of our opportunities and, in fact, we won't have enough wood and wood fiber to even meet domestic demands by the end of the century.

In a way, the current "Energy Crisis" has brought our national forestry situation into focus.

The looming loss of heat, motive power, and cooling and lighting capabilities have demonstrated that untoward delay can be catastrophic. On the other hand, in terms of forest productivity, by starting now, we can avoid anything like the worsening "Energy Crisis". And we can do so at great benefit for our nation, for the people of our industry and for the total environment.

A great deal of attention has been focused on our forests and on the profession of forestry in the last four or five years. The resulting publicity, for the most part, has not been favorable. However, it is questionable how many conclusions drawn from this concentrated attention and criticism have any basis in fact.

Some critics argue that we are cutting our trees faster than we are growing them. Some contend that the last tree available to us will be cut down very soon. There are even those who feel that since we arrived on the shores of the Pacific, there is no place else to go—they think we have literally "used up" America from border to border and from coast to coast. No more frontiers to conquer!

The facts disagree with both the last-tree thesis and the last-frontier idea. We do have yet other frontiers and they are to be found in (1) the increased yield which modern management our commercial forest base can bring; and (2) accelerated research for improved utilization and new product development, both keyed to the expanding world demand for forest products.

To be sure we understand each other, when I speak of forest products, I am speaking of solid wood and wood fiber in its various forms from timber to tissue, which altogether includes several thousand separate products.

Let's examine the world situation first. Free trade is the essence of American business and foreign policy. The forest industry is an integral part of the total trade structure. Pulp, paper, lumber, plywood, hardboard, and particleboard and many other woodbased items are highly significant worldwide. Today, due to international trade, these products are playing an increasingly important part of everyday living everywhere, and we cannot afford to be isolated from that trade.

Let's first play a numbers game and take a look at population figures. The Food and Agriculture Organization of the United Nations estimates that the total population of the world will be about 6.5 billion people by the year 2000—an increase of 3.5 billion, or more than 100 percent—or, simply, two for every one now on earth!

With these figures and economic forecasts as background, FAO and other world forestry leaders predict that consumption of wood products in all forms will double by the year 2000.

To put this in perspective, world consumption today totals about 250 billion board feet annually, in roundwood equivalents.

Double that is indeed an impressive figure!

What does all this mean to our forest products industry, *and where in the world is all of this wood and wood fiber going to come from?*

A satellite view shows that forests cover about 28 percent of the world's land area, or about 9 billion acres out of the total 32 billion. FAO estimates that world commercial timber inventories for both hardwood and softwood total *12.6* trillion cubic feet of softwood and *8.2* trillion cubic feet of hardwood, or a one-third—two-third ratio. The softwoods primarily are in North America and the Soviet Union, and the hardwoods, mostly tropical species, in Latin America, Africa and Southeast Asia, with lesser volumes in North American temperate zones.

So, it would appear, on the surface, that we have enough inventory around the world to take care of growing demand. Therefore, it would seem the only problem is, over the span of time, to move the resource from where it is to where it is needed, at the right time, in the proper form, and at acceptable costs. But let's dig deeper—the timber volume harvested does not follow the inventory, either geographically or by softwood or hardwood. In 1969, worldwide timber harvest figures show the softwood harvest exceeded hardwoods by 2½ times—180 billion to 70

billion board feet—that red flags the danger of a future softwood shortage, with which I'm mainly concerned.

Latin American forests, like those in some parts of the Far East and Africa, are many years away from full development. Not only are they relatively inaccessible, but they are composed of a tremendous variety of mixed hardwoods for which markets and manufacturing technology either do not exist or are only beginning to come under significant research. The exceptions are certain types of maghogany and related species flowing from Southeast Asia and Africa, and some from the Amazon—for the most part in solid wood products—lumber, veneer, and plywood.

Western Europe is intensively managing every available forest acre and has been doing so for a long time, but productive capacity of the land has just about peaked out. A trade journal reported recently that construction of one more pulp mill proposed in Scandinavia could be the last.

The Soviet Union has the largest volume of softwood timber growing stock—about 2.3 trillion cubic feet, or more than one-half (53%) of the world total. However, most of it is in Siberia. This suggests that Russia has the potential to be a more important supplier to world markets; but for a variety of reasons, not much change is expected for the near term.

The U.S. and Canada, combined, has nearly one-third of the total softwood timber stand, or 1.4 trillion cubic feet. But FAO reports that about *40* percent of the harvest presently comes from these nations, which suggests that, here again, harvest and inventory are out of balance.

Fortunately, Canada has an excellent forest land base that is capable, over time, according to the Canadian Forestry Service, of producing twice its current output of about 4 billion cubic feet—in round wood equivalents. Fortunately, too, in many respects, the U.S. is Canada's natural market.

Of particular interest to the U.S. is that, not too many years ago, leaders in Japan wanted to know where in the world they could go to satisfy pyramiding demands for wood-based products. They engaged a well-known international forestry consultant and he literally scoured the planet in search of appropriate sources of raw materials for Japanese industry. The results were interesting.

The research pointed up that the best places in the world for Japan to obtain softwood fiber were Alaska, British Columbia and the Pacific Northwest. *The evidence is quite conclusive that the consultant's advice was followed. It appears that the Japanese were alert to our potential long before we were.*

Perhaps they perceived that the forests of North America, generally, and the United States, specifically, have the capability of sustaining substantial additional per acre yield of long fiber softwoods when modern forestry techniques are applied.

In that regard, we have many dedicated professional foresters, in both public and private service, who have the know-how to manage our forests creatively. Examples of their years of planning and researching and intensively managing the productive forest base can be found in many parts of the nation.

Realization of their goals was sometimes an uphill battle against all odds, but renewability of our forests is now an established fact. With well-funded, balanced management programs, we can increase not only per acre yields of timber, but we can improve the forest environment with full recognition of ecological concerns.

Nature has a marvelous system called photosynthesis, which captures solar energy and converts carbon dioxide to lifegiving oxygen to produce what Bruce Barton called, "The Miracle of the Ages, The Tree."

There are other benefits to be accrued in this process of growing and supplying increasing quantities of long fiber softwood to both the domestic and world markets. John Strange, president of the Institute of Paper Chemistry, recently said it this way: "I don't think it's stretching things to say that the forest-based industries are among the principal stewards of the entire ecosystem and that a substantial number of programs aimed at environmental control and energy conservation would be relatively futile in the absense of this stewardship."

Strange continued, "The fact that our raw material is renewable is important to us, but the fact that it is regenerative to the entire fabric of life is important to everyone!

And Dr. Barry Commoner, the environmentalist, has said, "Forestry is the only natural resource industry that puts anything back."

This, then, is one part of the new frontier!

Let's recall, just for a moment, our earlier discussion about populations around the world. Forget the figures themselves, but remember the fact that the world will soon have a new dimension in the consumption of the earth's resources, which I don't believe has been fully appreciated.

An emerging fact of life is a growing awareness throughout the world that raw materials are the key to an industrial economy. These resources are often located in undeveloped countries, but these countries are no longer eager to export raw materials which can better we used in developing their own economies and social structures.

So, we must recognize the ability of "Emerging Nations" to buy material things and we must also recognize the ability of "Developed Nations" to compete increasingly for raw materials. Witness Japan and Western Europe.

Now let's examine briefly how the U.S. forest industry has been involved in world trade. Of interest is the fact that we have been a net importer of wood-based products since 1941; and since 1948, the imbalance has been running between 6 and 7 billion board feet annually—expressed in roundwood equivalents.

In 1971, in roundwood equivalents, we exported 7.2 billion board feet and we imported 16.4 billion board feet for a net imbalance of 9.2 billion board feet. Altogether we produced about 66 billion, so our usage was 75 billion board feet in all product categories.

Quickly, imports were primarily lumber and pulp and paper products from Canada, with smaller amounts of logs and plywood, mostly hardwood from the Far East. Exports were composed chiefly of pulp and paper and logs, with lesser amounts of lumber and plywood.

The United States does a lot of business with Japan, of course, since it is one of the world's largest importers of wood and fiber products. We are heavy suppliers not only of logs and chips, but are shipping increasing quantities of lumber and pulp and paper products. Japan's economy is booming and there is every reason to believe her requirements will continue to expand. Just in pulp and paper products alone, Japanese requirements are expected to double by 1985.

Our country also is supplying markets in Spain, the Netherlands, Ireland, the United Kingdom, Switzerland, Portugal, Norway, Iceland, Greece and Yugoslavia and many others. This trade demonstrates that we have the technology to meet virtually any market requirement.

Curiously enough, even though Sweden and Finland dominate the European markets for kraft, newsprint and other paper and wood products, our own multinational companies are supplying some of that same market with many of the same products, and doing so on a highly competitive basis.

We must strive to export more of the things that we *must* do best, and that is produce high-value finished products. Research must lead the way to highly sophisticated production techniques which should become a way of life in this country as we go about the business of selling what we have, and buying what we don't have, in the international market for wood and wood fiber products.

On the domestic scene, we also face problems and opportunities. Simply stated, how do we participate in growing world markets for forest products and, at the same time, furnish our growing domestic requirements? This latter is no small task since it is conservatively estimated that, by 1985, our needs will have increased by 50 percent and doubled by the turn of the century, or before!

As I see it, we have three alternatives—

(1) We can keep the status quo with adverse consequence to our standard of living; or

(2) We can increase our imports with further consequence to our balance of trade and competitive pressures; or

(3) We can accept the challenge and increase our output of finished products by—

(a) Increased annual timber harvest resulting from improved forest management.

(b) Greater utilization of forest residues.

(c) Greater manufacturing efficiencies.

(d) Accelerated research and product development.

In my opinion, alternatives 1 and 2 are not acceptable so we are left with the third, and that is to increase our output.

But here's the crunch. Let's assume that the demographers and the economists are right and that our and world requirements for wood-based products will double by 2000, which indicates a modest growth rate of less than 3 percent annually. This means *that just to keep even* with the current imbalance of trade, *we must double our domestic output!*

That sounds good. But, on that premise, we would also be doubling our imports and thus be short 18 billion board feet of softwood lumber rather than 9, so this is yet another gap to close. Our nation and its people must rise to this challenge and assume the responsibility for stretching our wood supply to the ultimate through research and applied engineering as well as managing all commercial forest lands intensively so we can grow all the wood we obviously must have.

We need even more of the kind of innovative talent and curiosity that led Dr. Mason to invent hardboard; that led to the development of plywood and particleboard, and hosts of other products.

In wood, we have an efficient, relatively inexpensive, and potentially readily available fiber which, fortunately, provides many beneficial aspects to the environment. As a "for instance", let's take advantage of wood's inherent characteristics and, in combination with elements of the chemical and mineral world, develop a "universal" material that can be "engineered" for a particular requirement. We're doing some of that now, but we need to go much further. Thus, as another part of our new frontier, we need not only to stretch our materials, we need to "stretch our minds"—in short, to imagine what may at present seem unimaginable.

To do less than proceed aggressively on our twin frontiers—forestry and product research—would be unwise and costly, as an even worse crunch will come when international competition for available wood fiber intensifies and shortages begin to appear around the world. We've had a taste of that already.

What can we in the U.S. do about it?

For perspective, consider this. When Columbus sailed, there were over a billion acres of forest land in what are now the 48 contiguous states. The Forest Service has reported that in 1970, about 28 percent of the nation was forested. This means that today, more than 500 years and 200 million people later, there still are 754 million acres of for-

est land remaining—70 percent of the original stand! Of this, 500 million acres are classified as commercial forest land.

When you consider the cities we have built; the farms we cultivate; the highways and the airports that span the country, it is amazing that this much forest land still exists. Consider, too, that 250 million acres have been set aside for non-commercial use. This includes national parks, wilderness areas, national monuments and the like.

On this point, it might seem that the forest industry is "against" these projects. Not at all, but the industry does say these single-purpose, non-commercial uses should be weighed against the other needs of our nation in the scale of public interest.

The 500 million productive acres remaining in the U.S. for intensive management are basic to the market opportunity I have mentioned several times. Of this acreage, industry owns 13 percent. Various governmental jurisdictions own about 30 percent and the remainder, or nearly 60 percent, is owned by about 4 million individual citizens. But, here again, the inventory and harvest are not in line. For example, federal agencies own almost 60 percent of the softwood sawtimber inventory, primarily in the West, and yet contribute only a third to the harvest. For the most part, these timber stands are mature and are not putting on growth—a cogent reason for an orderly increase in harvest, thereby freeing the land for regeneration with its attendant benefits.

In that regard, with adequate funding and intensive management, yield from forest lands under the jurisdiction of the Forest Service could be increased in the short term by at least 50 percent, according to both retired Chief of the Forest Service Ed Cliff, and present Chief John McGuire. It is further indicated that by 2000, the yield could be doubled—*a dramatic and vital input to future needs.*

Industrial forest owners are doing everything possible to increase yields. Weyerhaeuser Company, for instance, estimates that by using modern forestry techniques, a given acreage may provide up to five times as much wood fiber over a three-century growth cycle than it would if it were left to nature alone.

What basically is needed is a similar attitude and will on the part of the Congress and the Executive Branch—directed to both the public ownership and the millions of small private owners whose 300 million acres offer great potential. Since these private lands represent the nation's most significant underdeveloped fiber source for the long-term specific legislation providing timber-growing incentives is essential.

On the public side, a redefinition of the mission for the federal timber agencies will be required. No longer is it appropriate for the federal role on these public lands to be custodial. Public lands must be managed productively for the benefit of *all* the owners. All citizens have the right to expect a fair return on their forest ownerships.

Some legislators share that view. Sen John Sparkman of Alabama has introduced a bill to make it happen. The Sparkman Bill, which merits immediate and continued support, is S. 1775, "The Wood Supply and National Forest Lands Investment Act of 1973." It is cosponsored by Sen. John Tower of Texas.

Sen. Sparkman's measure would not only stimulate tree growing on small private woodlots, it would establish a forest lands planning and investment fund to provide long-term, sustained financing for timber management and reforestation in the national forests. Sen. Mark Hatfield of Oregon has introduced S. 1996, "American Forestry Act", which authorizes programs to increase all forest values, including timber management on Federal lands and provides forestry incentives for small private woodland owners.

Another measure, sponsored by Sen. Stennis of Mississippi is now a part of the Senate Farm Bill and also provides incentives for individual non-industrial woodland owners.

Historically, our federal land managing agencies have been, and still are, hampered by appropriated fund constraints which do not permit sustained allocation of funds for timber stand improvement, reforestation, mortality salvage, and all other aspects of intensive forest management so badly needed on publicly owned timber lands.

Beyond this, we need a funding method that would assure continuity in research for the development of new products, new methods of utilization, and perhaps entirely new concepts that cannot be entertained due to the constraints inducted by the appropriation procedure.

It's time to get to the heart of the matter and provide permanent financing procedures through "earmarked" funds from timber sale receipts. This will permit the government agencies to make long-term plans and do the job of balanced timber management and product research the nation and the world need and which we know they are capable of doing.

In turn, those in the private sector, dependent on federal timber, must be encouraged to make investments in new facilities and embark on sustained product development and marketing programs.

Putting all this together, it is my view that the projected world demand for industrial wood *can* be balanced with supply, *provided* that all forested areas are developed to full potential and provided, too, that accelerated research and product development is carried on simultaneously. Improved utilization goes hand-in-hand with increased forest yields.

With respect to softwood, it is essential that Canada and the U.S. double forest output over the next 30 years. Russia will become an increasingly important supplier to world-wide softwood markets, but primarily directed to Europe and Japan.

On domestic hardwoods, certain species are now in short supply, but the long-range outlook is encouraging, given reasonable environmental requirements. Tropical hardwoods are plentiful and will become more of a factor in world markets, but economic circumstances and the nature of the forests will inhibit rapid development.

America's forests, as is apparent, are at the crossroad. We have a tremendous challenge ahead if we are to simultaneously meet domestic needs and participate in expanding world markets.

Our problem may be just one of waking up to our opportunity. We have a commercial forest base second to none in the world. We have the technology, a favorable climate, and access to the capital required to implement a program for increased productivity. But we must have a new, vigorous, sense of direction along with a sense of urgency. We know what to do. We know how to do it. What we lack is the will to do it. *We must define our national purpose and goals with respect to our forest lands.* Land is our basic asset. How we put it to use will determine to a very great extent the economic and social well-being of our nation.

Land, literally, lies at the root of man's partnership with the forest. Only we, among natural resource based industries are free of the problem of using up reserves. We are free of that constraint because we are dealing with a predictably renewable resource—the tree! Based on the renewability of the forest, ours is a self-perpetuating industry and we have it within our grasp to initiate programs now which will insure that future generations of Americans will not only have sufficient wood fiber for the necessities of life but will have forests for other social, aesthetic and recreational amenities, also important in the lives of us all.

On that point, I might raise the question, "who in our scheme of things, is responsible for tomorrow?" Bear in mind that in forestry we are not talking about the 5 or 8 year lead time indicated in the energy situation. We are talking about 25–40 years because, by definition, forestry is a long-range business. We are, indeed, at the crossroad and the time span is critical. The year 2000 is only 27 years away—less time than it takes to bring a Douglas fir or a Southern pine seedling to harvest.

Many public figures are claiming that the current energy crisis is contrived—a conspiracy by the major energy companies. I wonder what will be said at the turn of the century if we face a similar crisis in forest products with the possibility of rationed housing, newsprint and household items.

Now is the time for decisions—gutty decisions by the industry, by Congress, and the Executive Branch. This calls for vision, courage and statesmanship of the highest order because there is no short-term payoff. Once accomplished, however, we'll have sound investments, ever enhancing in value, in research and development programs and in balanced forestry programs on both public and private lands. Forestry, along with agriculture, could well be the lifeline of our nation.

THE FUTURE OF THE FOREST SERVICE

Mr. HUDDLESTON. Mr. President, as a member of the Subcommittee on Environment, Soil Conservation and Forestry of the Committee on Agriculture and Forestry and as one who has participated in several hearings on our forest resources, I am sharply aware of the question marks in the Forest Service's future.

In fiscal 1973, the administration failed to obligate certain funds provided by Congress for needed forestry programs. Earlier this year, the Department of Agriculture proposed a reorganization of the Forest Service based on considerations which took little account of the physical location of U.S. forest lands. The fiscal 1974 budget contained proposals for a reduction of almost 1,600 personnel, although timber harvesting was to be increased. And, inadequate attention has been given to the fact that over 5 million acres of national forest land are in need of reforestation.

These actions, taken together, represent a lack of concern for the future of the Forest Service and a lack of understanding as to our forestry needs. As a recent congressional research report noted, the forest is a "woodshed, a watershed, an environmental conditioner, and a recreational haven." It is, furthermore, a limited resource, one which cannot be used without adequate care, management, and replacement. And, if it is misused, if it is abused, we will find ourselves tomorrow without needed resources, without needed vacation and recreation areas, without the needed environmental aids which forest lands provide. We will find ourselves without them—and unable to replace them, for a forest is not created overnight.

The U.S. Forest Service has a long history, going back to 1876. It has a proud history of steady and competent action to improve our forest resources. It is a fine repository for the 187 million acres of national forest which provide for timber, grazing, recreation, and conservation requirements. But, it cannot do its job—

particularly in a time of increasing inflation and expanded responsibility—without adequate tools and adequate help.

Our investments in our forest lands are not frivolous investments which we can either make or not make, depending upon our financial condition and our state of mind. They are, instead, investments in the logs and lumber we need for construction of our homes and offices and investments in a conservation bank of environmental and recreational resources. They are investments we must make constantly and consistently for our own benefit.

In recognition of this, several recent actions have been taken—actions in which I am proud to have participated—to insure the viability of our Nation's Forest Service and to protect our forest lands. Pursuant to hearings before the Subcommittee of Environment, Soil Conservation and Forestry and the drafting of legislation, the reorganization plan proposed by the Agriculture Department—a plan which during the hearings proved to be most impractical—was shelved.

The Senate adopted a resolution in opposition to further reductions in Forest Service personnel. Over the past several years, the Service has experienced continued staff cutbacks. Additional ones have been proposed for this year. In view of the growing costs of forest management, in view of the expanded role of the Service in environmental activities, and in view of the proposed harvesting of additional timber—harvesting which requires the best in the application of forest management and replacement techniques—the additional reductions are clearly unwise. It is incongruous to expect that the Service can carry out the tree marking and reforestation necessary for proper timber harvesting, attend to its other responsibilities, and sustain another personnel reduction. Hopefully, as a result of congressional action, the Service will not be forced into that position.

The administration's proposed reduction in Forest Service personnel—which I hope we have effectively prevented with our resolution opposing such reductions—could not have come at a more inappropriate time.

Very serious questions have been raised about environmental policies within our national forests. I speak specifically about "clear-cutting." This practice, when conducted under strict supervision and careful administration, may not be detrimental to the environment. However, we are all familiar with excesses that have been committed on occasion in the name of "clear-cutting." Those abuses certainly cannot be prevented unless we have adequate Forest Service personnel to supervise such activities.

I am aware that domestic lumber needs and good forest management allow and even require some cutting in the national forests. But I am gravely concerned about excesses which are committed either as a result of inadequate guidance from the Government or lack of supervision by the Forest Service.

I am also concerned about recent newspaper reports that the Forest Service will seek substantial increases in the amount of board feet cut in the national forests, possibly at the expense of certain research and training programs as well as recreational development.

The confidential Forest Service memorandum which has come to light in recent days outlining the increased cutting requirements reportedly resulted from demands placed on the Forest Service by the Office of Management and Budget.

This raises serious questions both about the lack of public discussion and debate on the matter and whether OMB is placing more emphasis on revenue production than environmental protection.

Also, hopefully, the additional services provided for in the Senate version of the Interior appropriaions bill—especially the provision for additional reforestation and timber stand improvement—will contribute to enhancement and preservation of our forest resources.

These are, however, only first moves—and in many ways they are stop-gap moves. They can help with the immediate problems, with the actions which are required now. But we also need comprehensive and long-range planning. I have, consequently, joined in sponsoring a bill designed to set long-term goals for forest use and to establish a mechanism whereby forest resource needs will be identified, evaluated and met. S. 2296, the National Forest Environmental Management Act, would provide for a continuing inventory of national forest lands, their resources and values. It would require land use plans for the National Forest System and the development of long-range resource budgets designed to guarantee the best in the management and utilization of our national forests.

As noted earlier, a forest does not become mature overnight. It takes years to reach the stage where it is of recreational, of certain environmental, and of timber value. The corollary is that it takes years of careful management and utilization to protect these lands and to see that they develop in the most useful way possible.

The actions I have mentioned are positive actions. They can contribute greatly to preserving and protecting our forests for our future use and enjoyment. But, it is, at this point, by no means certain that they will be pursued—or pursued to the extent necessary to insure adequate forest areas for the future. And, that holds potential tragedy—for our conservation, our recreational and our resource needs. I hope, consequently, that a growing number of my colleagues will focus on our forestry needs—and the importance of moving immediately to meet those needs. And, I hope that we will be able to eliminate the majority of the question marks in the Forest Service's future, enabling it to carry out its responsibilities and to provide adequately for the future.

PROPOSED REGULATIONS FROM THE ENVIRONMENTAL PROTECTION AGENCY

Mr. FANNIN. Mr. President, in recent weeks I have inserted in the RECORD comments by officials in Arizona, and in Utah, concerning proposed regulations from the Environmental Protection Agency.

In yesterday's Christian Science Monitor there was an article which demonstrates that other cities and States around the Nation are equally alarmed by the EPA edicts.

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

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

CLEAN AIR: CITIES CALL EPA PLANS "SUICIDAL"—BUT PUSH HARD TO MEET GOALS

(By Florence Mouckley)

BOSTON.—"Unrealistic . . . unworkable . . . ridiculous . . . suicidal!"

That's what some city and state officials are calling the Environmental Protection Agency's tough proposals to reduce auto emissions. Nevertheless, those proposals are impelling strong actions by those cities and states.

Monitor correspondents report that of the 10 cities surveyed almost all of them are moving determinedly to come as close as possible to EPA's standards and deadlines which apply to some 37 metropolitan areas throughout the country. The EPA acted in June to comply with provisions set forth in the Clean Air Act of 1970.

The Monitor finds that generally the public is unaware of the EPA proposals or the drastic effects those guidelines could have on people's ways of getting around.

AUGUST 15 DEADLINE

The EPA is holding local hearings this month so the proposals can be debated. Final plans will be adopted by the EPA Aug. 15. It is expected that the EPA will extend deadlines or modify its most drastic proposals.

Some of the proposed "drastic" controls which have city, state and local pollution control officials balking are:

The rationing of gasoline in Los Angeles—this could possibly remove all cars in the metropolitan area by 1977.

The attempt to reduce auto traffic in San Francisco by 84 percent by 1977, by 68 percent in New Jersey by 1975.

A parking ban in Chicago which would virtually eliminate on-street parking in the central business district.

A daytime on-street parking ban in downtown Boston and an extra $5 surcharge in off-street parking facilities. Also, a sticker system which would indicate which day of the week a Boston area car would not be driven into the city when pollution exceeds federal standards.

Los Angeles Air Pollution Control officer Robert G. Lunche calls the EPA plan for his city "drastic" and "unrealistic." He warned it would have a tremendous impact on the lives of the 10 million people who live in and around Los Angeles.

"ECONOMIC SUICIDE"

Philadelphia transportation planner James Smith says, "These new standards are politically unrealistic and asks the city to commit economic suicide. . . ."

San Francisco Mayor Joseph Alioto, also a member of the Bay Area Pollution Control Board, denounced the EPA's plan to reduce auto traffic by 84 percent in 1977. He said it would have "such a parring effect it could produce serious economic problems."

Most officials say they agree in principle with the EPA's call for clean air standards but disagree as to the means and timing.

"WE NEED MORE TIME"

City officials' most consistent outcries: "We need more time," and "It is impossible to

substantially ban cars from urban areas without first providing efficient, comprehensive mass transit."

Most cities pressed by the EPA's tough proposals, have come up with blueprints—some of them just in the talking stage—of their own to meet what they call "realistic goals."

This is the situation around the country:

Los Angeles: The comments of the wife of former Los Angeles Mayor Fletcher Bowron perhaps typify the feeling of many residents of this city: "Taking cars off the street is ridiculous. But we'll have to do something."

New York City: According to city officials, some 850,000 cars and taxis roll into Manhattan each day. At the same time, use of public transportation continues to sag. Today, only about 1½ million New Yorkers ride the subways, down from some 2½ million in 1948. And, city studies show, most people who have stopped using subways have switched to motor transportation.

New York City came up with a plan that has been approved by the EPA. It will have to reduce the amount of carbon monoxide by 78 percent in the midtown and downtown (financial district) and reduce hydrocarbons by 69 percent throughout the entire city by late 1976.

Boston: Boston would like to remain the "hub" of New England but still meet federal air quality standards. The problem; How to reduce auto emissions to cut carbon monoxide levels in half and hydrocarbons nearly 25 percent without disrupting the city's delicate economy.

In addition to severely curtailing parking in downtown Boston the windshield sticker system to cut back traffic the EPA directive also includes installation of $200 catalytic emission control devices on all 1972 to 1975 model autos.

Houston: "I can't see that auto controls would help us, in any way," exclaimed Dottie Gillies, a librarian. "You have to have your car in Houston."

She echoed most state officials in the area when she said, "You see most pollution where the most factories are."

Chicago: This city's plan to reduce pollution was rejected by the EPA in June. The agency said the city's three-pronged effort would result only in a 45 percent reduction in air pollution. EPA wants a 50 percent cut. It says the city should extend the parking ban to both sides on two-way streets, restrict new off-street parking, extend the city's vehicle emission testing program to cover the entire three-county metropolitan area.

City and state officials feel the city's plan would meet EPA goals.

"I don't see as realistic the banning of parking in all the downtown area," says H. Wallace Poston, commissioner of the Chicago Department of Environmental Control. "We have proposed restrictons . . . but a near ban, you would almost have to have a solid line of people there to keep the vehicles out."

Contributors to this survey are: Curtis J. Sitomer in Los Angeles, Guy Halverson in New York, David Holstrom in San Francisco, Monty Hoyt in Chicago, Lance Carden in Boston, Peter Bridge in New Jersey, John Ira Petty in Houston, James L. Walker in Philadelphia, and Austin C. Wehrwein in Minneapolis and St. Paul.

THE IMMOVABLE FEAST

Mr. MONDALE. Mr. President, the July 12 issue of Construction Digest contained an article entitled "The Immovable Feast," written by Russel G. Schwandt, president of the Minnesota Agri-Growth Council and a former Minnesota commissioner of agriculture.

This article highlights the grave crisis facing our Nation's breadbasket, as rural areas become more and more isolated by abandoned rails and neglected roads.

Mr. Schwandt points out that—

Hundreds of rural communities, agribusiness firms and farmers are going to be in serious trouble unless something is done to restore adequate rail service and better farm-to-market roads.

With expanded agricultural production this year and the administration's recently announced decision to bring an additional 19 million acres back into production in 1974, Federal action is urgently needed to prevent costly tieups and higher food prices to consumers.

In order to reverse the continuing abandonment of rural rail lines, I introduced S. 1749, the Rural America Rail Transportation Act. This measure would provide a way to maintain rural rail service and would provide funds so that the Government, primary shippers and the railroads can together function to meet the needs of our Nation. I would like to call attention to Mr. Schwandt's observation that in his judgment, "of all the proposals thus far heard, this Act would be most fair to the railroads and also to the shippers."

Mr. President, I believe that my colleagues in the Senate may find this article interesting and informative, and I ask unanimous consent that it be printed in full at this point in the RECORD.

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

THE IMMOVABLE FEAST—NATION'S "BREADBASKET" IS BEING ISOLATED BY ABANDONED RAILS AND ANTIQUATED ROADS

Farm producton in the midwest during the past decade has increased steadily until today the tonnages involved in shipping agricultural commodities has become a major problem. Transportation has not kept pace with agricultural growth. This growth requires hundreds of thousands of tons of input materials, such as fertilizer. This, along with burgeoning tonnages of produce to be shipped, has overtaxed all existing transportation facilities. With millions of acres being taken out of reserves and put back into production, it is obvious the transportation problems will become even more acute.

Branch railroad lines have been victims of extensive abandonments while those still remaining have been seriously neglected. Deterioration has progressed to the lowest level in history with roadbeds and rails so weakened that the cars using them on infrequent schedules can move at only a snail's pace without risking derailment.

The situation is critical. Hundreds of rural communities, agribusiness firms and farmers are going to be in serious trouble unless something is done to restore adequate rail service and better farm-to-market roads.

But what can be done? Many railroads wash their hands of responsibility, stating that the cost of rehabilitation is too great. They continue to demand permission to abandon more and more lines, which means more hardship on food producers and more pressure to increase food costs even more.

It is imperative now that the federal and state governments, along with the railroads and the primary users of rail service get together and collectively develop a long-range program to rebuild these existing railroad beds which have deteriorated so badly. The time has come when we *must* take an objective look at the critical nature of the transportation system, particularly as it relates to the movement of agricultural commodities.

Reasons for this urgency are many, the first of which is a very real revolution in our ability to produce food. This has come about through technology—better hybrid seeds, effective plant foods, and plant protection chemicals which bring about not only higher yields, but better quality food. This miracle of food production has emerged as one of America's greatest strengths.

But now for the bad news. We are forced to move this vast production tonnage over highways and railroads that have fallen far short of keeping pace with our production ability. The peculiarities of agricultural need, the seasonality of the trade and the perishable nature of much of the produce demand rapid movement of shipments. This in many cases has become impossible.

It boils down to the impossibility of maintaining and improving our level of food production without a general upgrading of load limits on rural farm-to-market roads, trunk highways, and the improvement of existing railroad beds.

There is no real substitute for good rail service to move the great tonnage of agricultural produce now being shipped. Practically every acre of agricultural land now in use continues to produce more and more tons of foodstuffs. Railway service offers the only satisfactory way of moving this vital freight for any appreciable distance.

For this reason, I must take serious issue with the announced intention of some carriers to abandon branch lines on a wholesale basis. Decisions to do this were made some time back—before the tremendous breakthrough in food production. Possibly the rail lines at that time saw very little potential for business.

But now, the tonnages available on a continuing basis are large enough that the railroads must be encouraged to re-assess their positions. The input going to agricultural centers along with the output coming from them amounts to very substantial proportions.

Statements keep coming up to the effect that railroads cannot be expected to operate certain branch lines at a loss. There are also erroneous assumptions that agribusinessmen and farmers can truck their produce to regional collection points without additional expense. This is ridiculous.

It is true that transportation services must operate on an economically sound basis. No one would argue this point. But it must also be realized that most road beds on rail branch lines have been neglected badly and allowed to deteriorate to the point that operating efficiency has dropped nearly to the vanishing point. Under these conditions, the result is operating loss.

Obviously, a great deal of cash is going to be required to rebuild these decaying rail lines. Who is going to pay? Where is the cash coming from? What procedures are going to be followed to correct the situation?

Several alterntives present themselves as possible solutions to the problems. Let us look at some of them.

First, the railroads could lay out the money needed to rebuild the line. But this could well be impractical because of the great amounts needed to do the job.

Secondly, the federal government could provide a direct subsidy to the railroads.

Third, perhaps the federal government could undertake rebuilding of the roadbeds and then charge the railroad a fee for such use. (This would be similar to our present highway building and maintenance program.)

All of the above alternatives have defects which could make each less desirable.

But there is a different approach which I firmly believe is vastly superior to any of the preceding suggestions. The mechanics of this plan are embodied in the Rural America Rail Transportation Act of 1973 (S.F. 1749) which

was recently introduced by Senator Walter F. Mondale of Minnesota.

Of all the proposals thus far heard, this Act would be most fair to the railroads and also to the shippers. It would provide the funds necessary to maintain service and set up the proper procedures so that the government, the primary users, and the railroads could work together for the good of the entire nation.

As an example of how the Act would operate in a specific case, let us consider what is involved in a decision on the fate of one actual stretch of rail. It extends some 26 miles, serves four fertilizer plants and three major grain elevators. There is a potential of more than 5,000 carloads of freight on the line.

Under present conditions, service comprises a one-day-a-week schedule with a top allowable speed of four miles per hour. Also, in the spring, the line is embargoed for varying periods of time. The rail company appears to be making no effort whatever to upgrade the line.

It is obvious that unless something is done in the area of maintenance, the present poor and inadequate service will decline even more. Just as obvious is the fact that the road will be put up for abandonment when the situation gets so bad that trains can no longer operate on it.

But here is what would happen under the provisions contained in the Mondale bill:

Primary users of the line, such as the grain elevators, fertilizer plants and other businesses who need this rail service, along with the railroad company, could elect to establish a corporation for the purpose of rebuilding the roadbed. Then, collectively, they could agree on a sound economic determination about the quality of the rail service that is absolutely essential.

The new corporation would then make application to the federal government for a long-term government-guaranteed loan which would be utilized to rebuild the roadbed to the agreed specifications.

Primary users would be assessed a service fee above normal freight charges. This could be, for example, ¼¢ a bushel on grain and 25¢ a ton on fertilizer. The railroad would rebate to the corporation a percentage of the revenue derived from the freight hauled. The corporation would use the money to amortize the loan, pay the interest, and maintain the roadbed.

Early in the history of this country, the railroads played a big part in extending markets and opening up the vast areas of the continent. At that time our government participated in helping the rail lines to get going.

The current situation is a parallel. We are now at another "beginning" with new problems and greater need for transportation than ever before. Today, in the face of numerous problems involved in the environment, population growth, overburdened, obsolete highways, shortage of fuel supplies, and increased production, the railroads are an indispensible factor in solving many of these problems.

I am a firm believer in the free enterprise system, and it follows that I believe the railroads should be allowed to operate their business. But the very nature of the problem dictates that in order to preserve our system, the government must assume major responsibility in terms of establishing proper procedures and adequate funding.

The need for food is universal. Therefore, anything that tends to upgrade either the quantity or the quality of food stuffs is exceedingly important. Transportation is the lifeline of getting food from the grower to consumer.

HUNGARY AND THE MBFR NEGOTIATIONS

Mr. GURNEY. Mr. President, I wish to join my colleagues in the House and the Senate in urging the administration to stand firm on the necessity of including Hungary as a full status participant in the mutual and balanced force reduction negotiations to be held this October.

At the recently concluded preliminary talks in Vienna, Russia objected to Hungary's participation in the formal negotiations. It also objected to discussions of the inclusion of Soviet military forces in Hungary as one of the areas for which projected troop cuts might be calculated. Fortunately a compromise was agreed to: Hungary could participate at least as an "observer" and the NATO members retained the right to raise the issue of Hungary's status before the beginning of the main conference.

The reason for Russia's attempt to exclude Hungary from the negotiations is not the least bit subtle. Forty-thousand Soviet troops are stationed on Hungarian territory. Former NATO Supreme Commander and former Chairman of the Joint Chiefs of Staffs Gen. Lyman L. Lemnitzer stated recently that:

It is very difficult to understand from a military point of view the exclusion of Hungary. It is the opinion of many military people with whom I am associated that if accepted permanently, Hungary's exclusion would gravely affect the situation in central Europe. It certainly does not spell any hope for the satellite countries to achieve a greater degree of sovereignty, and particularly it would not spell hope for Hungary. It gives the Red army and Red tactical forces a beachhead, or as I would put it, a sanctuary right at the crossroads of Europe where they can move forces and equipment into, and still be excluded from the area of an MBFR agreement.

This patent attempt by Russia to stack the cards in her favor illuminates a point which all Americans should keep clearly in mind. If in fact we are in a period of détente, and I surely hope that we are, we must realize that this does not mean that the Russians have abandoned their geopolitical ambitions. It means that the procedures of international confrontation may have changed—that perhaps differences may be resolved peacefully instead of by threat of force. It also means that we will approach negotiations with the Russians in a spirit of hope, we must do so carefully. Russia is not about to relinquish points unless she gets something in return. Neither should we. Russia's ability to bargain hard and bargain shrewdly was recently dramatized during the wheat deal negotiations. We have still not calculated, much less fully approach, the cost of those negotiations.

The upcoming October negotiations on troop reductions can result in important steps toward peace and substantial money savings for our Nation. But if Russia starts playing shell games with her troops, no such steps will be possible. I again urge the administration to use its best efforts to assure that Hungary will be a full participant.

ONE OF THE MOST IMPORTANT ARCHEOLOGICAL DIGS IN AMERICA

Mr. STEVENSON. Mr. President, a little-publicized event is taking place in southwestern Illinois which should have great value to historians of the future. In a cornfield on the farm of Theodore Koster in Greene County archeologists have uncovered evidence of the fact that prehistoric man dwelt along the Illinois River from about 6000 BC to 1200 AD, long before the Pyramids were erected in Egypt or construction of Stonehenge in England. Investigators have already uncovered 15 distinct strata bearing traces of human habitation, and the work continues. It is the largest archeological expedition in North America.

Great credit is due Mr. Koster for makin his cornfield available to the archeologists and to Dr. Stuart Struever, professor of anthropology and archeology at Northwestern University, who heads the staff at Koster.

On July 15 the New York Times devoted major space to an article about the dig which, even without the photographs which accompanied the article, makes excellent and informative reading.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

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

ONE OF THE MOST IMPORTANT ARCHEOLOGICAL DIGS IN AMERICA

(By Felicia A. Holton)

Last summer, the Theodore Kosters had some 30,000 visitors drop by their farm in Greene County, Illinois. The summer before, there were 20,000. And this summer, the number of tourists is likely to break all previous records. What brings travelers to this remote cornfield 45 miles north of St. Louis and 270 miles southwest of Chicago is not just the promise of a few gulps of fresh country air but a much more fundamental urge that might best be described as man's craving to understand his still-mysterious origins.

In the Koster cornfield, archeologists have uncovered evidence of the fact that prehistoric man dwelled along the lower Illinois River Valley for more than 8,000 years—from about 6000 B.C. to A.D. 1200. In other words, long before the great pyramids went up in Egypt, and long before the construction of Stonehenge in southwestern England, men roamed the river valleys of Illinois.

That fact, when taken together with the remarkable bones and artifacts discovered in the Koster cornfield, make Koster, as the site has come to be known, one of the most important and fascinating archeological sites to be discovered in North America in the past quarter century. To date, investigators have uncovered 15 distinct horizons (the archeological terms for strata bearing traces of human habitation), each in an excellent state of preservation. These horizons show that man has lived at Koster on 15 different occasions in prehistoric times.

UNRAVELING HISTORY

Such distinct separation of the records of prehistoric communities is exceedingly rare in North America. Accordingly, the group of scientists and students now trying to unravel the long history of the habitation of Koster are spurred on by the recognition that this site has perhaps the greatest potentiality of any yet found for bringing to light the story

of prehistoric human existence in North America. Already, because of the extraordinary preservation and also because of some new techniques being used, Koster's scientists have challenged a number of beliefs long held about early man. They may yet find signs of Paleo-Indian man, who lived in America 8,000 to 10,000 years before Christ. (The earliest signs of man in North America are believed to have been found at Clovis, N.M., and are dated circa 9500 B.C.)

The discoverer of Koster and leader of the scientific expedition here is Dr. Stuart Struever (pronounced Streever), a slender, ruggedly good-looking 41-year-old Professor of Anthropology and Archeology at Northwestern University. Commonly, he may be seen striding about the "dig," wearing an old knitted Navy watch cap.

Struever's staff of college professors and college and high school students total 120, making Koster, now in its fifth season of excavation, the largest archeological expedition in North America. Headquarters are in the little country town of Kampsville, located across the Illinois River, nine miles from Koster. In a collection of sagging frame houses and abandoned storefronts the expedition houses and feeds staff, operates 10 laboratories, a computer center, and a museum. As part of their effort to unlock the secrets of the past Struever and his colleagues study such things as unearthed fish scales, small shells, microscopic-size plant "casts" and, of course, the skeletons of the ancient inhabitants.

Visitors to Koster are given an archeological briefing by tour guides. Listen, for example to John Nelson, a tall, black-bearded Chicago science teacher turned summer guide, as he talks to a group of 175 excursionists just off the Delta Queen, a riverboat that has docked at Kampsville to include the Koster farm as a side trip. The group is standing at one side of the excavation on the cornfield. About 1,000 yards to the north of the trench are 150-feet-high bluffs that have protected this particular location from severe weather for eons.

"If you look at the north wall of the trench," Nelson says, "you can see eight distinct layers of soil. Those layers reveal some of the horizons uncovered so far. The light-colored layers are sterile soil; the dark ones are organic soil, which means they contain human debris."

Nature contrived to make Koster a unique archeological site. The earth on the bluffs which has been washed down to form a cover is a substance called loess which is a very dry soil and excellent for preserving such things as shells, bones, and artifacts.

"Now look about nine feet down on the north wall, and you'll see a cut in the wall, shaped like the side of a big bowl. That's what archeologists call a 'feature'—a nonportable artifact. That bowl was dug in about 2500 B.C.. to serve as a fire bit. The people who lived here then used it for cooking."

Nelson pauses a moment, and his listeners are silent, each lost in some private fantasy. This is what they came here to experience—the feeling of the shadowy presence of men who walked on this very spot thousands of years before Christ was born.

"How did the archeologist come to choose a site which had been so carefully preserved for him by nature?" In this instance, Professor Struever was nagged into exploring Koster by Harlin (Alec) Helton, 59, a farmer who owns a large farm next to Koster's. Helton, an artifact collector since he stumbled over his first Indian arrowhead as a boy, was impressed by the unusually large number of artifacts he found lying about in Koster's fields.

"Alec kept bugging me to look at something he'd found, so one afternoon in 1968 I went with him," Struever recalls. "We went through the corn on the Koster farm and found pottery all over the place. The biggest Hopewell Indian village site I had ever seen was maybe five acres, but this covered 25 or 30 acres. From the pottery fragments it was Jersey Bluff Indian, A.D. 800 to 1,000. I felt we had to dig, not for the Jersey Bluff stuff, but to see if anything older was underneath.

"GOOD PLACE TO LIVE"

"It looked like a good place for people to have lived. The bluffs would have provided protection from the wind and rain, and there is a stream nearby which runs all year and probably has been there forever."

The following summer, 1969, Struever took a small crew to the Koster farm and dug a few test holes. At a depth of 14 inches, they no longer found Jersey Bluff pottery, so the archeologists switched to probes. A probe is a steel rod five feet long with a small knob on the tip that catches a bit of dirt when driven into the ground and twisted. The first probe came up with a bit of black soil clinging to it. The crew became excited.

"Black soil in ground like Koster means one thing—man," explains Struever. "So we dug some more."

Struever's hunch had been right. Within three weeks, the crew found five horizons, one on top of another, neatly packaged by the intervening layers of sterile soil.

"We call it our 8,000-year-old fossilized 'layer cake,' " he says.

That was the beginning. In 1970, Struever returned to Koster for a full field season (June to September). Since then thousands of items which Archaic man (8000 B.C. to 600 B.C.) had made and used have been taken from the soil, washed, examined and analyzed. The excavation is now 120 feet long, 77 feet wide at one end, and 30 feet wide at the other end. There are 220 six-foot deep squares dug in the main trench at varying levels. The deepest point any of these have descended to is 34 feet. There, during the final week of the season last year, the crew discovered Horizon 15—the earliest trace of man on the site. That community probably predates 6000 B.C. A spearhead of a style as not yet identified was found, as well as features such as pits and fireplaces.

At Horizon 6 the investigators found remains of prehistoric houses dating back 4,500 years to 2500 B.C., among the oldest habitations yet discovered in North America. These remains consisted of parallel trenches containing post holes indicating that house foundations had been made by digging trenches, setting logs in them upright, and then holding the logs in position by packing the trenches with dirt. Among the foundations were silver-dollar-size bits of fire-hardened clay with criss-cross impressions on them. To archeologists, these artifacts made possible a new view of mid-Archaic man.

"They are bits of wall plaster, made by pressing mud into interlaced branches between the logs of a hut. Never before has evidence been found of hut construction among such early men," says Struever. "Normally, it begins about Jersey Bluff time, but here's proof that thousands of years earlier, Archaic man was building what really was a fairly complicated and permanent dwelling."

The presence of the houses, and a cemetery in which about 20 skeletons (mostly those of adolescents) have been found, indicate that the early Illinois hunters and gatherers were not nomads as has been thought, but a relatively sedentary people, either living year-round in the sheltered Koster valley, or returning to the village during certain seasons of the year. This places sedentism much earlier than archeologists had suspected, even before the advent of agriculture.

At Horizon 11 the crew came upon the skeleton of a small, evidently domesticated dog, carefully laid out, with two small hearths of charcoal in front of its feet, suggesting a ceremonial burial. Also at Horizon 11 was the skeleton of an 18-month-old infant whose body had been covered with a powdered hematite, a yellowish-red ore of iron. Both were placed at 5100 B.C. by radiocarbon dating. The hematite-covered infant is one of the earliest known cases of this burial practice in North America.

"TAKING WAS EASY"

"Judging from all the clues we have found, man led the good life in the Illinois River valley in Archaic times," says Struever. "He had plenty of leisure time in which to domesticate pets. It's sheer folklore that primitive people had to struggle from dawn to dusk simply to survive. How hard a man works depends a lot on what he considers necessary goals in life, and there was no environmental imperative in the valley requiring man to work hard. The large river valleys of the midwest probably had the most dense plant and animal population in North America, and therefore could support large human populations, and did by Horizon 8 times, 4200 B.C. Man lived in a land of milk and honey, with tremendous food resources all around him in this valley, and the taking was easy."

The unknown culture found at Horizon 6, 2500 B.C., has been named the Helton culture, after Struever's nagging friend, Harlin Helton.

For farmer Koster, who took a cornfield out of cultivation for an indefinite period without compensation so that archeologists might study the area, and who graciously permits thousands of tourists to traipse over his back yard, there are also rewards. The Koster name, too, will adorn the history books. The first such recognition came last December when the National Geographic Society included the Koster site in a newly revised map of "North America Before Columbus."

Over a plate of deep-fried catfish in the Bare Foot Bar and Lounge, a noisy, popular spot on the riverbank in Hardin, 9 miles south of Kampsville, Struever enthusiastically describes what he calls the "new" archeology and the revolution which has been taking place in American archeology over the last decade.

"Archeology is a very old discipline but it hasn't developed greatly. I'd liken the degree of sophistication in archeology today to the state of sophistication in medicine in about 1850. Archeology has developed the capacity to dig a lot of stuff out of the ground but has not yet developed the capacity to understand what's been unearthed. Archeologists in the past have emphasized art and architectural history, and have characterized prehistoric cultures by a series of artifact types. They would describe a culture as the 'bellbeaker folk,' after some such artifact they dug up. It's like calling Americans the 'Chevrolet people,' instead of calling us capitalists. Chevrolet is an item; capitalism is behavior.

"Today, archeology takes much more seriously than it used to the mandate to attempt to understand a culture from what is dug up. We regard artifacts as a means of learning about people, not as ends in themselves. We are trying to understand something about the nature of man as a biological organism, how he relates to and is affected by his environment. To reach our goal, we work with three things—the environmental system, the human biological system and the cultural system. We try to reconstruct all three and see how they are interdependent. The big emphasis in what we are doing is changing the ways of digging things up, and

the ways of studying stuff after it has been dug up."

The research staff in Kampsville is trying to find answers to questions such are these: Why is it that man discovered corn and other food plants in the period between 1000 B.C. and 500 B.C. and then evidently ignored this knowledge in developing his strategy for survival? Does man become productive and creative only under stress and challenge? (From the research done so far, it appears that only under the pressure of increased population did man in Illinois finally develop agriculture in late prehistoric times. Evidence shows that people began to raise corn in the lower Illinois valley about 100 B.C., but did not become fully dependent on agriculture until about 800 A.D.)

CLUES TO THE PAST

Every cubic inch of soil taken from Koster is sifted for clues to man's past. The soil is passed through half-inch mesh screens to extract artifacts, bones, shells, and other possibly interesting objects, items are promptly tagged to show the exact spot in which they were found (each trench is marked off at 3-inch levels) and then sent to various laboratories for study.

Alice Struever's crew at the flotation laboratory consider themselves lucky, for they get to spend a good portion of the hot working day standing hip-deep in the cool waters of Macoupin Creek, a few miles from Koster. Although Mrs. Struever is not an academically trained archeologist, she has worked with her husband since 1956, and she developed the flotation techniques used at Koster—a process in which water is employed to separate soil from tiny bits of bone, fish scale, seeds and charcoal fragments. Such particles are sent to the botany laboratory housed in a former drugstore in Kampsville. There, under the direction of blond, soft-spoken Nancy Asch, 26, a doctoral candidate in botany at the University of Michigan, the staff seeks answers to such questions as these: What did prehistoric man eat? How did they obtain their food? Did prehistoric men choose certain plants because they were known to be nutritious? Were there any changes in climate during the periods in which Koster was inhabited?

Jane Buikstra, 27, a slim, pretty woman with a flair for dressing like a Saks model heads the osteology laboratory where human skeletal remains are studied. Miss Buikstra and her crew are searching for clues to population distribution and density, genetic derivation, environmental and dietary stress, and social status and role. They try to determine the age and sex of each specimen, and look for signs of disease which might have affected the skeleton.

Arthritic patterns, for instance, give clues to physical activities. In studies of Eskimo skeletons, for example, many of the males show arthritic patterns in the left shoulder, indicating heavy use of bow and arrow, while female skeletons show arthritic patterns in the elbow, suggesting the push-pull motions employed by women in the preparation of skins.

STATUS SYMBOL

Where and how individuals were buried gives clues as to their status and role in a prehistoric community. Among the late Woodland peoples, 150 B.C. to 400 A.D., for example, adult males are usually found buried in extended (full-length) positions while women and children are often found in flexed positions (knees drawn up to chin).

"Now we have all the Freudians running to interpret our flexed burials," comments Miss Buikstra, with a wry smile. "My interpretation is that it takes less effort to dig a pit for a flexed burial. It also takes up less space. People of lesser importance on the social scale just didn't rate all that effort."

To date, the main burial sites of Koster residents have not been discovered. All of the persons found buried at Koster so far appear to have been of inferior social status, one clue being that they were buried in the habitat, instead of in a special cemetery.

Koster is the site of one of two archeological experiments presently being conducted in the western hemisphere (the other is at Arizona State University) which employ the use of computers in the field while excavation is in progress. James Brown, 41, professor of anthropology at Northwestern University, has established a computer terminal in a former storefront in Kampsville, which is hooked into computers at the Northwestern campus at Evanston, 280 miles away.

ENTER THE COMPUTER

Struever explains the importance of the computer in archeology:

"If you dig a site that has 12 to 15 community ruins in it, in a couple of summers you recover a million pieces of data. That quantity of stuff is so great it cannot be hand sorted in a reasonable length of time. This limits the frequency with which you can ask questions of the data. It may take three weeks of hand sorting to find out how many of something you have. In a summer season of digging, you might only be able to ask four or five questions. One of the beauties of what we are doing now—there's a term in computer studies called turnaround time—we're talking about turnaround time on archeological data of one week. This means you can dig stuff up on Monday, get it washed on Tuesday, analyzed and plotted on Wednesday, and by Thursday questions can be asked of that information which will enable you to make digging decisions on Friday, only 5 days after stuff comes out of the ground.

"Suppose you want to ask the question 'What is the evidence for hunting behavior in Horizon 6?' You ask specifically for quantities of spearheads, scrapers, knives, and other tools relating to hunting. You then might ask, 'What is the evidence of animal bones, such as deer or elk, or collectible animals (baby birds being collectibles)?' Now, if you had to sort through the data sheets, writing down the number of spearheads or bird bones, you'd never ask the question.

"Another boon is that the computer plots out some answers graphically. It may show that there is a butchering area in a horizon, but that only a small part of it is being excavated. The archeologist can reorient field strategy to include a larger portion of the butchering area."

One of the greatest difficulties faced by Struever today is financing the project he directs. "If you tell people you need money for excavating in Iran or Peru," he says wryly, "they think it's exotic; mention southern Illinois and their eyes glaze over." Nevertheless, he manages to infect a good many people with enthusiasm. A portion of the expedition's funds come from grassroots donations, small dollar amounts donated by visitors to Koster, and by people who have heard Struever lecture. Corporations have donated funds; several have donated goods, such as house paint, or food. Four farmers in the area fattened and butchered steers and hogs at cost, and the people at Kampsville, (population 400) held a fish fry and donated $700.

This year, the expedition will need even more help. Kampsville is on the Illinois River, just above the confluence of the Illinois and Mississippi Rivers, and the disastrous spring flooding has left ten of the expedition's 15 buildings water-logged. Scientists and students alike will have to rough it, in both laboratories and living quarters. This will not dampen their exploratory fever, however. The crew bus will still lumber aboard the Kampsville ferry at 5:30 A.M., six mornings a week, and return at 5 P.M. The crew will still gather, after supper at the local school, at St. Anselm's Church hall, two or three nights a week, for lectures. For this little band of people, the excitement of breathing life into the dead past is enough to sustain them against any number of obstacles.

CURRENT U.S. POPULATION

Mr. PACKWOOD. Mr. President, as we prepare for our August recess, I would like to report that, according to U.S. Census Bureau approximations, the total population of the United States as of August 1, 1973, is 211,007,148. In spite of widely publicized reductions in our fertility levels, this represents an increase of 137,240 in the last month, just since July 1. It also represents an increase of 1,589,109 since August 1, 1972.

Over the year, therefore, we have added enough additional people to fill three cities the size of Seattle. And in just one short month, we have added enough people to fill a city about the size of Youngstown, Ohio.

MASS TRANSIT

Mr. TUNNEY. Mr. President, there can be little question that the urban areas of this country are facing a real financial crisis in attempting to plan and construct mass transit systems which will meet environmental and energy needs. The Senate has, for the past 2 years, recognized the magnitude of this need by voting to allow highway trust funds to be used for urban mass transit.

We continue to try to help the cities meet this growing need, as evidenced by the recent passage of the highway aid bill of 1973. The version agreed to by Senate and House conferees will also permit the use of highway trust money for mass transit.

However, this alone will not be sufficient. Many cities, such as Los Angeles in my home State of California, are choking on smog. Immediate and extensive action is required if these areas are to meet the mandates of laws such as the Clean Air Act of 1970—and money from State, as well as Federal sources, will be required if that effort is to be as broad and intensive as is required.

In that regard, the city of Los Angeles, has recently gone to court in California to attempt to have State highway funds freed for funding of mass transit systems. Because I believe that mass transit is an idea whose time has come, I would like to insert in the RECORD at this point the brief filed by the city of Los Angeles.

I think that this action represents an important move by the cities of our country to have their needs answered by State, as well as Federal action. Therefore, I ask unanimous consent that the brief and accompanying materials in this suit be printed in the RECORD.

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

BRADLEY *v.* CALIFORNIA HIGHWAY COMMISSION
JULY 30, 1973

This lawsuit, filed today in the state supreme court by attorneys from the Center for Law in the Public Interest, asks the California Supreme Court to order officials who govern the state highway trust fund to allow cities and counties to spend their share of

the fund on rapid transit systems and to permit the state to construct such systems.

Currently, the state has ruled that local governments may only spend the fund for construction and maintenance of streets, roads and freeways. This year, the fund—which is produced by gasoline and highway user taxes—will amount to about $1.4 billion statewide.

The suit argues that rapid transit should be defined as a "highway purpose"—thereby falling under a provision of Article 26 of the State Constitution. Article 26 specifically limits the use of gasoline tax funds to "highway purposes." Plaintiffs urge that "highway" be defined as "any public way" and support this contention with a 1935 Supreme Court decision interpreting the statute which became Article 26.

The suit argues that the state's limiting of the funds solely to road use has "retarded the development of mass rapid transit and other alternative transportation systems designed to alleviate critical problems of air pollution, traffic congestion and urban sprawl." The suit adds that the area now faces a critical shortage of energy that could be alleviated if state officials would allow cities and counties to spend their gas tax monies to develop alternative transportation systems.

Petitioners: Thomas Bradley, Mayor of Los Angeles; Edmund Edelman, City Councilman of Los Angeles; City of Riverside, a municipal corporation.

Respondents: California Highway Commission; California State Legislature; California Department of Transportation; James A. Moe, as director of the California Department of Transportation; California State Transportation Board and Houston I. Flournoy, as California State Controller.

Counsel: Mary D. Nichols and Brent N. Rushforth, of the Center for Law in the Public Interest. Of Counsel: Edmund Edelman.

Court of Jurisdiction: The State Supreme Court. The case is being brought at the highest state judicial level, because the issue it presents is of "great public importance and concern and must be quickly resolved." The petitioners believe that city and county governments are in "urgent need" of monies to begin building rapid transit and other alternative transportation systems.

The suit alleges that part of the urgency is predicated upon the federal Clean Air Act of 1970. That Act states that by 1977, a healthful air quality level must be achieved here. In order to achieve that level, the federal Environmental Protection Agency has stated that automobile traffic may have to be reduced by 90 percent here. The EPA also has suggested that gas rationing car pooling and special bus lanes on the freeways be introduced to achieve the 1977 standards. One additional recommendation is that mass rapid transit be introduced. The EPA has stressed that air standards cannot be achieved unless alternative public transit systems are made available without delay.

Case History: "Highway user taxes" were first adopted to finance the construction and maintenance of highways in 1923, with the enactment of the California Vehicle Act. The Act specified that such taxes were to be deposited in a "Motor Vehicle Fund", where one-half of the net receipts would go to counties for exclusive expenditure on streets, roads, highways, ridges and culverts . . . In 1938, state voters approved a constitutional amendment providing that gasoline and motor vehicle taxes only be used for the purposes specified by the 1923 Act. The voter approval of the amendment, which became Article 26 of the state constitution, followed a furor over state officials' expenditure of the fund for general purposes—including parks and unemployment compensation. The purpose of the amendment was to ensure that the fund not be used for such nontransportation purposes.

[In the Supreme Court of the State of California]

PETITION FOR A WRIT OF MANDATE WITH A MEMORANDUM OF POINTS AND AUTHORITIES

(Thomas Bradley, Mayor of the City of Los Angeles; Edmund D. Edelman, a Councilman in the City of Los Angeles; City of Riverside, a municipal corporation, Petitioners, v. California Highway Commission; California State Legislature; California Department of Transportation; James A. Moe, in his official capacity as Director of California Department of Transportation; California State Transportation Board; Houston I. Flournoy, in his official capacity as California State Controller, Respondents.)

Brent N. Rushforth, Mary D. Nichols, Carlyle W. Hall, Jr., A Thomas Hunt, John R. Phillips, Frederic P. Sutherland, Center for Law in the Public Interest, 10203 Santa Monica Boulevard, Los Angeles, California 90067, (213) 879–5588, Attorneys for Petitioners.

Of Counsel: Edmund D. Edelman.

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To the Honorable Justice Donald Richard Wright, Chief Justice, and to the Honorable Associate Justices:

Petitioners Thomas Bradley, Mayor of the City of Los Angeles, Edmund D. Edelman, a Councilman in the City of Los Angeles and the City of Riverside, petition the Honorable Chief Justice Donald Richard Wright and the Associate Justices of the Supreme Court of the State of California for a writ of mandate directed to respondents California Highway Commission; California State Legislature; California Department of Transportation; James A. Moe in his official capacity as Director of California Department of Transportation; California State Transportation Board; Houston I. Flournoy in his official capacity as California State Controller (hereinafter "respondents"), and each of them.

I

This action seeks a writ of mandate directing respondents to consider requests for funds governed by Article XXVI, §§ 1, 2 of the California Constitution (hereinafter "Article XXVI"), by interested county and city governmental entities and to make said funds available in appropriate cases for use in the development and maintenance of mass rapid transit and other alternative transportation systems. Respondents have refused to make funds governed by Article XXVI available to county and city governmental entities for any use other than the building and maintenance of streets, roads and freeways designed to carry motor vehicles (cars, trucks and buses) and structures directly incident thereto. They have taken the position that the language and purpose of Article XXVI prohibits the use of these funds for any purpose other than the development of such streets, roads, freeways or structures directly incident thereto. Exhibits "4" and "5" hereto. Petitioners contend that such a restricted interpretation of the meaning and purpose of Article XXVI is erroneous, and that Article XXVI in fact contemplates the use of moneys from gas taxes and vehicle registration fees for the development and maintenance of any public thoroughfare open to public use, including mass rapid transit and other alternative transportation systems.

Respondents possess the duty and the authority under Article XXVI to consider requests by cities and counties for the use of these moneys for development of any public thoroughfare open to public use, including mass rapid transit and other alternative transportation systems, and to make said funds available in appropriate cases, which authority they refuse to exercise and which duty they refuse to perform. The failure of respondents to fulfill this duty has retarded the development of mass rapid transit and other alternative transportation systems designed to alleviate problems of air pollution, traffic congestion and urban sprawl and to reduce the amount of energy consumed by transportation and therefore to help alleviate the energy problems now faced by this county and is now seriously hindering efforts of petitioner City of Riverside, the City of Los Angeles and other cities to comply with the dictates of the Clean Air Act of 1970, 42 U.S.C. § 1857.

II

This action is properly brought in the California Supreme Court as a matter of original jurisdiction because the issue presented is of great public importance and concern and must be quickly resolved. Solutions to the problems of urban transportation vitally affect the public interest. At this time, city and county government entities are in urgent need of sources of funds for the development of mass rapid transit and other alternative transportation systems. The Clean Air Act of 1970, 42 U.S.C. § 1857, requires that by 1977, the healthful air quality levels mandated by that Act must be achieved. Pursuant thereto, the United States Environmental Protection Agency (hereinafter "EPA") has proposed and will adopt regulations that require automobile traffic in the South Coast Air Quality Control Basin (in which all petitioners reside) to be reduced by up to 90%. A variety of measures, including reservation of freeway lanes for mass transit and carpools, reduction in parking spaces, and rationing of gas to distributors within the region will be required to make these proposals work. However, EPA has pointed out that the statutory mandate cannot be achieved unless alternative public transit systems are made available without delay. 38 Fed. Reg. 17683 (July 2, 1973).

Air pollution and transportation problems have reached crisis proportions. On July 26, 1973, for example, the EPA asked all federal offices in Los Angeles, San Bernardino and Riverside counties voluntarily to close for the day in order to prevent air pollution from reaching even more dangerous levels. The design and construction and maintenance of mass rapid transit systems is a lengthy process which must begin now if solutions to this crisis are to be found. However, the large sums of money needed for such systems are difficult to secure. Funds which at this moment should be available for use by cities and counties to solve their pollution and transportation problems, are being withheld by respondents because of their misinterpretation of Article XXVI. Petitioners ask this Court to issue its writ of mandate requiring respondents to consider requests for the use of moneys governed by Article XXVI in the development of alternative transportation systems, including mass rapid transit, and to allocate moneys governed by Article XXVI for such purposes in all appropriate cases, and to inform all county and city governmental entities throughout the state by public announcement that all such requests will be considered on their merits.

III

Petitioner Thomas Bradley, Mayor of the City of Los Angeles, has long been vitally interested in the creation of a mass rapid transit system in the Los Angeles area. He has made the development of such a transportation system for the South Coast Basin an item of highest priority in his administration. Without access to funds governed by Article XXVI, his efforts, as both a city official and a citizen, to secure a solution to Los Angeles' pollution and transportation problems will be impaired. He is thus adversely affected by respondents' failure to perform their official duty. He testified before the EPA on March 6, 1973, that the development of a mass rapid transit system is necessary if the City of Los Angeles is to comply with the demands imposed on it by the Clean Air Act, and stated that without funds from gas taxes and vehicle registration fees, the City will find it impossible to timely develop such a system.

V

Petitioner Edmund D. Edelman has been a City Councilman in the City of Los Angeles since 1965 and has consistently advocated development of a balanced transportation system, including mass rapid transit, for the City. Respondents' unlawful restrictions on the use of funds governed by Article XXVI impair his ability as both a citizen and a city official to foster the development of such transportation and, thus, he is adversely affected by respondents' failure to fulfill their duty. As an individual citizen and resident of Los Angeles who lives in the Western part of Los Angeles and commutes approximately 10 miles each way to work in downtown Los Angeles, he would benefit directly from the issuance of the writ of mandate in this case by using any mass rapid transit system that may be constructed and maintained out of funds governed by Article XXVI.

Petitioner City of Riverside (hereinafter "Riverside") is a charter city with a population of approximately 150,000. Riverside is authorized to receive funds governed by Article XXVI for whatever lawful purposes said funds may be used. Cal. Str. & H. Code § 2106. The City of Riverside has a critical air pollution problem. Air pollution levels in Riverside exceeded standards set by the United States Environmental Protection Agency pursuant to the Clean Air Act, 42 U.S.C. § 1857, on more than 250 days in 1972. Professor Ralph d'Arge of the Department of Economics of the University of California at Riverside estimates annual cost of automobile-generated pollution to residents of Riverside is about $8 million, primarily attributable to added medical expenses and decreased property values. *Costs of Air Pollution*, Unpublished Report, August, 1972. The City's Environmental Quality Commission has reported that automobile pollution is linked to increasing prevalence of heart and respiratory diseases, including emphysema and bronchitis, in Riverside. Medical authorities have testified that a public health crisis caused by air pollution exists in Riverside and patients with chronic heart and lung ailments are being urged to leave the area. *See* Affidavit of Gerschen L. Schaeffer on file in the U.S. District Court for the Central District of California, Civ. No. 72-2122-IH, *Riverside* v. *Ruchelshaus*. In order to comply with federal air pollution standards, Riverside is now seeking alternative modes of transportation to replace the private automobile and wishes to use funds governed by Article XXVI for the purpose of expanding its public transportation system. Riverside is consequently particularly anxious to obtain funds governed by Article XXVI for purposes of constructing and maintaining a balanced transportation system including mass transit and intends to seek said funds for those purposes upon this Court's issuance of its writ of mandate in this case. Furthermore, Riverside is vitally concerned that other cities and counties in the South Coast Air Basin be able to develop mass rapid transit and balanced transportation systems because Riverside's air pollution and traffic problems are directly affected by those in the other cities and counties in the basin.

VI

Respondent California Highway Commission has the power to select, adopt, and determine the location for state highways on routes authorized by law; and to allocate, from the funds available therefor, moneys for the construction, improvement or maintenance of state highways. Cal. Str. & H. Code § 75.

Respondent California State Legislature has the power to "appropriate such moneys and to provide the manner of their expenditure by the State, counties, cities and counties, or cities for the purposes specified" by Article XXVI, and "to enact legislation not in conflict with this article." Cal. Const. Art. XXVI, § 3. The Legislature adopts and

abolishes routes for the State Highway System. Cal. Str. & H. Code §§ 300–653.

VIII

Respondents California Department of Transportation; James A. Moe, in his official capacity as Director of the Department of Transportation; California State Transportation Board; and Houston I. Flournoy, in his official capacity as California State Controller, are sued as necessary parties to this action because their several duties include administration of funds governed by Article XXVI:

A. The California Department of Transportation is authorized and directed to lay out and construct all state highways between the termini designated by law and on the location as determined by the California Highway Commission. Cal. Str. & H. Code § 90.

B. James A. Moe, in his official capacity as Director of the California Department of Transportation, serves as chief administrative officer of the California Highway Commission. Cal. Str. & H. Code § 70.

C. The California State Transportation Board has the duty to advise the Legislature in formulating and evaluating state policy and plans for transportation programs within the State. It has the specific duty to request and review reports pertaining to public financial participation in transportation development, planning, construction and operation. Cal. Gov. Code §§ 1390.2–1390.6.

D. Houston I. Flournoy, in his official capacity as California State Controller, has the duty to apportion the moneys in the State Highway Account, including funds controlled by Article XXVI, on a monthly basis. Cal. Str. & H. Code § 2103.

FIRST CAUSE OF ACTION

IX

Pursuant to Article XXVI, respondent California State Legislature has the authority and the duty to consider requests for funds governed by Article XXVI for use in the development and maintenance of any public way open to public use, including mass rapid transit and alternative transportation systems and to make those funds available for such purposes in all appropriate cases.

X

The law demands that respondent California State Legislature consider requests from cities and counties for funds governed by Article XXVI for use in the development of any public way open to public use, including mass rapid transit, and make those funds available for such purposes in all appropriate cases.

XI

Respondent California State Legislature has failed to perform its duty and exercise the authority vested in it pursuant to Article XXVI in that it has refused to consider any requests for and has refused to appropriate moneys governed by Article XXVI for mass transit and alternative transportation systems. Respondent California State Legislature will continue to refuse to consider appropriation of funds governed by Article XXVI to highway purposes (such as mass transit and alternative transportation systems) other than construction and maintenance of roads adapted for automobiles unless this Court orders it to do otherwise.

XII

Demand on respondent California State Legislature to perform its duty and exercise its authority under Article XXVI would be futile because said respondent has shown by its conduct and public statements that any such demand would be refused. It has interpreted and continues to interpret Article XXVI erroneously to prohibit use of monies governed thereby for any purpose other than the construction and maintenance of streets, roads and freeways designed to carry motor vehicles and structures directly incident thereto.

XIII

Petitioners have no plain, speedy, adequate remedy in the ordinary course of law. Unless a writ of mandate issues to compel respondents to perform their duties, said duties will remain unperformed, the meaning and purpose of Article XXVI will continue to be erroneously interpreted, and cities and counties, including Riverside and the City of Los Angeles, will be left without funds for urban transportation systems including mass rapid transit which they should be receiving now. The problem is an urgent one that requires immediate resolution.

SECOND CAUSE OF ACTION

XIV

Pursuant to Article XXVI and Cal. Str. & H. Code § 75, respondent California Highway Commission has the authority and the duty to consider requests to select, adopt and determine the location of mass rapid transit and alternative transportation systems as state highways and to allocate said funds for such highway purposes in appropriate cases.

XV

The law demands that respondent California Highway Commission consider requests to select, adopt and determine the location of mass rapid transit and alternative transportation systems as state highways and to allocate said funds for such highway purposes in appropriate cases.

XVI

Respondent California Highway Commission has failed to perform its duty and exercise the authority vested in it pursuant to Article XXVI and Str. & H. Code § 75 in that it has refused to consider any requests for and has refused to allocate moneys governed by Article XXVI for mass transit and alternative transportation systems. Respondent California Highway Commission will continue to refuse to consider allocation of funds governed by Article XXVI to highway purposes other than construction and maintenance of roads adapted for automobiles unless this Court orders it to do otherwise.

XVII

Demand on respondent California Highway Commission to perform its duty and exercise its authority under Article XXVI and Str. & H. Code § 75 would be futile because said respondent has shown by its conduct and public statements that any such demand would be refused. It has interpreted and continues to interpret Article XXVI and Str. & H. Code § 75 erroneously to prohibit the use of moneys governed thereby for any purpose other than the construction and maintenance of roads adapted for automobiles.

XVIII

Petitioners repeat and incorporate herein by reference each and every allegation contained in paragraph XIII hereinabove.

Wherefore, petitioners and each of them pray:

1. That this Court issue its alternative writ of mandate directing respondents and each of them to consider all requests for and make available in all appropriate cases to city and county governments, and to the State Department of Transportation, moneys governed by Article XXVI to be used in developing, constructing and maintaining any public way for public use, including mass rapid transit and other alternative transportation systems and to inform all county and city governmental entities throughout the state by public announcement that all such requests will be considered on their merits; or to show cause before this Court at a specific time and place why they have not done so;

2. That this Court issue its alternative writ of mandate directing respondent California Highway Commission to perform its duty under Str. & H. Code § 75 to select, adopt and determine the location of mass rapid transit and alternative transportation systems as state highways and to allocate governed by Article XXVI for mass rapid transit and alternative transportation systems in appropriate cases.

3. That, on the hearing of this Petition for Writ of Mandate and return thereto, if any, this Court issue its peremptory writ of mandate directing that those matters listed in paragraphs 1 and 2 above be done as quickly as possible;

4. For attorneys' fees, costs of this proceeding and such other and further relief as this Court may deem proper.

Dated:

Respectfully submitted,

Brent N. Rushforth, Mary D. Nichols, Carlyle W. Hall, Jr., A. Thomas Hunt, John R. Phillips, Fredric P. Sutherland,

BRENT N. RUSHFORTH,
MARY D. NICHOLS,
Attorneys for Petitioners.

VERIFICATION

[State of California, County of Los Angeles]

Thomas Bradley, being first duly sworn, deposes and says:

I am Thomas Bradley, Mayor of the City of Los Angeles and Petitioner in the above-entitled action. I have read the foregoing petition for a writ of mandate and know the contents thereof; and the same is true of my knowledge, except as to the matters and things which are therein stated upon information and belief, and as to those matters and things I believe them to be true.

THOMAS BRADLEY.

Subscribed and sworn to before me this 27th day of July, 1973.

[In the Supreme Court of the State of California]

THOMAS BRADLEY, MAYOR OF THE CITY OF LOS ANGELES, ET AL., PETITIONERS, V. CALIFORNIA HIGHWAY COMMISSION, ET AL., RESPONDENTS

Memorandum of points and authorities in support of petition for a writ of mandate.

I. INTRODUCTION

This is an action to compel respondents to consider mass rapid transit as a "highway purpose" within the meaning of Article XXVI of California Constitution (hereinafter "Article XXVI"). It is based primarily on the proposition that the word "highway", as interpreted at the time of the adoption of Article XXVI, includes mass rapid transit and transportation systems other than roads for automobiles. Indeed, the definition of the word highway was so general and broad at the time of the adoption of Article XXVI that it included any public way open to public use. *City of Long Beach v. Payne*, 3 Cal. 2d 184 (1935).

Notwithstanding this very broad meaning of the word highway adopted in Article XXVI, respondents refuse to act as if "highway" means anything other than a road for automobile travel. The resulting failure to finance and develop a balanced transportation system has been the primary cause of the increase in air pollution to extremely dangerous levels, presenting severe health problems to residents of the South Coast Air Basin and other urban areas of the state. Los Angeles and Riverside are consequently incapable of complying with the requirements of the Clean Air Act of 1970 unless and until a balanced transportation system including mass rapid transit is developed. If the regulations promulgated by the United States Environmental Protection Agency (hereinafter "EPA") pursuant to the Clean Air Act, which require a reduction of 90% in automobile traffic in Los Angeles by 1977, are enforced in the absence of a balanced trans-

portation system, the result will be economic disaster. The issue presented by this petition is therefore of great public importance and urgency.

II. FACTUAL BACKGROUND

The cities and counties of the South Coast Air Basin are faced with critical problems of air pollution which present a serious danger to the health and welfare of all the residents of that area. Air pollution levels in Riverside exceeded standards set by the United States Environmental Protection Agency pursuant to the Clean Air Act, 42 U.S.C. § 1857, on more than 250 days in 1972. Professor Ralph d'Arge of the Department of Economics of the University of California at Riverside estimates that the annual cost of automobile-generated pollution to residents of Riverside is about $8 million, primarily attributable to added medical expenses and decreased property values. *Costs of Air Pollution*, Unpublished Report, August, 1972. The City's Environmental Quality Commission has reported that automobile pollution is linked to increasing prevalence of heart and respiratory diseases, including emphysema and bronchitis, in Riverside. Medical authorities have testified that a public health crisis caused by air pollution exists in Riverside and patients with chronic heart and lung ailments are being urged to leave the area. *See* Affidavit of Gerschen L. Schaeffer on file in the U.S. District Court for the Central District of California, Civ. No. 72-2122-IH, *Riverside v. Ruckelshaus*.

Pollution levels in Los Angeles exceeded the national health standards promulgated by EPA on 288 days in 1970. Even assuming that all new cars meet strict emission control requirements by 1976, and all used cars are equipped with the best known smog control devices, the national standard for oxidants will be exceeded 102 days per year in 1977. Environmental Protection Agency, *Technical Support Document for the Metropolitan Los Angeles Intrastate Air Quality Control Region* (January 15, 1973), 1.

The automobile is the prime mover behind this air pollution. Automobiles generate the major share of 4 out of 5 pollutants which have been declared harmful to human health by the U.S. Environmental Protection Agency: photochemical oxidants, oxides of nitrogen, carbon monoxide, and particulate matter. *See* 40 C.F.R. §§ 550.6-50.11.

In the Los Angeles Air Quality Control Region, which includes the City of Riverside, as well as Orange and Ventura counties and portions of San Bernardino and Santa Barbara counties, there were more than 6 million registered motor vehicles for a total population of 9.7 million. While population is expected to grow 10.4% in the period from 1970 to 1977, the number of vehicle miles travelled in this region is expected to rise by 22.2% based on current projections. TRW, Inc. *Prediction of the Effects of Transportation Controls on Air Quality in Major Metropolitan Areas* (1972) (Distributed by National Technical Information Service, U.S. Department of Commerce).

The EPA has established air quality standards pursuant to the Clean Air Act amendments of 1970, 42 U.S.C. § 1857, under which states are required to take all measures necessary to assure attainment of healthful air by 1977. The Act mandates the Administrator of the EPA to establish standards for each air pollutant which "in his judgment has an adverse effect on public welfare," 42 U.S.C. § 1857c-3, based on "the latest scientific knowledge useful in indicating the kind and extent of all identifiable effects on public health or welfare which may be expected from the presence of such pollutant in the ambient air." *Id.* The Act also requires manufacturers of motor vehicles to reduce emissions of photochemical oxidants and oxides of nitrogen by 90% of their 1970 levels no later than 1976 and 1977, respectively.

In order for the Los Angeles area to reach the ambient air quality standards by the statutory deadline, the Administrator [under a federal court injunction obtained by petitioner City of Riverside and others, *Riverside v. Ruckelshaus*, ———F. Supp. ———, 4 E.R.C. 1728 (D.C. Cal. 1972)] has had to propose that automobile use be reduced by as much as 90%, through limitations on gasoline sales, setting aside freeway lanes for buses, decreasing the number of parking spaces available, and other means. 37 Fed. Reg. 17683 (July 2, 1973).

As drastic as these proposals sound, they were clearly contemplated by the framers of the 1970 amendments to the Clean Air Act. The Report of the Senate Public Works Committee which accompanied the amendments through both houses of Congress, noted "As much as 75% of the traffic may have to be restricted if health standards are to be achieved within the time required by this bill." The report further warned that "Construction of urban highways and freeways may be required to take second place to rapid and mass transit and other public transportation systems." S. Rep. No. 91-1196, 91st Cong., 2nd Sess. at 2.

The need for mass transit in the Los Angeles area as a means to reduce air pollution was underscored by EPA Acting Administrator Robert W. Fri on June 22, in remarks announcing his proposed transportation plan. "The development of large-scale mass transit facilities in the Los Angeles area is essential to any effort to reduce automotive pollution through restrictions on vehicle use. . . . The Agency . . . actively encourages the immediate and large-scale purchase of additional public transportation facilities, most specifically including additional buses and an increased examination of the feasibility of rail transit." 38 Fed. Reg. 17683.

It is obvious that implementation of the EPA's plan to reduce private automobile use by 90% in the Los Angeles area would be practically impossible without the presence of a balanced transportation system including mass transit. And yet the EPA's plan is necessary if the Los Angeles area is to achieve the healthful air standards mandated by the Clean Air Act of 1970.

So the Los Angeles area is faced with three alternatives: (1) to continue to rely on the private automobile as virtually the sole means of transportation and therefore ensure that the standards of the Clean Air Act cannot be achieved (this presumes that the law will not be enforced); (2) to reduce automobile traffic drastically in the absence of an alternative balanced transportation system and thus invite economic chaos caused, for example, by people not being able to travel to work. (Such chaos is no longer imaginary: on Thursday, July 26, 1973, the EPA requested all federal offices in the Los Angeles air quality control area voluntarily to close their offices because of the expected heavy smog. Some 25,000 federal officials remained at home that day. *Los Angeles Times*, July 27, 1973, p. 1); or (3) to develop a balanced transportation system including mass rapid transit. The unacceptability of the first two alternatives dramatizes the importance of the third.

The urgent problems of air pollution and the danger it presents to the health and welfare of the citizens of the Los Angeles Air Quality Control Region (and indeed every major urban area in California) are not the only adverse results of the failure to develop a balanced transportation system. The indirect costs, environmental damage and social disruption which have resulted from the failure to develop such a balanced transportation system include the following:

Traffic congestion: Construction of new freeways generates new automobile travel. This familiar phenomenon has come to be known as the "freeway effect":

"The freeway effect (growth breeds growth) occurred in California as a result of the construction of improved, limited-access roadways. These roads were intended to relieve traffic congestion. They caused, instead, increased use of the available roadways, and the people changed their living habits to suit their convenience." Inman, D. L. and Brush, B. M., "The Coastal Challenge," *Science*, Vol. 181, No. 4094, p. 31 (July 6, 1973).

TRW, Inc. estimates that I-105 (Century) Freeway in Los Angeles, which respondents plan to construct before 1977, will generate 26% additional new traffic per year in the LA Basin by its mere presence. In contrast, the "normal" rate of traffic growth in Los Angeles is 3.7%. City of Los Angeles, Department of Traffic, *Cordon Count: Downtown Los Angeles, May 1970*, at 21, 35.

Construction of new freeways or increasing the automobile capacity of existing freeways has the long-run effect of increasing traffic because so long as capacity remains fairly stable there is a constant state of congestion during peak driving hours. See Bureau of Public Roads, *Highway Capacity Manual* (1969). This congestion creates an impediment to additional travel but does not eliminate the latent demand for more trips. When a new freeway opens up the pent-up demand is unleashed; within a matter of two to four years the additional traffic capacity is used up, and congestion reigns again. Then, of course, the highway engineers begin to plan a new freeway. Institute of Public Administration, *Evaluating Transportation Controls to Reduce Motor Vehicle Emissions in Major Metropolitan Areas*, March 16, 1972 (mimeographed) 3.19-3.22. This traffic-inducing effect of road construction leads transportation experts to the conclusion that only alternative transportation systems can break the vicious spiral. *See, e.g.*, Note, "Litigating the Freeway Revolt: *Keith v. Volpe*," 2 Ecology L.Q. 761, 763 (1972); Robert A. Burco and David Curry, *Future Transportation Systems: Impacts on Urban Life and Form* (Stanford Research Institute, 1968).

Social Costs: It has been estimated that 20% of American families do not drive automobiles. In Los Angeles, the figure may be closer to 40%. *Hearings Before the House of Representatives Committee on Public Works, Subcommittee on Transportation*, March 20, 1973. They are especially the young, the old, the poor, and the handicapped. Many are members of racial minorities. The lack of adequate public transportation seriously curtails the mobility of this substantial minority and restricts their opportunities for employment, housing and other social contacts. The McCone Commission report found one of the primary causes of the 1965 Watts riots to be the isolation of ghetto areas produced by the absence of effective public transportation. *Hearings before the Subcommittee on Executive Reorganization of the Senate Committee on Government Operations*, 89th Cong., 2d Sess. 893 (1966).

Urban sprawl and loss of open space: The sprawling development of the Los Angeles area is a direct result of the exclusive reliance on the freeway and the private automobile for urban transportation. Along with urban sprawl comes the loss of open space. The Los Angeles area has less open space per resident than any other metropolitan area in the country. Sprawling development requires expensive public facilities and services such as schools, sewer projects, police and fire protection to be furnished in outlying areas unprepared to provide them. Furthermore, the automobile itself presents a serious land use problem. Highway rights-of-way greatly exceed those required for public transit. Parking space consumes a vast share of the downtown business area—in Los An-

geles almost 60% of the downtown area is devoted to the automobile. J. Robinson, *Highways and Our Environment*, 79 (1971).

Housing and property taxes: Urban freeways cause the displacement of large numbers of people and the destruction of housing, usually of the scarce low and moderate price variety. In Los Angeles, for example, the proposed Century Freeway (I–105), if completed, will displace approximately 21,000 people and will result in the destruction of approximately 6,000 dwelling units, consisting almost entirely of low and moderate price housing. *Keith v. Volpe*, 352 F. Supp. 1324 (C.D. Cal. 1972). Furthermore, urban freeways and streets greatly diminish the tax base of financially hard-pressed cities, counties and school districts. This results in higher taxes for the remaining property taxpayers, and a substantial hidden subsidy to the highway users.

Energy and Natural Resources: Overreliance on the private automobile also contributes significantly to the nation's energy and natural resources problems. Although the causes remain in dispute, there is presently an apparent gasoline shortage in this country. Experts agree that there is a vital need to conserve energy and natural resources. Yet the number of private automobiles and the gallons of gasoline consumed in their engines continues to grow. TRW, Inc., *Prediction of the Effects of Transportation Controls on Air Quality in Major Metropolitan Areas, supra.* It is well known that mass transit consumes far less energy for urban transportation than does transportation by private automobile. One study shows that mass transit uses far less than half the energy per passenger mile that the private automobile uses. Hirst, E. and Herendeen, R., *Total Energy Demand for Automobiles*, Society of Automotive Engineers, Inc., 1973, at p. 3. Another study indicates that the private automobile may use as much as five times the energy per passenger mile as does mass transit. Grimer, D. P. and Lusczynski, K., "Lost Power" in *Environment*, April 1972, p. 16. Furthermore, the indirect energy costs of the freeway-automobile transportation system which include the energy consumed in the construction and maintenance of both the freeways and the automobiles and the discovery and production of oil are extremely high. Hirst, E. and Herendeen, R., *Total Energy Demand for Automobiles, supra*, at 3–4. The authors conclude:

"Another energy conservation strategy involves the use of mass transit rather than autos to reduce the need for additional highways. Transit systems can move eight times as many people per highway lane as autos can. A shift to mass transit would reduce highway construction and its concomitant energy demand." *Id.* at 4.

Respondents' refusal, contrary to law, to act as if highway as used in Article XXVI means anything other than a road for automobile travel is a primary cause of the critical problems discussed above. Article XXVI governs the expenditure of approximately $1.4 billion annually. This accounts for almost 90% of the State funds available for transportation purposes. Thus, the interpretation of Article XXVI virtually determines state transportation policy:

"Article 26, by supplying an abundance of state-generated revenues earmarked for one mode of transportation when nothing was available for alternatives, has fostered decisions at the local level leading to the decline and, in most cases, failure of competing modes and our present total dependence on the automobile." E. Rolph, *Article 26: Obstacle to Improved Transportation in California*, 11 (September 15, 1972) [published in *Transportation for the Future: Mass or Mess* (October 19, 1972).]

It is not, however, Article XXVI which has led to the failure to develop a balanced transportation system, but rather respondents' refusal correctly to interpret "highway purposes" in Article XXVI as including any public way for public use, including mass rapid transit.

Respondents' refusal to consider mass rapid transit as a "highway purpose" within Article XXVI is seriously jeopardizing petitioners' efforts to comply with the Clean Air Act by depriving the cities and counties of tax funds which could properly be applied immediately to the costly tasks of planning and constructing mass transit and other alternative transportation systems. Furthermore, respondents' expressed intent to use most of the $1.4 billion annual proceeds of gas and highway user taxes for construction of additional freeways (*1972 Annual Highway Planning Report, Summary Report*, State of California Business and Transportation Agency, Department of Public Works, March 1973), is a direct threat to attainment of the national air quality standards because it encourages *additional* automobile use in the face of a legal duty under the Clean Air Act to discourage such use. As the following section will show, respondents' refusal to consider mass rapid transit as a highway purpose within Article XXVI is based on a serious misinterpretation of that constitutional provision.

Petitioners of course do not assert in this petition that funds governed by Article XXVI may no longer be used for the construction and maintenance of roads and freeways for the use of motor vehicles. Indeed, it is clear that a large share of those funds will continue to be used for just such purposes. Petitioners do assert, however, that the law vests in respondents the duty and responsibility to exercise their discretion to allocate funds governed by Article XXVI to mass transit in appropriate cases. For all the reasons above, petitioners respectfully submit that this is an issue of overriding public importance which this Court should decide by exercise of its original jurisdiction.

III. THE LEGISLATURE HAS A DUTY TO CONSIDER ALLOCATING GAS TAX FUNDS FOR MASS TRANSIT

A. *The Legislature Presently Refuses to Consider Using Funds Subject to Article XXVI For Any Purpose Other Than Roads Designed For Automobiles, Trucks and Buses.*

The Legislature is empowered by Article XXVI to appropriate moneys and provide the manner of their expenditure for the purposes specified by that article. Cal. Const. Act. XXVI, § 3.

Relying solely on the language of Article XXVI, which provides that the proceeds from gas tax and registration license fees shall be used exclusively "for highway purposes, the Legislature refuses to allocate any such funds to mass transit. It is the view of the Legislature that Article XXVI prohibits the use of funds subject to that article for anything other than roads adapted to automobiles, or structures directly incidental thereto, and that only such roads are encompassed by the term "highway." *Infra*, p. 47. *See* Affidavit of Mary D. Nichols, attached hereto as Exhibit "5" and the Opinion of the Attorney General attached hereto as Exhibit "4."

B. *The Legislature's Interpretation of the Phrase "For Highway Purposes" in Article XXVI is Invalid.*

1. Article XXVI adopted the prevailing definition of "highway."

When Article XXVI was presented to the voters for ratification in 1938, it was understood by both its proponents and opponents to make no change in existing law. The ballot argument in favor of Proposition 28—which was adopted as Article XXVI of the California Constitution—states:

"This proposed constitutional amendment, when adopted by the voters, will effectively and permanently prevent diversion of gasoline tax funds to purposes other than those now provided by law." Ballot Pamphlet, General Election, June 1938 at 8. (Exhibit "2" hereto.)

The proponents, Senators William F. Knowland and Sanborn Young, argued that:

"The measure is carefully drawn and eminently fair. It makes no change in existing law, nor does it change any of the present uses for white gasoline taxes and other highway fund revenues are expended." Id.

The opposition to Proposition 28, signed by Malcolm M. Davisson, agreed that the amendment would change nothing:

"The purpose of this amendment is to prevent effectively and permanently the diversion of motor vehicle fuel taxes and motor vehicle registration license fees to purposes other than those now provided by law. This purpose is accomplished under existing laws; and the amendment, therefore, is unnecessary." Ballot Pamphlet, General Election, June 1938, at 9. (Emphasis in original.)

2. The "existing law" at the time Article XXVI was adopted defined a highway as any public way.

This Court established the legal definition of "highway" in 1935, in the only reported case interpreting the predecessor statute to Article XXVI. The California Vehicle Act, Stat. 1923, c. 266, sec. 159, provided that motor vehicle registration fees must be deposited in a "Motor Vehicle Fund." In City of Long Beach v. Payne, 3 Cal. 2d 184 (1935), the issue before the Court was whether Los Angeles County could use a portion of the money allocated to it from the Motor Vehicle Fund to improve and repair certain canals in the City of Long Beach. The County Auditor refused to pay over the funds, and the City sought a mandamus to issue against the Auditor directing payment.

Section 159 of the California Vehicle Act, as amended in 1933, directed that Motor Vehicle Fund moneys allocated directly to the counties ". . . shall be expended by such counties exclusively on the construction, maintenance, improvement or repair of streets, roads, highways, bridges or culverts therein . . . ." The Court observed that canals cannot reasonably be "streets," "roads," "bridges," or "culverts," but held that they were included within the definition of "highways."

"We find no definition of 'highway' given in the California Vehicle Act. As near as that act comes to defining a highway is to be found in the definition of a 'public highway,' which is defined to mean, 'Every highway, road, street etc.' In other words, the act defines public highway as a highway, but makes no attempt to define 'highway.' " Webster's New International Dictionary (2d Ed.) recently issued by G. & C. Merriam Co., publishers, defines a highway as follows: 'A main road or thoroughfare; hence a road open to the use of the public, including in the broadest sense of the term ways upon water as well as upon land.' The definition given by Bouvier's Law Dictionary conveys the same meaning. It is in the following words: 'The term highway is the generic term for all kinds of public ways, whether it be carriage-ways, bridle-ways, foot-ways, bridges, turnpike roads, *railroads*, canals, ferries, or navigable rivers.' In 4 Words and Phrases, First Series, 3292, among numerous definitions of the same general tenor, we find the following: 'The term highway is the generic term for all kinds of public ways, including county and township roads, . . . *railroads and tramways*, bridges and ferries, canals and navigable rivers. In fact, every public thoroughfare is a highway.'—citing Southern Kansas Ry Co. v. Oklahoma City, 12 Okl. 82, [69 P. 1050, 1054]; Union Pacific R.R. v. Colfax County Commrs, 4 Neb. 450, 456; Board of Shelby County Commrs v. Castetter, 7 Ind. App. 309, [33 NE 986, 34 N.E. 687]." 3 Cal. 2d 184 at 188–189. (Emphasis added.)

Article XXVI itself contains no definition of "highways." The word must therefore be interpreted in the sense in which it was understood in 1938—that is, as the Supreme Court established in *Long Beach v. Payne, supra,* that a highway is any public thoroughfare. This rule of construction was applied by the Court in the *Long Beach* case:

"[A]fter the courts have construed the meaning of any particular word, or expression, and the Legislature subsequently undertakes to use these exact words in the same connection, the presumption is almost irresistible that it used them in the precise and technical sense which has been placed upon them by the courts. In re Nowak, 184 Cal. 701, 705 [195 P. 402]." *Long Beach v. Payne, supra,* at 191.

In a 1929 case the Court had ruled that a canal could serve a highway purpose. *Wattson v. Eldridge,* 207 Cal. 314, 278 P. 236. Holding that the City of Los Angeles could fill in canals in Venice for use as city streets, the Court noted:

"There cannot, therefore, be any question but that a canal is a highway of a peculiar kind. (9 Cor. Jur. 1125, sec. 1.) The dedication of a highway to public use authorizes any ordinary use for highway purposes. With changing conditions of travel and use a city has a right to adapt and approprite its highways from time to time to such uses as in its judgment would be most conducive to the public good, and the courts should be slow to interfere with the exercise of this discretion." *Wattson v. Eldridge,* 207 Cal. 314, 321.

Four years after the *Wattson* decision, the Legislture amended § 159 of the Motor Vehicle Act to add "highways" as a permissible use of Motor Vehicle Fund moneys. This use of the word "highways" without further definition constituted an adoption of the *Wattson* definition, the Court held. *Long Beach v. Payne,* 3 Cal. 2d at 191.

Similarly, the use of the word "highway" in Article XXVI, three years after the decision in *Long Beach* v. *Payne,* must be presumed to reflect the legislative drafters' knowledge of the definition the Court had established. This rule of statutory and constitutional construction has been followed by this Court and the California Courts of Appeal in a long line of cases. *See, e.g., County of Sacramento* v. *Hickman,* 66 Cal. 2d 841 (1967); *Perry* v. *Jordan,* 34 Cal. 2d 87 (1949); *Michels* v. *Watson,* 229 Cal. App. 2d 404 (1964). In *County of Sacramento* v. *Hickman,* this Court quoted with approval the statement of the rule by the Court of Appeal in *Michels* v. *Watson*: "'In the absence of contrary indication in a constitutional amendment, terms used therein must be construed in the light of their statutory meaning or interpretation in effect at the time of its adoption.' (*Michels* v. *Watson* (1964) *supra,* 229 Cal. App. 2d 404, 408.)" 66 Cal. 2d at 850.

3. The Legislature itself has used "highway" in the broad sense required by *Long Beach* v. *Payne.*

In 1937, the Legislature adopted an amendment to the Streets and Highways Code reflecting its acceptance of the Supreme Court's definition of "highway" in *City of Long Beach* v. *Payne, supra.* The amendment provides:

"100.5. Whenever the location of a State highway is such that a ferry must be used to completely traverse said highway, the department may construct, maintain and operate such a ferry. . . . Whenever a highway between the termini of which a publicly owned ferry is used, the title to the ferry and all the appurtenances thereto vests in the State." Stats. 1937, Ch. 931.

A water route suitable for a ferry is patently not a road traversible by automobiles. The legislative use of the term "highway" to describe such a route demonstrates that the *Payne* definition had been adopted prior to the use of the term in Article XXVI. "Highway" must therefore be interpreted as meaning "all kinds of public ways." *City of Long Beach* v. *Payne, supra* at 189.

4. The purpose of Article XXVI was to prevent diversion of fuel tax and other motor vehicle taxes from transportation needs to the state general fund.

California began in 1923 to require that motor vehicle registration fees be deposited in a special Motor Vehicle Fund for exclusive use in connection with county roads or "public highways." Stats. 1923, Ch. 266, § 159. Motor vehicle fuel taxes were imposed for the first time that same year, with half the proceeds to be deposited by each county in a "special road improvement fund," and the rest to be used for maintenance of "state highways." Stats. 1923, Ch. 267, § 13.

By the mid-1930s, highway taxes provided a temptingly dependable source of revenue for a Legislature feeling the pinch of depression. Legislators began to dip into the highway funds to support general expenditures—including unemployment compensation, parks, and even oyster propagation. Hanna, "John Motorist Battles to Save His Gas Tax," *Westways* v. 30, no. 4 (1938). Diversions of state gas tax funds from 1929 to 1938 were said to have amounted to $1 billion on a nationwide basis. Editorial, "Gas Tax Grabs and Safety," *Los Angeles Times,* June 12, 1938. In 1938, the Automobile Club of Southern California and the California State Automobile Association led the fight for a constitutional amendment to prevent such diversion "for all time." "Diversion Hit," *Los Angeles Times,* May 8, 1938.

The purpose of the constitutional amendment, Article XXVI, was to preserve the fuel tax and registration fee funds for public transportation needs, as they were then conceived. Privately owned, unsubsidized mass transportation companies such as the Pacific Electric Company's "Big Red Cars" were on the brink of insolvency and were cutting back on service at the same time the private automobile—with the aid of protected tax money for more streets and roads—was taking over an increasing number of passenger miles traveled. R. Hebert, "L.A.'s Big Red Cars—They Went Places," *Los Angeles Times,* July 22, 1973, p. 3. Smerck, *Readings in Urban Transportation* (1968) at 32. But in 1938 street car tracks ran down the center or at the side of roads traversed by automobiles, bicycles and pedestrians, and the vision conjured by the word "highway" in the urban Californian's mind could well have included metal rails. In fact, the last "Big Red Cars" did not cease running to Watts and Long Beach until 1961. Banham, *Los Angeles: The Architecture of Four Ecologies* (1971) 79–83. In any event, the issue of roads for automobiles to the exclusion of rapid transit or other alternative transit systems was never raised. It was the use of motorists' tax funds for nontransportation purposes that incensed the Auto Club's membership in 1938. *A Friend to all Motorists—The Story of the Automobile Club of Southern California* 137–139 (1968).

5. This Court has consistently reaffirmed its broad definition of "highway."

The broad definition of highway adopted by the Court in *Payne* was reaffirmed three years after adoption of Article XXVI in *City and County of San Franvisco* v. *Boyd,* 17 Cal. 2d 606 (1941). In that case, the City of San Francisco sought a writ of mandamus against the State Controller, to certify that there was a sufficient balance in certain funds subject to Article XXVI allocated to the County's account to hire a consulting engineer "to aid in the solution of traffic and transit problems." The Controller refused to certify the expenditure on the ground that the funds, if available, could not legally be used for the specified purpose. The Court issued the writ, holding that the consulting contract was a legitimate "highway purpose":

"As to the appropriation from the accrued surplus in the county road fund, the respondent contends that monies derived from gasoline taxes and registration license fees, and transferred by the state to the county, cannot be used in connection with Purcell contract. We cannot accept the contention. Section 1622 of the Streets and Highways Code, St. 1937, p. 2562, provides that such monies 'shall be deposited in a special road improvement fund' and shall be expended by the county 'exclusively for the acquisition of real property or interests therein, or the construction, maintenance or improvement of highways, bridges or culverts in that county.' . . . .

"That the County Road Fund Act should be construed liberally is indicated by our decision in *Long Beach* v. *Payne.* [citation omitted] wherein it was held that highways included canals as an integral part of the highway system." *San Francisco v. Boyd, supra,* at 612–613.

In a later decision not involving application of Article XXVI, Justice Traynor again pointed out that the meaning of "highway" is not frozen by the common understanding of any particular moment in history. In *Hollaway v. Purcell,* 35 Cal. 2d 220 (1950), plaintiff taxpayers brought suit to enjoin relocation of a state highway, urging among other grounds that the provision of Article IV, Section 36 of the California Constitution that "The Legislature shall have power to establish a system of state highways" precludes the Legislature from authorizing construction of a freeway or limited-access highway because the term "highway" was not understood to encompass such roads when the constitutional provision was adopted in 1902. Affirming the judgment for defendants, Justice Traynor wrote for a unanimous court,

"The Constitution authorizes the Legislature to establish a system of highways adequate to meet the needs of the state, 'and to pass all laws necessary and proper to construct and maintain the same.' The type of highway that is adequate to meet traffic needs necessarily varies with the character and extent of those needs." *Holloway v. Purcell, supra,* at 228–229 (1950).

See also, People v. Western Airlines, Inc., 42 Cal. 2d 621, 635 (1954) (holding that an airlines is within the definition of "railroad or other transportation company" as used in Article XII of the California Constitution of 1879).

Article XXVI was wisely drafted in general terms to meet future needs as they might develop, limiting the use of fuel and registration taxes only to broad "highway purposes." The dictionary definition of "highway" has not grown more restrictive in the 35 years since Article XXVI was enacted. *Webster's Third International Dictionary Unabridged* defines it thus:

"*Highway* 1a: a road or way on land or water that is open to public use as a matter of right, whether or not a thoroughfare . . . compare *private way* b: such a road or way established and maintained (as by a State) in accordance with law." *Webster's Third International Dictionary Unabridged* 1069 (1966).

But the transportation needs of California *have* changed since 1938. Freeway congestion is now known to be a vicious circle, which construction of new freeways will not break. Federal air pollution law requires that we adopt new modes of transportation. See Section II of this Memorandum *supra* at 5.

Publicly owned and financed mass rapid transit facilities now present a necessary and viable alternative—an alternative which the City of Riverside and the Mayor of Los Angeles are eager to implement as quickly as funds can be made available. In light of the progressive rule of constitutional interpretation applied in *Holloway v. Purcell, supra,* this Court should clear away a major stumbling block by reaffirming the substantial line of cases beginning with City of

Long Beach v. Payne, and holding that, in 1973, highway is also mass rapid transit.

C. Summary and conclusion

The legislature has refused to exercise its discretion, as mandated by Article XXVI, § 3, to consider appropriating any of the $1.4 billion annual revenue from gas tax and motor vehicle license fee funds to mass rapid transit or other alternative transportation systems. It bases this refusal on the erroneous view that the language of Article XXVI, restricting the use of such funds to "highway purposes," precludes using any moneys governed by Article XXVI for rapid transit.

The Legislature's interpretation of Article XXVI is invalid because the word "highway" was defined at the time of Article XXVI's adoption as including "all kinds of public ways," including railroads. *City of Long Beach v. Payne*, 3 Cal. 2d 184, 186 (1935). That definition of highway was not changed by Article XXVI, which sought only to prevent diversion of motor vehicle funds to purposes other than those provided by law at the time of its adoption in 1938. The law in 1938, as interpreted by this Court, permitted the use of highway funds in connection with all kinds of public ways.

The purpose of Article XXVI was to prevent raids on the motor vehicle funds for general budgetary purposes. Petitioners do not challenge that purpose, nor do they seek to compel the Legislature to allocate the funds subject to Article XXVI to any particular project. They seek only to establish their right to have such funds used for *all* lawful purposes under Article XXVI. This Court should order the Legislature to exercise its discretion to consider mass rapid transit and other alternative transportation systems as proper "highway purposes" within the meaning of Article XXVI.

IV. THE CALIFORNIA HIGHWAY COMMISSION HAS A DUTY TO CONSIDER ADOPTING RAPID TRANSIT AND ALTERNATIVE TRANSPORTATION SYSTEMS AS STATE HIGHWAYS

A. Introduction: The Statutory Framework

Pursuant to § 2106 of the Streets and Highways Code, a fixed sum per gallon tax collected under the Motor Vehicle Fuel License Tax Law is apportioned among counties and cities. These apportionments must be spent exclusively for acquisition of rights of way for and construction of routes on the "select system of county roads and city streets" established under Section 186.3, Str. & H. Code, *except* that the funds may be spent for the same purpose upon a State highway. Conceding that a rapid transit system may not be a county road or a city street, under the definitions established by *City of Long Beach v. Payne, supra*, a city or county may spend gas tax money upon such a system only if it is a "state highway." As demonstrated in Section III of this Memorandum, *supra*, a mass transit system is a highway. To be labelled a *state* highway, it must be selected, adopted and its route location approved by the California Highway Commission (hereinafter "the Commission"). Str. & H. Code § 75.

The Commission refuses to consider a mass rapid transit system as a state highway. It apparently bases its refusal upon its interpretation of "highway" as used in the sections of the Streets and Highways Code implementing Article XXVI and in Article XXVI itself. The Commission's interpretation is erroneous in both cases.

B. The Streets and Highways Code Incorporates the Payne Definition of Highway

1. The word "highway" in the 1935 Streets and Highways Code was carried over from the 1923 Vehicle Act.

In 1935, the Legislature enacted the first Streets and Highways Code, "thereby consolidating and revising the law relating to public ways and all appurtenances thereto." Stats. 1935, c. 29, p. 248. The codification was approved on March 27, 1935—one month before the decision in *City of Long Beach v. Payne* came down—and was in effect on September 15, 1935. West's Ann. Str. & H. Code p. 1. The limitation on expenditures by cities and counties of gas tax funds was carried over from the old Motor Vehicle Act, which was adopted in 1923. Under Section 159 of the Vehicle Act, automobile registration fees were deposited in a Motor Vehicle Fund. One half of the receipts were to be paid to counties to be spent exclusively in "the construction and maintenance of public roads, bridges, and culverts in said counties," Stats. 1923, c. 266, § 159. Section 159 was amended in 1933 to broaden the scope of possible expenditures by counties to include "the construction, maintenance, improvement or repair of streets, roads, *highways*, bridges or culverts there." Stats. 1933, c. 1031, § 159(c). (Emphasis added.) It was this statute that the Court interpreted in 1935 in the *Payne* case, *supra*.

A different statute, also first adopted in 1923, imposed a tax on motor vehicle fuels, the proceeds of which went into a separate "Motor Vehicle Fuel Fund." Half the receipts of that fund were allocated to counties to be spent "exclusively in the construction and maintenance of roads, bridges, and culverts in each such county." Stats. 1923, c. 267 §§ 1, 13. This limiting language was not changed until adoption of the first Streets and Highways Code in 1935.

The Streets and Highways Code merged the provisions of the two preceding statutes relating to use of the tax funds by counties. The new law provided that:

"All amounts paid to each county, out of money derived from motor vehicle fuel license taxes and vehicle registration license fees imposed by the State, shall be deposited in a 'special road improvement fund' which each board of supervisors shall establish for that purpose. Except as otherwise provided in this article, such money shall be spent exclusively in the construction, maintenance or improvement of county *highways*, bridges, or culverts in that county." Stats. 1935, c. 29, § 1622. (Emphasis added.)

Thus, the term "highway" was added to the permissible uses of gas tax funds without further definition in 1935. The history of the section demonstrates that highway was intended to have precisely the same meaning that it had in Section 159 of the Vehicle Act—that is, the broad meaning established by *City of Long Beach v. Payne, supra*.

2. The definition of "highway" has remained the same through succeeding amendments to the Streets and Highways Code.

The Collier-Burns Act of 1947 has been the only major legislative revision in the highway program since 1935. That act increased gasoline and diesel taxes and registration fees, divided the State Highway Construction Fund into two shares, allocating 45% to the northern part of the State and 55% to the South, and increased the apportionment of revenues to the cities and counties. Stats. 1947, 1st Ex. Sess., c. 11. The Legislature declared that this act was enacted "in furtherance of the policy and purpose of Article XXVI of the Constitution." *Id.* at 43. Obviously, if the Legislature was dissatisfied with the interpretation of "highway" in Article XXVI which was established in *City of Long Beach v. Payne*, 3 Cal. 2d 184, in 1935, and reiterated in *City and County of San Francisco v. Boyd*, 17 Cal. 2d 606, in 1941, it would have taken the opportunity to enact a narrower definition. It did not do so. It is, therefore, clear that the term highway as used in § 75 and § 186.3 Str. & H. Code, is intended to be used in precisely the same broad sense in which it is used in Article XXVI. Thus, there is no obstacle, legislative or constitutional, to the Commission exercising its discretion to consider selecting, adopting and determining the location for mass rapid transit systems, to allocate funds governed by Article XXVI for such purposes, and to permit cities and counties to spend their allocations of Article XXVI on such systems once they are adopted as state highways.

C. The Commission is Violating the Command of Streets and Highways Code § 75.7 in Failing to Consider Adopting Rapid Transit Systems as State Highways.

When the Commission exercises its discretion to adopt a state highway route, it is required to issue a report containing "the basis for its decision, including the consideration given to the following factors:

(a) Driver benefits
(b) Community values
(c) Recreational and park areas
(d) Historical and aesthetic values
(e) Property values, including impact on local tax rolls
(f) State and local public facilities
(g) City street and country road traffic
(h) Total projected regional transportation requirements." Cal. Str. & H. Code § 75.7.

The Commission is violating the statutory mandate to consider all the factors listed above in determining what are "highways," since, under the *Payne* definition, rapid transit lines are highways.

In order to give full and unfettered consideration to item (b), "Community values," and item (h), "Total projected regional transportation requirements," the Commission must be able to consider adopting rapid transit instead of or in addition to roads for motor vehicles. Failure to exercise its discretion to consider rapid transit as state "highways" is a clear violation of the statutory requirement to consider community values, *e.g.*, the community's interest in a reduction in air pollution, and total transportation needs.

D. Summary and conclusion

Cities and counties must spend their share of the gas tax revenues on "state highways" if they choose not to spend all or part of their allocation for city streets and county roads. The Commission has refused to consider adopting rapid transit systems as state highways, basing its refusal on Article XXVI of the Constitution and implementing legislation. This refusal not only is without legal basis, since the term highway encompasses rapid transit systems under previous decisions of this Court; it also violates the express statutory command of Streets and Highways Code §75.7 that the Commission consider community values and total projected regional transportation requirements in determining what shall be state highways.

V. THE ATTORNEY GENERAL'S OPINION ON WHICH RESPONDENTS PURPORT TO RELY FOR THEIR REFUSAL TO CONSIDER MASS RAPID TRANSIT AS A HIGHWAY PURPOSE IGNORES APPLICABLE CASE LAW, BUT ITS LOGIC SUPPORTS PETITIONERS

A. The Attorney General's Opinion Has No Basis in California Law.

In an Opinion issued June 6, 1973, Ops. Cal. Atty. Gen. No. CV 72/357 attached hereto as Exhibit "4," Attorney General Evelle J. Younger concludes that Article XXVI bars the appropriation of motor vehicle fuel taxes for the construction or maintenance of a rapid transit system. This Opinion does not cite or consider the application of the three principal California cases dealing with the proper definition of highway discussed above: *Wattson v. Eldridge*, 207 Cal. 314; *Long Beach v. Payne*, 3 Cal.2d 184; and *San Francisco v. Boyd*, 17 Cal.2d 606. The sole case cited for the proposition that "highway purposes" excludes rapid transit lines is a Massachusetts decision, *In re Opinion of the Justices*, 85 N.E.2d 761 (1949). The opinion relies primarily on prior Attorney General's opinions, *see* 47 Ops. Cal. Atty. Gen. 145 (1966); 47 Ops. Cal. Atty. Gen. 28 (1966); 27 Ops. Cal. Atty. Gen. 15 (1956), none of which acknowledges the existence of applicable California case law.

That the Massachusetts definition of a highway is not dispositive of the intention of California statutes was clearly established in the *Payne* case, *supra*, at 190, in which the Court observes:

"Counsel for respondent have cited decisions from other jurisdictions holding that in certain instances the term 'highway' does not include a canal, but these authorities are out of line with the general trend of decisions upon the subject, and are in direct conflict with the decision of this court in *Wattson v. Eldridge, supra*. We are therefore of the opinion that the term 'highway' as generally used and understood is sufficiently comprehensive to include canals as an integral part of a highway system."

The Attorney General asserts, at p. 4, that a "long-standing legislative interpretation of article XXVI supports a restrictive definition of highway purpose." As petitioners have demonstrated in the foregoing sections, the Legislature has never explicitly adopted such an interpretation, and its current view is based on an invalid construction of the word "highway."

B. *The Attorney General's Conclusion that Bicycle Lanes or Trails May Serve a "Highway Purpose" is Equally Applicable to Mass Rapid Transit Systems.*

Despite the groundless assertion that "highways" are only for motor vehicles, the Attorney General's opinion concludes that "pedestrian, equestrian, or bicycle lanes or trails" may be funded by motor vehicle fuel tax revenues. The Attorney General reasons as follows:

"[I]t is apparent, for instance, that the construction and maintenance of pedestrian facilities, such as sidewalks and pedestrian overcrossings and undercrossings, which serve to separate pedestrian traffic from motor vehicle traffic on the highway, serve a 'highway purpose' in that pedestrians who might use the streets and highways for transportation are removed from the highway thereby increasing the traffic capacity and safety of such street or highway." *Id.* at 4–5.

Petitioners agree. Under this reasoning, even if this Court were to adopt the constricted definition that a "highway" is only a "road," as proposed by the Attorney General, it should hold that a mass rapid transit system is a valid furtherance of such "road" purposes. Mass rapid transit facilities relieve traffic congestion and improve safety by reducing the use of motor vehicles. See Institute of Public Administration, *Evaluating Transportation Controls to Reduce Motor Vehicle Emissions in Major Metropolitan Areas*, App. E 1–20 (November 1972). As shown in Section II of this Memorandum, *supra*, at 6–7, constructing mass rapid transit as an alternative to roads in appropriate cases can also forestall the creation of new freeways, thereby mitigating the pressure to commit future revenues to additional automobile routes. Thus, even under the Attorney General's definition, rapid transit serves a "highway purpose" and moneys governed by Article XXVI may therefore be allocated for rapid transit in appropriate cases.

VI. THE WRIT OF MANDATE IS THE APPROPRIATE REMEDY TO COMPEL RESPONDENTS TO CONSIDER REQUESTS FOR MONEYS GOVERNED BY ARTICLE XXVI TO BE USED FOR DEVELOPMENT OF MASS RAPID TRANSIT AND OTHER PUBLIC WAYS OPEN TO PUBLIC USE

As this section will show, petitioners properly seek a writ of mandate to compel respondents to perform a public duty involving the public welfare of virtually every citizen of the State of California.

The California Code of Civil Procedure, section 1085, provides that the writ of mandate may be used ". . . to compel the performance of an act which the law specially enjoins as a duty resulting from an office, trust, or station. . . ." Section 1086 requires that the writ ". . . must be issued in all cases where there is not a plain, speedy, and adequate remedy in the ordinary course of the law. It must be issued on the verified petition of the party beneficially interested."

These statutory elements have been interpreted as requiring that the petitioners show a clear, present (and usually ministerial) duty on the part of respondent coupled with a clear, present and beneficial right in the petitioner. Additionally, the petitioner often must show that he has made a demand that the duty owed be performed. However, this Court has held that when the duty invoked in a petition for a writ of mandate affects the public welfare, some of these requirements are relaxed. *Hollman v. Warren*, 32 Cal. 2d 351 (1948); *Ballard v. Anderson*, 4 Cal. 3d 873 (1971). For instance, when a petitioner can show that he seeks to compel the performance of a public duty, he need not allege that he himself is personally and beneficially interested. *Hollman v. Warren, supra; Fuller v. San Bernardino Valley Mun. Wat. Dist.*, 242 Cal. App. 2d 52 (1966) [citing cases]; *see also Jensen v. McCullough*, 94 Cal. App. 382 (1928).

A. *Respondents Have a Clear, Present Duty to Consider Requests for Moneys Governed by Article XXVI to be Used to Develop Any Public Way to Open to Public Use Including Mass Rapid Tarnsit and Other Alternative Transportation Systems.*

The language and purpose of Article XXVI do not limit or restrict the use of gas taxes and vehicle registration fees for the construction, improvement or maintenance of legitimate public transportation systems. As shown above, past decisions of this Court establish that the "highway purposes" included within Article XXVI contemplate the use of funds for the creation of varied transportation system, including mass rapid transit. A proper interpretation of "highway purposes" establishes a clear and present duty in respondents to consider requests for funds governed by Article XXVI to be used in the creation of a variety of transportation systems not limited to streets, roads, or freeways, capable of carrying cars, trucks and buses and to appropriate those funds for such purposes in proper cases.

In seeking to compel respondents to consider requests for funds to be used on all legitimate public transportation systems, petioners do not seek to have this Court control the *manner* in which respondents exercise their discretionary power, but only to require that they exercise it. It is well established that the writ of mandate may be used to compel the exercise of discretionary power when there has been a complete absence of the use of such power. *Thurmond v. Superior Court*, 66 Cal. 2d 836 (1967); *Erlich v. Superior Court*, 63 Cal. 2d 551 (1965); *Hollman v. Warren, supra; Memorial Hospital of Southern Cal. v. State Health Planning Council*, 28 Cal. App. 3d 167 (1972); *Betancourt v. Workmen's Compensation Board*, 16 Cal. App. 3d 408 (1971).

The use of the writ of this purpose is particularly appropriate when, as in the present case, the public agency charged with a refusal to perform a duty has based its refusal on an erroneous view of the law.

"The availability of mandate is not limited to these situations when there has been an abuse of discretion, but also extends to cases where a trial court refuses to exercise its discretion because of a mistaken belief that the court had no discretion in the premises. . . ." *Erlich v. Superior Court, supra*, at 556.

The general principle established by these cases that the writ of mandate can be used to compel the exercise of vested discretionary power, has been applied against administrative officers as well as judicial ones. *Hollman v. Warren, supra, Betancourt v. Workmen's Compensation Board, supra; Memorial Hospital of So. Cal. v. State Health Planning Agency, supra.* Agencies and individuals in these cases had refused to exercise judgment with respect to a given subject, in the belief that they were not empowered to act at all. The writ of mandate operated in these situations to clarify a rule or law affecting the exercise of discretionary power and to compel the exercise of that power.

Hollman v. Warren, supra, is a case directly analogous to the instant case. In that case, Governor Warren had failed to exercise his discretion to appoint notaries public in San Francisco because he was under the erroneous impression that the law allowed him no such discretion. This Court issued a peremptory writ of mandate to compel Governor Warren to exercise his discretion to appoint the notaries, stating that:

"While ordinarily, mandamus may not be available to compel the exercise by a court or officer of the discretion possessed by them in a particular manner, or to reach a particular result, it does lie to command the exercise of discretion—to compel some action on the subject involved. [Citations omitted.] 32 Cal. 2d at 355.

In the instant case, respondents have refused and will continue to refuse to exercise their discretion to consider requests for moneys governed by Article XXVI unless ordered by this Court to exercise that discretion. As in *Hollman* v. *Warren*, respondents' refusal rests on a misinterpretation of the law, and therefore a writ of mandate is the appropriate remedy to compel respondents to exercise their discretion.

When an agency's action or refusal to act rests on an interpretation of law, a petition for a writ of mandate is an appropriate means to seek review of that determination. *Rich* v. *State Board of Optometry*, 235 Cal.App.2d 591 (1965). In that case, petitioners sought to compel the State Board of Optometry to allow them to relocate branch offices of their businesses. The issuance of the writ necessarily involved a determination of the meaning and purpose of the California Business and Professions Code § 3077. In granting the writ, and thus deciding the correct interpretation of § 3077, the court said,

"The construction of a statute and its applicability to a given situation are matters of law. . . . Accordingly, where an administrative agency's determination involves the construction of a statute, its interpretation is a question of law which is reviewable by the courts. . . ." 235 Cal.App.2d 591, 604.

As in *Rich*, petitioners in the instant case seek a review of respondents' interpretation of a law (in this case constitutional) and a writ of mandate compelling compliance with that law.

This Court has issued its original writ of mandate to correct erroneous administrative interpretation of important laws in cases like the present one. *In San Francisco Unified School District v. Johnson*, 3 Cal. 3d 937 (1971), this Court was "called upon to determine the interpretation and constitutionality of Education Code Section 1009.5. . . ." 3 Cal. 3d at 942. Read one way, the statute could be "construed so as to prohibit nonconsensual busing in order to achieve racial integration." 3 Cal. 3d at 943. The Court rejected such an interpretation and issued a peremptory writ of mandate compelling a computer study of present and future school assignments in San Francisco. 3 Cal. 2d at 960. The Court pointed out that it was not by its order requiring busing as a means of achieving integration, but rather was compelling the school authorities to exercise their discretion to consider school assignments which would depend on busing as a means of achieving integration. The school authorities' refusal to study such school assignments was purportedly based on their belief that the statute did not permit them to *consider* busing.

As in *San Francisco Unified School District v. Johnson*, petitioners in the instant case seek to have the Court interpret a law and to compel respondents to exercise the discre-

tionary power which the law confers upon them. Just as the Court was not required to order busing to achieve school desegregation in the San Francisco case, so in the present case, petitioners do not request the Court to compel respondents to allocate funds governed by Article XXVI for mass transit in any specific case. But, as in *Johnson* this Court held that to read Education Code Section 1009.5 as prohibiting busing as a means of achieving integration was incorrect, so, petitioners submit, in this case the Court should conclude that to read Article XXVI as prohibiting use of funds governed thereby for anything but roads for motor vehicles is clearly erroneous. As in *Johnson*, the writ of mandate is the appropriate remedy to compel respondents to exercise the discretion granted them by law.

Earlier, in *County of Sacramento v. Hickman*, 66 Cal. 2d 841 (1947), this Court issued a preemptory writ of mandate to compel a county assessor to assess property at between 20% and 25% of its face value rather than at its "full cash value" as stated in Article XI, Section 12 of the California Constitution. The assessor had interpreted that section of the Constitution as allowing her no discretion to assess the property at anything other than full cash value. This Court disagreed, pointing out that the statutory meaning and interpretation in effect at the time of the adoption of Article XI, Section 12 allowed assessment at fractional value. The Court held that Article XI, Section 12 does not preclude assessment at a fraction of full cash value and issued a writ of mandate to compel the county assessor to assess property at between 20% and 25% of face value.

As in the cases above, the course of action challenged herein is based upon an incorrect interpretation of law. Respondents have refused and continue to refuse to consider the use of Article XXVI funds for the development of mass rapid transit and alternative transportation systems. Their refusal is based upon the erroneous view that they lack discretion to consider use of gas taxes and vehicle registration fees for mass rapid transit under Article XXVI.

In requesting the Court to issue the writ of mandate in this case, petitioners seek to compel respondents to perform their clear and present duty to exercise authority and discretion vested in them which they now refuse to exercise. As in *San Francisco Unified School District* v. *Johnson, supra*, it is appropriate that this Court issue its writ of mandate to compel the exercise of discretion here.

B. *Petitioners by This Action Seek to Procure Performance of a Public Duty in Which They Have a Beneficial Interest.*

It is well established that when a petitioner attempts to vindicate a public right and thus to compel performance of a public duty, no special beneficial interest other than his interest as a citizen need be shown.

"Where the question is one of public right and the object of mandamus is to procure the enforcement of any public duty, the relator need not show that he has any legal or special interest in the result, since it is sufficient that he is interested as a citizen in having the laws executed and the duty in question enforced." *Diaz* v. *Quitoriano*, 268 Cal. App. 2d 807, 811 (1969); *See also, Fuller* v. *San Bernardino County Municipal Water District*, 242 Cal. App. 2d 52, 57 (1966).

In *Hollman* v. *Warren, supra*, this Court stated that petitioner had sufficient interest in the issuance of a writ of mandate compelling Governor Warren to exercise his discretion to appoint notaries in San Francisco not only as an applicant for the position of notary, but also as a resident and taxpayer of San Francisco "interested in having a sufficient number of notaries commissioned to act therein." 32 Cal. 2d at 357.

In *Brown* v. *Superior Court*, 5 Cal.3d 509 (1971), the California Secretary of State sought mandamus in this Court directing the Superior Court to vacate its order dismissing the Secretary's action for civil penalties against parties for their alleged failure to comply with campaign laws. This Court, in issuing the writ of mandate, pointed out that it was particularly appropriate that the Secretary of State seek mandamus because of his overall responsibility to enforce the election laws.

In the instant case, petitioners seek to procure performance of a public duty which affects the public welfare of virtually every citizen of the State of California. As shown above, the lack of mass rapid transit and other forms of public transportation is a direct cause of problems of air pollution and traffic congestion in California's urban and suburban areas. The existence of funds for the creation of a balanced transportation system will determine to a great extent the ability of petitioner City of Riverside and other cities like the City of Los Angeles to comply with the requirements of the Clean Air Act of 1970. Respondents' refusal to make funds available for balanced transportation systems vitally affects every California city's ability to deal effectively with its social, environmental and economic problems. Further, transportation has a direct bearing on whether this state will be capable of meeting the increasingly urgent need to conserve energy and natural resources. There can be no doubt that petitioners in this case seek to procure performance of a public duty of the greatest importance and significance for all Californians.

Petitioners are especially appropriately situated to seek mandamus compelling performance of respondents' public duty in this case. Mayor Bradley, as the highest administrative official of the City of Los Angeles, has the responsibility to protect the health and welfare of all residents and citizens of the City. He is vitally concerned both in his official capacity and as a citizen with finding solutions to the problems of air pollution, traffic congestion, urban sprawl and social dislocation. He has a duty to see that the City of Los Angeles complies with the requirements of the Clean Air Act. Solutions to these problems can be found only in the development and maintenance of a balanced transportation system. The development of such a system in turn depends on the availability of vast sums of money for mass rapid transit and other alternative public transportation. Just as it was appropriate for the Secretary of State to seek mandamus in *Brown* v. *Suprerior Court, supra*, so Mayor Bradley is particularly well suited to seek performance of respondents' public duty in the instant case.

Councilman Edelman is likewise qualified both as a citizen and as a public official of the City of Los Angeles to seek performance of respondents' public duty in this case. As a city official, Councilman Edelman has been vitally concerned with the development of a balanced transportation system including mass transit. He has been a strong advocate of the use of moneys governed by Article XXVI for the development of such a balanced transportation system since 1966. As a resident of West Los Angeles who commutes approximately 10 miles each way to work in downtown Los Angeles, he would benefit directly from the issuance of a writ of mandate in this case by using the mass rapid transit system constructed and maintained from funds governed by Article XXVI.

The City of Riverside is itself authorized to seek and obtain funds governed by Article XXVI for whatever lawful purposes said funds may be used. The City of Riverdale is burdened by aggravated air pollution problems and is anxious to obtain moneys governed by Article XXVI for construction and maintenance of alternative modes of transportation to replace the private automobile. In order to fulfill its responsibilities to protect the health and welfare of its residents and citizens, the City of Riverdale intends to seek funds governed by Article XXVI for such purposes upon this Court's issuance of the writ of mandate prayed for in this petition.

In short, all three petitioners are particularly well qualified by reason of their interests and responsibilities as city officials and as private citizens and, in the case of the City of Riverside, by reason of its direct interest in receiving funds governed by Article XXVI for mass transit, to seek to compel respondents to perform their public duties affecting all the citizens of the Los Angeles and Riverside areas as well as the entire state.

C. *This Petition is Timely Because Respondents Have Shown That Any Demand to Perform Their Duties Under Article XXVI Would be Refused.*

Ordinarily, when a petitioner seeks mandamus, he must assert that he made demand upon the respondent to perform the act and that the respondent refused to comply. No such demand need be made, however, where petitioner seeks mandamus to compel the performance of a duty affecting the public at large *or* where the conduct and attitude of the respondent show that the demand would have been refused if made. In *Jensen v. McCullough*, 94 Cal. App. 382 (1928), petitioner, a state officer, sought mandamus compelling respondent, a county treasurer, to pay moneys due the state by reason of commitments by the County to the Sonoma state home. In issuing the writ of mandate, the Court stated:

"But there are two well-recognized exceptions to this general rule [that there be a demand and a refusal]—first, that a demand is excused when the act is a mere public duty affecting the public at large and in which the petitioner has no immediate benefit, and, second, that a demand is excused when the attitude of the respondent shows that it would have been refused if made." 94 Cal. App. at 389.

See also, Young v. Gnoss, 7 Cal. 3d 18 (1972) (Original writ of mandate issued to prevent enforcement of unconstitutional residency requirement), holding that "the remedy may be sought when it is clear from the circumstances that the public officer does not intend to comply with his obligations when the time for performance arrives." Both exceptions set out in *Jensen v. McCullough, supra*, are present in the instant case. First, as set out above, petitioners seek to procure performance of a public duty affecting the public at large, and petitioners' beneficial interest in respondents' performance of that duty is a consequence of petitioners' responsibilities to the public, who are the direct beneficiaries.

Further, the conduct and public statements of respondents leave no doubt that they have interpreted and continue to interpret Article XXVI narrowly to prohibit use of funds governed thereby for any purpose other than the construction and maintenance of streets, roads and freeways designed to carry motor vehicles and structures directly incident thereto. In the *California Action Plan for Transportation Planning* prepared by respondent California Department of Transportation to fulfill the requirements of the Federal-aid Highway Act of 1970. this interpretation is explicit:

"The California Department of Transportation is authorized to plan for a balanced and coordinated transportation system including all transportation modes, but is not authorized to assume the functions of designing or building any mode other than highway.

Therefore, the system planning portion of the Action Plan is multimodal in concept, but the project development phase is only directed toward highway projects." *California Action Plan for Transportation, Final Draft*, California Department of Transportation, June 1973, at p. 1–4. [The Department of Transportation is clearly using the word "highway" in this passage to mean road for automobile travel.]

The reason why respondent Department of Transportation "is not authorized to assume the functions of designing or building new mode other than highway" [*i.e.*, road for automobile travel] is because it has misinterpreted Article XXVI as limiting use of the funds governed thereby for use in designing, constructing and maintaining streets, roads and freeways for use of motor vehicles.

Further, the *1972 Annual Highway Planning Report, Summary Report*, published by the State of California Business and Transportation Agency, Department of Public Works in March 1973, outlines a highway program for the next nine years limited exclusively to construction of highways for use of motor vehicles. The program, which depends for part of its financial support on $10.6 billion which is presumed to be available under Article XXVI during the next nine years, rests on the assumption that the use of funds governed by Article XXVI will be limited exclusively to construction of highways for use of motor vehicles. Thus, the report states that its basic assumptions regarding state revenues are:

"a) there will be no change in the highway user [Article XXVI] tax structure; and

b) there will be no diversion of highway users [Article XXVI] taxes." *Id.* at 13.

If there were ever any doubt as to the position of respondents regarding the use of funds governed by Article XXVI for mass rapid transit and other alternative transportation systems, that doubt has been laid to rest by a recent request from respondent California State Legislature to the State Attorney General and the response to that request. [The response from the Office of the Attorney General is attached hereto as Exhibit "4".] The question which was presented to the Attorney General by the Honorable James R. Mills, President Pro Tempore of the California State Senate, was:

"1. Does Article XXVI of the Constitution permit the appropriation of motor vehicle fuel taxes for the construction or maintenance of a rapid transit system." Exhibit "4" at 1.

The conclusion as to that question is stated as follows:

"1. Article XXVI of the Constitution bars the appropriation of motor vehicle fuel taxes for the construction or maintenance of a rapid transit system." Exhibit "4" at 1.

The Attorney General's analysis unfortunately does not include any reference to the *Payne* case. Consequently, its reliance on the legislative history surrounding the passage and approval of Article XXVI is incomplete and fatally defective. Its existence, however, assures that any request by petitioners that respondent State Legislature authorize use of funds governed by Article XXVI would be refused.

It is clear that respondent State Legislature is presently relying on the above opinion of the Attorney General for its interpretation of Article XXVI. On July 18, 1973, Mary D. Nichols, one of the attorneys for petitioners herein, talked by telephone with Jimmy Wing, deputy legislative counsel in charge of transportation. He informed Miss Nichols that his office has relied and continues to rely on the above opinion of the Attorney General in advising the Legislature regarding the scope of Article XXVI. (The details of this conversation are set out in the affidavit of Miss Nichols attached hereto as Exhibit "5".)

Because the State Legislature, relying on the above opinion of the Attorney General, has too narrowly construed the purposes for which funds governed by Article XXVI may be used, there have been numerous legislative attempts to alter the situation. The bill authored by Assemblyman Foran, ACA 16, would open the funds governed by Article XXVI to uses for construction and maintenance of mass transit and would have the details to be worked out by the State Legislature. The bill authored by Senator Mills, SCA 15, would authorize use of some of the funds governed by Article XXVI for transportation purposes other than roads for motor vehicles but would accomplish it in more specific and limited ways. Neither of these bills, nor any other legislation, would be necessary had respondent State Legislature properly interpreted Article XXVI as limiting funds governed by that Article only to general transportation purposes rather than nontransportation purposes. The reasons for the failure properly to interpret the scope of Article XXVI appear to be twofold: 1) the issue seems never to have presented itself clearly and distinctly to respondents until very recently; 2) apparently the decisions of this Court, discussed extensively above, have never been called to the attention of respondents. At any rate, it is readily apparent that respondent State Legislature has in the recent past interpreted and continues to interpret Article XXVI as restricting use of the funds governed thereby to roads for motor vehicles.

Thus, any request from petitioners that such funds be allocated for mass transit and other alternative transportation systems would be denied, and a writ of mandate is the appropriate remedy to compel respondents to consider such requests, notify all county and city governments that such requests will be considered, and allocate funds for such uses in appropriate cases.

D. *Petitioners Have No Plain, Speedy and Adequate Remedy in the Ordinary Course of the Law.*

For all the reasons set out in Section II above, the issues presented by this petition are of the utmost public importance and urgency. No remedy at law could begin to provide petitioners with the equivalent of the relief they seek by this petition: namely, an opportunity to use a portion of the funds governed by Article XXVI to provide solutions to the critical public transportation, pollution and related urban problems enumerated above. Money damages or other ordinary remedies are totally inadequate and inappropriate in the context of this litigation. Petitioners submit that mandamus is the only appropriate remedy under the circumstances.

VII. THIS PETITION PRESENTS A COMPELLING CASE FOR THIS COURT TO EXERCISE ORIGINAL JURISDICTION BECAUSE THE ISSUES PRESENTED ARE OF THE GREATEST PUBLIC IMPORTANCE AND MUST BE RESOLVED PROMPTLY

Under Article VI § 4 of the California Constitution, the Supreme Court has original jurisdiction in proceedings in the nature of mandamus. Rule 56(a) of the California Rules of Court provide:

"A petition to a reviewing court for a writ of mandate . . . shall set forth the matters required by law to support the following: (1) If the petition might lawfully have been made to a lower court in the first instance, it shall set forth the circumstances which, in the opinion of the petitioner, render it proper that the writ should issue originally from the reviewing court. . . ."

This Court has long recognized that issues of great public concern which should be quickly resolved satisfy the demand for "circumstances" justifying the exercise of original jurisdiction. *People ex rel. Younger v. County of El Dorado*, 5 Cal. 3d 480 (1971); *San Francisco Unified School District v. Johnson*, 3d Cal. 3d 947 (1971); *State Board of Equalization v. Watson*, 68 Cal. 2d 307 (1968); *Farley v. Healey*, 67 Cal. 2d 325 (1967); *Sacramento v. Hickman*, 66 Cal. 2d 841 (1967; *Perry v. Jordan*, 34 Cal. 2d 87 (1949); *Hollman v. Warren*, 32 Cal. 2d 351 (1948).

In *San Francisco Unified School District v. Johnson*, 3 Cal. 3d 937 (1971), the Court was called on to decide whether Education Code section 1009.5 precluded the use of busing for purposes of desegregating public schools. The Court stated that this issue was of great public concern and affected pupil assignment throughout the state. Because the United States Supreme Court had directed that segregation in public schools must terminate "at once," prompt judicial action was necessary and the Court therefore exercised original jurisdiction. 3 Cal. 3d at 945.

In *People ex rel. Younger v. County of El Dorado*, 5 Cal. 3d 480 (1971), this Court exercised original jurisdiction and issued a writ of mandate compelling El Dorado and Placer Counties to pay to the Tahoe Regional Planning Agency their share for the support of the agency. In explaining the reasons why the Court chose to exercise original jurisdiction in that case, Justice Sullivan noted that the Lake Tahoe Basin is a uniquely beautiful area which is endangered by explosive growth. The Court reasoned that all the people of the state have an interest in the protection of the scenic beauty of the area which the Tahoe Regional Planning Agency is supposed to protect and preserve, and therefore the case was of sufficient importance to justify the exercise of original jurisdiction.

In *County of Sacramento v. Hickman*, 66 Cal. 2d 841 (1967), the Court issued a writ of mandate to compel the county assessor to assess property at a fraction of full cash value as required by the revenue and tax code. Justice Mosk, writing for a unanimous Court, pointed out that the local assessment roll had to be completed by a certain date and that the delay involved in first submitting the matter to a lower court would result in confusion in the administration of the tax laws and hardship and expense to the public. 66 Cal. 2d at 845.

In *Hollman v. Warren*, 32 Cal. 2d 351 (1948), the Court issued a writ of mandate compelling then Governor Warren to exercise his discretion to appoint notaries public in San Francisco. The Court explained its decision to exercise original jurisdiction as follows:

"The case is a proper one for this court to exercise its original jurisdiction. It affects the entire city and county of San Francisco, a populous county, the writ runs to the highest executive of the state, and an important constitutional question is involved." 32 Cal. 2d 351, 357.

The Court has also exercised original jurisdiction to resolve a variety of important public issues including: qualification of an initiative for the ballot, *Perry* v. *Jordan*, 34 Cal. 2d 87 (1949), and *Farley* v. *Healey*, 67 Cal. 2d 325 (1967); validity of assessment procedures, *State Board of Equalization* v. *Watson*, 68 Cal. 2d 307 (1968); and the constitutionality of requiring a two-thirds majority in bond elections, *Westbrook* v. *Mihaly*, 2 Cal. 3d 765 (1970).

Under the guidelines established by these cases, the present case clearly calls for the exercise of the original jurisdiction of this Court: (1) the issue involved is of the greatest public concern and its resolution will directly affect virtually every citizen and resident of the state. The development of mass transit and other alternative transportation systems is now a matter of great public interest in every major urban area in the State. Not only does the development of such public transportation determine whether the cities and counties of the South Coast Air

Basin will be able to achieve clean air, it also determines to a large degree whether solutions can be found for problems of traffic congestion, urban blight and urban sprawl, and dwindling supplies of energy and natural resources, as well as all of the human and social hardships inherent in the fact that 40% of the residents of the Los Angeles area (the very young, the very old, the poorest and the disabled) do not drive automobiles. (2) The requirements imposed on the City of Los Angeles and petitioner City of Riverside by the Clean Air Act, as discussed above, make the prompt resolution of this issue a matter of utmost urgency. (3) The issue to be resolved is a question of construction of an important Constitutional provision, and the writ, if granted, will be directed against state officials whose public duties under Article XXVI are statewide. There are essentially no questions of fact to be resolved, the sole issue being the proper interpretation of a Constitutional provision and respondents' duties thereunder. A definitive interpretation can come only from this Court.

VIII. CONCLUSION

As shown above, the proper definition of "highway" in Article XXVI includes any public way for public use. This definition gives full force and effect to the purpose of Article XXVI which is to prevent moneys governed thereby from diversion to purposes not related to transportation. Respondents' refusal to act in accordance with the correct interpretation of Article XXVI has resulted and continues to result in great hardship to petitioners. Petitioners respectfully request this Court to order respondents to perform their duties under Article XXVI as set out in the petition.

Respectfully submitted,

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FOUNDATION OF PATRIOTISM

Mr. BROCK. Mr. President, I noted in the press a number of comments that the recent Independence Day holiday seemed less exciting than some in years past.

Perhaps it was simply because it came on a Wednesday, some said. Perhaps it was Watergate, thought others.

Perhaps, virtually all agreed, our Nation is now too sophisticated to value patriotism highly. Perhaps indeed. But perhaps also, we should.

I was delighted, in view of all of this talk, to read a stirring statement on the value of patriotism by our colleague, the distinguished Senator from South Carolina, Mr. THURMOND. If America needs a primer on patriotism, and a reason to celebrate its place in the world, Senator THURMOND has provided it.

Believing that his statement deserves the attention of all of us, I ask unanimous consent that it be printed in the RECORD.

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

FOUNDATION OF PATRIOTISM

(By Senator STROM THURMOND)

As the Fourth of July is celebrated this week, we should attempt to evaluate the strengths and weaknesses of our system and put them into proper perspective. Such an evaluation will inevitably lead to a reaffirmation of the basic principles upon which this country was founded.

In short, this country is due for a revival of that good, old-fashioned patriotic fervor which has diminished in recent years. The outward signs of patriotism, unfortunately, are not as popular today as they have been in other times. Some even regard patriotism as trite, meaningless or unsophisticated. To be patriotic, they say, is to be hard-lined and extreme. Respect for the flag and the National Anthem, pride in our heritage and gratitude for our blessings seem to be only institutional formalities to far too many people.

However, patriotism is a necessary prerequisite to a strong and vibrant nation. Pride and love of one's country are not transient; they are not subject to the whims of the times. Instead, patriotism is respect for the self-perpetuating ideals which are as valid today as they were almost two centuries ago.

If patriotism dies, a country is not far from collapse. Arnold Toynbee, the historian, says that of 21 notable nations, 19 perished not from external conquest, but from deterioration from within. No army can defeat a nation faster than a nation can defeat itself. Edmund Burke, the British statesman, said it best when he observed, "For evil to succeed, it is only necessary that good men do nothing."

I do not choose to believe that reverence and respect for our heritage are on their deathbed. Instead, patriotism has frequently been placed in a state of limbo. The concept is so simple that it is often overlooked in the complexities of modern-day problems.

There is no question about it—the United States is undergoing a crisis of confidence in its democratic institutions. In this atmosphere of doubt, it is possible to lose sight of the principles of life, liberty and the pursuit of happiness. The words of the Declaration of Independence have been clouded by words of scandal and corruption.

There is a fine distinction between self-appraisal and self-deprecation. The differences, however, have too often become blurred. It is one thing to objectively scrutinize our system in the hope of improving it. It is another thing to degrade the entire system because it is not perfect.

The qualities which led to the birth of our country, however, are still prevalent. Common sense and common decency still form the cement that has bound us together as a free society. These traits carried us through a long and difficult war for independence. They led us through the tragic War Between The States. They sustained us through two World Wars and other crises of the Twentieth Century.

Time and again, when the laws might have crumbled, the good sense of the American people prevailed. I believe it will sustain us in the 1970s just as it did in the 1770s.

Now is an opportune time for this nation to rekindle the patriotic flame which has been our guiding light for so long. As we approach the Bicentennial Celebration, we would do well to go back and read the Federalist Papers and the Bill of Rights. We should acquaint ourselves with the hardships and tribulations our founding fathers suffered as they planted the seeds of independence. Then we should ask ourselves if our problems are greater than theirs.

While we still have problems today, we also have a society and an economy which are the envy of every other nation. Opportunity in the United States is unexcelled. The American people live better, dress better, eat better, receive better educations and have a better future than the people of any other country.

At the close of the Constitutional Convention in 1787, Benjamin Franklin said, "We have given you a republic—if you can keep it."

By exercising eternal vigilance, we can preserve the greatest government ever devised by the mind of man.

MISLEADING STATEMENTS ON THE MIDDLE EAST DISPUTE

Mr. TUNNEY. Mr. President, an article in the Los Angeles Times this morning has reported that the Standard Oil Co. of California has sent a letter to all of its employees and stockholders urging them to support "the aspirations of the Arab people" and "their efforts toward peace in the Middle East." The letter went on to suggest to all the recipients that they contact U.S. Government officials to urge consideration of the Arab position in the Middle East dispute.

I am distressed and dismayed at this letter. American policy in the Middle East has long recognized the legitimate aspirations of the Arab people and in particular the needs of the Palestinians to gain a permanent status. Our policies have been devoted to persuading both sides to make small but concrete steps to promote peace. But our policies have also recognized that the military security of Israel is a fundamental requirement for the continued existence of the Israeli state, and for the maintenance of a stable balance of power in the Middle East. Thus, I believe the policy suggested in this letter is counterproductive to peace and undermines the previous American policy, which has been successful in preventing a new outbreak of war.

Even more misleading in this letter is the unstated suggestion that American policy in the Middle East must be changed in order to help solve our energy crisis. Our energy problems are based on complex and numerous different factors; Middle Eastern oil is only one part of the total picture. We cannot solve our fuel crisis by selling out Israel. That would be a shortsighted and ineffective policy, which would neither solve our energy problems nor help the search for peace in the Middle East.

Mr. President, this letter, as reported in the Los Angeles Times, raises a great number of issues, some of which I have touched on in this short remark. After I receive a full copy of the Standard Oil letter, I will supplement this statement with a fuller explanation of my views on the Standard Oil letter and the Middle East problem.

AJC FAMILY REHABILITATION

Mr. FANNIN. Mr. President, I have been a strong supporter of a unique program being carried on by the Arizona Job College in my State. This is a comprehensive effort to help low income workers and families learn new skills so they may share more fully in the abundance of America.

It is encouraging to see that Arizona Job College has been gaining national recognition for its programs.

In the May-June issue of the Journal of Rehabilitation, an article is devoted to the AJC Family Rehabilitation Project.

Mr. President, I ask that this article be printed in the RECORD.

There being no objection, the article

was ordered to be printed in the RECORD, as follows:

WHY NOT FAMILY REHABILITATION?

(By Louis Nau)

The concept of family rehabilitation is based upon the premise that when a disability strikes, every other member of that family is also adversely affected. Thus, it is postulated that disability is rarely simple when present with or aggravated by other family-oriented-problems. Rehabilitation services in such cases must be intensive and comprehensive, designed and delivered in a manner to meet the disability needs of the family, as well as the disabilities of individual members.

This article, as a descriptive rather than statistical presentation, is offered as a point of reference and a stimulus for study of the family rehabilitation concept. Our search for literature on this topic has revealed that although there is a great amount of information about the family, family therapy, marriage and the family, etc., there is virtually nothing written on family rehabilitation. It is hoped that this article will motivate both the rehabilitation practitioner and student to pursue the development of the concept and contribute to a body of literature and knowledge that is lacking.

PROJECT MODEL

There are currently eight residential family "rehabilitation" or "development" projects and an even larger number of non-residential family-oriented rehabilitation centers in this country. These efforts vary widely in scope and general orientation, with vocational education, social development, economic development and rehabilitation being emphasized or stressed, depending on the orientation of the grantor or the project staff.

After a number of years of interest in family rehabilitation, the Ford Foundation, which has financially supported several demonstration efforts, has centered its attention on Arizona Job Colleges' Family Rehabilitation Projects in Casa Grande, Arizona. The Foundation, as one of the original primary sponsors of this extensive program, sees AJC as comprehensive, mature and well-documented in the development of family rehabilitation processes. For these reasons, the AJC project will be used as a primary reference point for this discussion.

There is, however, one significant difference between AJC and most other family rehabilitation efforts. Their client population is composed completely of disabled, rural, poor, farm workers and migrants of south-central Arizona. It is a multi-ethnic population with approximately 55% Chicano, 19% White, 17% Indian and 9% Black participating in the project. This may not be representative of the national disabled population. It does not take into account urban disabled problem situations. It, however, does present a most complex population, which would challenge the validity of any delivery process.

These multi-problem, disabled and handicapped families represent disabling conditions working in combination against the successful participation of the family in society. These include negative aspects of mental, physical and social conditions in varying intensities and combinations.

The Center has facilities, staff and capacity to provide services for up to 120 families at one time, on a full-time in-house basis. The time involved is approximately one year per family. These families, averaging almost six persons per family, reside in new residences funded by the Dept. of Housing Urban Development and custom built mobile homes provided by a construction grant from the Rehabilitation Services Administration of the Department of Health, Education, and Welfare. Families are phased in and out at the rate of approximately ten per month.

During the year of attendance, each person, on the basis of extensive evaluation, receives rehabilitation services in an individualized plan. From the four-month-old child through the wage-earning father, each person receives as many developmental learning opportunities and comprehensive rehabilitation services as are necessary to provide the optimal opportunity to succeed vocationally and socially in the mainstream of society following "graduation."

Since the first families completed the AJC program in December of 1970, some 150 families have been rehabilitated in this "college." Research data,[4] which has been gathered both on the clients and on the process since the project's beginning, has indicated a wide range of job placement, excellent job retention and durability of rehabilitation gains, exceptional increases in family income levels, and substantial improvement in family social and community participation.

The research information also shows that the children of the disabled families have significantly improved grades in their public school involvement, their health and nutrition is improved, and their motivation and attendance show new patterns of success.

Interviews conducted by the researchers during follow-up sessions recorded comments such as "new lives," "hope for the future," "we can make it now," "never believed we could do it," "life is so much different," and "happy now." Every indication leads to the conclusion that the model works.

DISABILITY AND POVERTY

One of the more appealing aspects of the project is that family rehabilitation can fight and win several human problems at one time. Poverty is frequently a consequence of or contributing factor to prolonged disability and employment handicap. The careful evaluation of skill potential and employment interests; the detailed family health services and physical restoration program; the personal, social, vocational and work adjustment counseling; the upgrading of domestic and home maintenance skills; the exposure to and participation in community affairs; the building of confidence; the growth of communication capacities; and the training and joy of successful management of family finances all contribute to massive changes in both the lifestyle and life situation of the rehabilitation family.

An article by Mark Panitch, concerning Arizona Job Colleges was reprinted in the *Congressional Record*.[5] He quoted a project official's views on the many faceted thrusts of family rehabilitation:

"One of the keys to breaking the chain of poverty is breaking the chain of failure—personal, domestic and economic, in every area that goes with it. We have to place people in jobs that will not let them down. The last thing we want to do is to put a man in a dead-end or transitory job where he cannot advance, or even where the job might disappear."

ESSENTIAL INGREDIENTS

The program elements which make up a family rehabilitation service delivery system are not new, neither do they depart very far from the traditional vocational rehabilitation program components. The basic difference is found in the packaging of these services, the controlled delivery of services, the application of services to each family member, and the consumer involvement in the service delivery process.

Eligibility and Acceptance

To offer acceptance into a residential family rehabilitation program, a rigid eligibility criteria must be uniformly applied. There are five considerations which establish eligibility. (1) The primary wage-eagners must have a physical or mental disability, which is handicapping to employment. (2) The total family income from all resources must fall below the *federally established* poverty guidelines, and the family must be willing to leave the welfare roles if accepted into the program. (3) The family must be a whole family, composed of a legally married father and mother, children who are unemancipated. It may also include other legal dependents who are determined a natural and longstanding part of that family's structure. (4) The family must agree to participate in all program activities a minimum of 44 hours per week per person for the duration of the family rehabilitation plan. (5) In the case of a residential center, the family must agree to move into the center's housing facilities during the rehabilitation process.

Acceptance is based upon these criteria plus a variety of other reference and evaluation data. A selection committee composed of professional staff, non-professional staff, client families already participating in the program's family government, and outside consultants (medical and psychological) review this material. They also interview the family and make the final acceptance determination.

Recruitment and referral

Obtaining families for rehabilitation projects is best accomplished on a referral basis. Through information concerning the rehabilitation abilities and entry criteria of the center, community based agencies refer multi-problem families on a selective basis. New projects use recruitment teams to inform agencies, institutions and citizens of the rehabilitation opportunities available at the center. In time the word of mouth testimony of participating families serves as the most efficient recruitment tool.

Diagnosis and evaluation

While special attention is given to the examination of the primary disabled member of the family, prescriptive physical examinations of each family member are essential. Psychological and other psychometric evaluations, including work sample evaluation for the working members of the family, are routinely given. The results are accumulated and studied by the assigned vocational rehabilitation counselor and the other key staff. Further discussion is carried on with the family members, as a basis for the development of the individual and the family rehabilitation plans. A thorough understanding of the plan by all family members is a necessary requirement for success.

Move-in and orientation

The move-in and orientation processes are important for motivational purposes, building client/staff trust relations, and increasing feelings of family security and individual self-worth.

Get-acquainted activities with fellow client families, the staff and community neighbors and leaders are also orientation elements which set the proper tone for beginning a family on the long road to rehabilitation success.

Service elements

The following is a listing of service elements which make up comprehensive family rehabilitation:

(1) Housing
(2) Home management and home economics
(3) Budget and financial management
(4) Day care and child development
(5) Public school involvement
(6) Developmental and remedial education
(7) Vocational training (All men and any women who wish to work full-time)
(8) Marginal marketable skill training (Women who do not want to work full-time but need skill security)
(9) Family and individual counseling
(10) Work adjustment counseling and training

Footnotes at end of article.

(11) Personal grooming, growth and development
(12) Medical treatment
(13) Family health, hygiene and safety
(14) Family recreation and social adjustment
(15) Community government
(16) Community resource utilization
(17) Community activity participation
(18) Youth programs
(19) Arts and craft classes
(20) Library skill training
(21) English-as-a-second-language classes
(22) Public speaking and drama
(23) Aesthetic and cultural exposure
(24) Transportation management
(25) Legal aide

At AJC, all these services are available to client participants. Some of them, in an effort to avoid duplication of effort and service, are purchased from existing community based institutions. A neighboring community college and technical school provides collegiate academic and semi-skilled vocational training. Legal services are provided by a local legal aide society. Vocational evaluation is purchased from the University of Arizona at Tucson, which bases their unit in AJC facilities. For most other elements, however, the Center has developed its own service delivery capabilities.

The paid professional and non-professional staff of 75, together with 20 Vista Volunteers and many community volunteers, offer a wide range of classes, workshops, field trips, and exposures from early morning until late evening, seven days a week. A specially constructed HUD neighborhood facility, the Esparanza Center, houses an ultra modern unit for approximately 180 children. It includes classrooms for domestic and home living training, commercial cooking, and arts and crafts. It is also the facility used for remedial and adult education and counseling services. The Center also has a multi-purpose auditorium/dining area and open air amphitheater.

Although the Esparanza Center is a central service delivery location, the "college" occupies and utilizes two larger facilities. These are used for class and workshop purposes and administration. It also houses the comprehensive health services project funded by the Health Services and Mental Health Administration, the vocational evaluation unit, and a unit for vocational skill training and laboratory experience.

The personal and vocational counseling is a part of the Family Services Division. There are four counselors with graduate degrees and four counselor aides on the staff. Each counselor team has case and service coordination responsibilities for 25 to 30 families. AJC officials have stated that this counselor/family ratio must be reduced to establish closer counselor relationships, particularly during the entry and exit phases of activity. Budget restraints, they say, make such a change impossible at present.

SEPARATION AND COMMUNITY RE-ENTRY

The minimum stay for any family is six months. The average length of participation is one full year. When, as a result of counselor case assessment, client family interviews and case staffing, it is determined that a family is nearing completion of both the individual and family rehabilitation plans, separation activities are initiated. Separation is the cutting off of the project/family through planned reduction of institutional dependency.

Research findings thus far have indicated that this is a critical program element. Great care must be taken in initiating the process. Firm case control, encouragement and support are key elements to successful separation.

Graduated clients have reported mixed feelings concerning the separation and community re-entry process. Many feel that the institutional security is initially much preferred over the "cold, cruel world"; however, most also report that the necessity and reality of independent living soon overcome such insecure feelings.

The process of community re-entry is a joint effort. The family, with the support of project staff, work out new housing and community living arrangements which meet family needs and new financial capabilities. On the other hand, the job development staff, the administration, and the community relationship advisory committees have been working with the community itself to prepare a climate for community acceptance and integration.

Community re-entry is a separate issue from relocation considerations. Only the family as a whole can decide whether living in a rural or urban area best suits their needs following rehabilitation. Families are encouraged to find relocation housing which is conveniently located with respect to employment, schools, good roads and public transportation, shopping facilities, and accessibility to relatives and friends.

The family, not the project staff or the community itself, must make both the decisions concerning community re-entry and relocation.

FOLLOW-UP AND FOLLOW-ALONG

"Graduating" families of family rehabilitation projects, as in any rehabilitation effort, need follow-up and follow-along services.

For example, children who have been attending the public schools, while they have also received tutorial assistance and specialized counseling and guidance, need the follow-up services of the project to monitor their progress in their new learning situation. Home and work follow-up visits for the rest of the family are carried out on three- and six-month-cycles.

The creation of an "alumnae" organization can greatly assist in the follow-up/follow-along process. However, the best incentive to reciprocal follow-up interest and activity is obtained through the open-door policy, where no staff member is ever too busy to hear out and assist a "graduate" who presents himself for help.

MEASURES OF SUCCESS

Earlier, it was said the model works. It can be added that the service elements get the job done. But, does it really work? Is all this really necessary? Isn't the cost prohibitive?

James Cook, in the *Arizona Magazine*[1] described the project's success as it related to one family by quoting their words: "We had many problems. Now we still have problems, but we don't hide from them anymore. Some are hard to work out. . . ."

Juan and Lola R. came to the family project with complex problems and a total income of less than $1,500 for the previous year. Now, their combined income is over $700 per month, and their insight into life reveals a more realistic attitude.

It can be said that family rehabilitation is *not* needed for every case, nor even for every case of disability in a multi-problem family setting. It is invaluable for complicated and prolonged disability case in multi-problem families. It may be the only solution for these people.

It works and is cost effective, if one considers not only the economic benefits of vocational productivity but also the improved quality of life for the families. Cost benefit cannot be counted only by comparing the cost of services with the earnings and tax contributions of "graduated" and employed family members. It must be measured in the light of savings to taxpayers and society for services not being needed and tax monies not being spent on services for such problem individuals and families at a later date for welfare, penal costs, court and litigation costs, medical costs, etc.

The success of the projects and the benefits to society must also be measured by the long-term increased productivity of the entire family. If longitudinal studies would be undertaken to find out how well and how productive the children of rehabilitated families will be in the future, astounding cost benefit data might be forthcoming.

Current research and evaluation findings at AJC[3] indicate that the recidivism rate among those rehabilitated is much lower than in more traditional individual rehabilitation projects. If this kind of durability data can be statistically upheld, the case for family rehabilitation will be even stronger.

OTHER MODELS AND PROJECTS

The earliest known efforts which resembled family rehabilitation were the Danish Folk Schools.[7] In these institutions, still in operation today, young men with learning or skill deficiencies were trained in a family setting by masters of various skills and disciplines.

In this country, the Bureau of Indian Affairs of the Department of the Interior, as a major element of their Employment Assistance Program, operate four family centers.

As a part of the "war on poverty," the Office of Economic Opportunity, Migrant Division, funded two comprehensive family development centers. The Choanoke Area Development Association (CADA) project in Rich Square, North Carolina, is very similar to the Arizona Job Colleges' project, while the Manpower Education Training Project of Edinburg, Texas, although similar, is not residential as CADA and AJC.[10][8]

The most elaborate demonstration in family process is a recently developed program, sponsored by the United States Office of Education, currently under the direction of the National Institute of Education. Located in Glasgow, Montana, the Mountain Plains Regional Education and Training Project is a demonstration and exemplary project in vocational education of total families. This, like AJC and CADA, is residential, comprehensive, and has many traditional rehabilitative aspects.

The current projects in operation have been cited here to underscore the fact that family education, or rehabilitation, or development is not an untried "innovation," it is a concept which works. Not only does it work, but enough demonstration and activity is in progress that a "state of the art" is now ready for rapid development.

Family rehabilitation is a growing concept.[5][6][2] It offers enough challenges and possibilities to motivate any rehabilitationist to use it as a means to serve disabled persons and families in new and better ways. It is a process, full of adventure and excitement, holding the portent of dynamic results.

FOOTNOTES

[1] Cook, James E. "Stopping the Clock for the Poor." *Arizona Magazine*. Phoenix, Arizona: Arizona Republic, 1972.

[2] Frank, Lorraine. "The Rural Poor—Development or a Plan, Family Rehabilitation." Phoenix, Arizona: Arizona Job Colleges. 1970.

[3] Franklin, David S. "Changing Families in a Changing Society." An Administrative Field Report. Los Angeles, California: University of Southern California, November, 1972.

[4] Glassa, Myfanway. "Arizona Job Colleges, Inc.—First Year Evaluation, Final Report." La Jolla, California: Systems, Science and Software, P.O. Box 1620, 1971.

[5] Manning, Diane. "Case Study—Family Rehabilitation." Washington, D.C.: Manpower Information Service. September, 1972.

[6] Murphy, Betty. "Arizona Job Colleges: Defeating the Dependency Syndrome." *Opportunity Magazine*. Washington, D.C.: Office of Economic Opportunity. Government Printing Office. June, 1972.

[7] Nielsen, Aage R. "Folkschools in Den-

mark." *Educational Outlook*. New York, New York. November, 1951.

[8] Panitch, Mark. "Arizona Job Colleges Pioneer New Poverty War Approach." *Arizona Daily Star*. Tucson, Arizona. August 1, 1971.

[9] Udall, Hon. Morris K. "Retraining Whole Families Breaks Poverty Cycle." *Congressional Record*. Washington, D.C.: Government Printing Office. August 5, 1971.

[10] White, Jack. "A Comparison Analysis of Total Family Residential Training Centers." Washington, D.C.: Educational Systems Corporation. November, 1972.

Mr. FANNIN. Mr. President, another interesting article on AJC appeared in the June–July issue of Health Services World. I ask unanimous consent that this article also be printed in the RECORD.

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

LEARNING TO GO IT ALONE

(By Sam F. Ciulla and Dr. Andrew Nichols)

With just a touch of whimsey, the sign in the office of the Arizona Job Colleges (AJC) at Casa Grande proclaims an obvious fact of life. The words ring a vaguely familiar bell, and then you remember you first heard them on a TV commercial. If you're there long enough your eyes keep going back to the sign, looking for some hidden meaning. Does it have special significance to the AJC?

Arizona Job Colleges is not an institution of higher learning. It's a community-sponsored project to give comprehensive rehabilitation to rural poor families. The project includes a health program that has caught the attention of health planners, both in Arizona and in other states as well.

As for the sign, it reminds you that "Today is the beginning of the rest of your life."

AJC staffers are convinced the sign means different things to different people. To Chuck and Evelyn Shook the sign suggests a certain frame of mind—a starting point toward the kind of life that most of us can take for granted. At Arizona Job Colleges no one takes anything for granted.

Until recently, the road that goes by the trailer-offices of the AJC was rough in spots. The route laid out for the AJC families is just as rough. Without help, many of those families would never make it. A combination of poverty-related factors would keep them outside America's mainstream, aliens in their own land.

"The program is not a permanent crutch," AJC President Gary Bellrichard hastens to make clear. "This is a start, not a destination. These families are learning to go it alone."

Chuck and Evelyn Shook have travelled a good piece down the road to self-sufficiency. The Shooks were among the first ten families to join the project. They were among the first graduates in 1971.

Like several other graduate families, they agreed to stay on and work for the AJC. Evelyn earned her high school equivalency diploma there. Now she teaches sewing in the home living program. Chuck works in the vocational evaluation unit operated for the AJC by the University of Arizona Vocational Rehabilitation Center.

It's hard to tell if the Shooks represent the typical AJC family; but you hope they do. The Shooks combine a native intelligence with high motivation. Talking with the couple gives you the feeling that they share an important secret. Bits and pieces of the secret come out in the things they tell you.

"It wasn't just the poverty that held us back," Chuck says. "It was being poverty-minded."

"Something was missing," Evelyn adds. "Not just money—a lot of things."

"The main thing we've learned here is that we have a choice," Chuck says. "We've learned there's something better, and we've gained the skills and confidence to go after it."

If the AJC project is unique it's because it pays more than lip service to the proposition that knowing how to live is as important to a family as increased income.

"You can job-train a worker to a farethee-well," observes AJC Project Director Sid Goodman, "but if you don't help his family to move up the ladder with him you may create as many problems as you're trying to solve."

The AJC program is tailored for every member of the family. The program includes basic remedial education, vocational rehabilitation, family counseling, recreational services, programs of care and enrichment for preschool children as well as after school activities for the older children.

It also offers instruction in home management, child development and community and family relations. The AJC families are provided contemporary, furnished housing on campus, and a modest stipend during the course of training.

Perhaps a sign of the program's comprehensiveness is the array of public and private agencies that are backing it. The program has been supported by grants from the Ford Foundation, the Department of Health, Education, and Welfare's Health Services and Mental Health Administration, and Social and Rehabilitation Service, Office of Economic Opportunity, Department of Housing and Urban Development, and others.

The program's planners knew from the start that it would need one additional ingredient—an adequate health plan. They knew also that such a plan would have to be specially tailored to touch all of the traditional health care bases and, in addition, offer something extra. As Gary Bellrichard points out, one of the weaknesses of too many past rehabilitation efforts has been the absence of a health component.

"Without the health program, I'd hate to bet on the success of the AJC project," he says. "When helping the poor to improve their lifestyle, the health aspect can determine success or failure."

"I know it sounds trite," says Health Services Manager Jake Pool, "but in one way or another sickness and general poor health put an awful lot of people on the welfare rolls."

Dr. Roland Schoen, AJC medical director, talks about the air of fatalism about ill health among the poor. "If you're poor long enough you just might begin to think poor health is a normal state of affairs," he says. "Without good health you go nowhere—on the job, in the home, in school."

Based on such observations, it was decided to develop a health plan that would include promotive elements designed to bring a change in basic attitudes about health.

Devising such a plan was made possible by a contract negotiated through AJC with the Migrant Health Office of the State Department of Health. It was supported by the migrant health section of the Community Health Service, Health Services and Mental Health Administration.

First, there was the question of program size—reconciling the health job to be done with available staff, facilities, other health recsources. At this point AJC officials turned for help to the Department of Community Medicine at the University of Arizona College of Medicine. The result of these talks carried out in successive, manageable steps.

The schedule was consistent with the terms of a subsequent grant from the Health Services and Mental Health Administration. The health program must first care for all AJC families, then at least an equal number of migrant and seasonal farm workers, and finally a proportion of others, primarily among the county's rural poor. This has been the pattern of the program's actual development.

While the AJC health program was still in the planning stage, the Arizona Health Planning Authority was looking for new approaches to providing health services for the medically indigent.

Also at that time the Arizona Legislature enacted a bill calling for a state plan to make health services available to all citizens of the state. The task was assigned to the Authority.

In light of these developments, the AJC health program suddenly took on importance as a potential proving ground for a project that would affect the entire state's population.

The Authority was invited to join the AJC health project. The team effort that followed produced "A Plan to Provide Health Services for Agricultural and Migrant Workers of Central and Western Pinal County."

Briefly, the plan called for provision of health services through health facilities and staff on the AJC campus, supplemented by contractual arrangements for additional services. These would be two general categories: personal health services, and promotive health services.

The personal health services were spelled out. They would include the traditional episodic medical care, and predictive, restorative, preventive and rehabilitative services.

Among Arizona's health planners "promotive health" has become a household term largely through the efforts of Dr. Marvin Goodwin, director of the Arizona Health Planning Authority.

The concept of promotive health is backed by history. During the past century the dramatic drop in mortality and morbidity has come about through immunization, knowledge of nutrition in relation to disease and well-being, and environmental sanitation.

In deliberately stressing promotive health, Dr. Goodwin calls attention to the behavioral and environmental factors which have a positive influence on health. The promotive approach stresses the fact that there's nothing inevitable about illness. Promotive services demonstrate how each family can improve the odds in favor of good health simply by living right—adopting appropriate patterns of behavior.

The AJC planners knew that the promotive approach would be the best way to go. But at the same time no one was deluded that the going would be easy. Nothing in the lifestyle of the AJC families had prepared them to take on a bigger piece of the job of maintaining their own health. Just the same, the results to date are promising.

"We figure the promotive approach has been about 95 percent successful," Dr. Schoen estimates. "I'm talking now about our present AJC families plus the 35 or 40 percent of the graduates we still serve because their incomes aren't yet high enough to pay for their own health care." Among these two groups, episodic care in the AJC clinic has been reduced by 45 percent. "It's a different story among the other rural poor families who haven't had promotive orientation," Dr. Schoen adds.

The health program has become an integral link among the various AJC activities. In fact, the child development center now operates directly under the health program. Mr. Bellrichard explains the logic in such an organizational setup.

"We're not babysitters," he assures you. "Our AJC children have some catching up to do in all areas of living, health included. We want them to catch up by the time they go to school."

Betty Overbeck, child center director, outlines the health aspects of the center's program. Each child gets a general physical on entering the program. Juliene Hollenbeck, a registered nurse qualified as a nurse practitioner, checks each child every day. Nutrition has a high priority—the child get two snacks and one hot meal each day.

In a sense, the AJC clinic has as many outreach units as there are families in the program. Home health aides work with the AJC families both in the clinic and in their own homes. This relatively new type of health worker provides the link of continuity that is missing in more conventional health systems.

Every bit as important, she shows the family both how to do for themselves and to know when it's time to seek help. Chuck and Evelyn Shook attest to the success of this approach.

"There must be a hundred things that people can do to stay healthy," Chuck says. "We've learned a few things, anyway."

"The main thing we've learned," Evelyn adds, "is that health is a family affair."

A lot of the advice the home health aide gives is as simple as Grandma's home remedies, and as easy on the pocketbook.

"You can make nose drops out of salt and water," Evelyn Shook informs you. "A mixture of honey and lemon juice makes a pretty good cough medicine, too."

The AJC health program is committed to prove, by 1976, that it can function as a health maintenance organization. Actually, the program already includes some of the aspects of an HMO.

This too makes the program a fortuitous pilot project. Arizona's health planners are convinced that the HMO concept, if fully developed, could aid in implementing the Arizona Plan for Health Services.

In any given program, there will never be enough money to do all the things that should be done, or that it would be good to do. Health Services Manager Jake Pool describes the impact of this fact of life on the health program.

"Our grant requires that we give care to 1700 people," he explains. "We're actually serving 2080. It takes a bit of dollar-stretching."

Jake Pool stretches the allocated dollars by what he describes as well-timed horse trading, with pharmaceutical houses and other firms. The signs indicate that Jake is an accomplished horse trader, but he gives credit to the people he trades with.

"Your average businessman is willing to help a program that helps people to stand on their own two feet," he explains.

Apparently, the stereotype of the hard-hearted businessman doesn't hold up around Pinal County. Jake Pool nods in agreement.

"The only hard-hearted businessman you'll meet in this whole county is Jake Pool," he quips.

Dr. Schoen is equally quick to give credit to outside help.

"The county health department has been in our corner from the start," he tells you. "The state and county medical societies and other groups have helped us too, in any way they could."

How far does the influence of the Arizona Job Colleges extend? Apparently, to the younger generation.

AJC officials like to tell about the breadwinner, an AJC graduate, who became ill. The bad luck and resulting financial pressure might have led to a defeatist attitude, and backsliding. But the children in the family had other ideas. Some of the older ones went on an odd-job hunting expedition. They succeeded, and the family has held together.

The road that goes by the trailer-offices of the AJC eventually meets Route 10 which takes you north toward Phoenix, south toward Tucson. For the Chuck Shooks and other AJC families the road could go a whole lot farther, in any direction they choose, to places they've never been.

JUSTICE, THE CONSTITUTION, AND PRIVACY

Mr. ERVIN. Mr. President, on June 28, 1973, I had the pleasure of participating in a series of discussions on "Computers and Privacy" conducted by Miami University at Hamilton, Ohio.

The right of every individual in America to privacy has been a matter of considerable concern to me over the years. It seems that now, as never before, the Government's appetite for information about individuals threatens to usurp the right to privacy which I have long felt to be among the most basic of our civil liberties as a free people. I hope that my remarks at Miami University shed some light on both the importance of individual privacy and some of the dangers posed by governmental data systems.

Mr. President, I ask unanimous consent that my remarks delivered at Miami University be printed in the RECORD.

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

JUSTICE, THE CONSTITUTION AND PRIVACY

I am very pleased to be here to talk with you about Justice, the Constitution and Privacy as part of Miami University's series of discussions on the subject of Computers and Privacy.

A while back I decided that I had read a lot about privacy, but I didn't really know much about computers. So I took some time off from my duties at the Senate and spent a whole day watching computers in operation and learning about how these machines work. I was impressed by the multitude of tedious and difficult tasks that computers could perform in a fraction of the time it would take a person—and with no mistakes, either.

In fact, I was so impressed by those computers—how meticulously and logically they could interrelate bits of information—that I thought about writing a Constitutional Amendment to allow a computer to become President. With its absolutely accurate and almost limitless memory, its infallible logic in relating one bit of information to another, and its superhuman speed, a computer, it seemed, would make a perfect President.

But then I thought again. Certainly the computer would always come to perfectly logical conclusions. But what about conclusions affected by inspiration, by compassion, by humanity? And what about seemingly irrational decisions based on love of justice, or hatred of tyranny? A computer just cannot draw illogical conclusions from logical facts. I thought better of my Constitutional Amendment to make a computer President. There is something about human decision-makers, for all of their mistakes and irrationality, which a computer simply cannot replace.

It seems to me that our system of democratic government depends at least in part on the uniquely human capacity of those who govern to come on occasion to what appear to be irrational conclusions. The ability to abandon logic for the sake of humanity and to insist that human existence cannot be reduced to even the most sophisticated of mathematical formulas is as much a part of our system of government as the Constitution itself.

This is not to say that computers are not extremely useful tools. They are. It is merely to point out that there are some tasks for which computers are simply not suited.

IMPORTANCE OF THE INDIVIDUAL

When we talk about the role which computers can and ought to play in governmental decision making, and the potential dangers computers pose to privacy, it seems to me that we are primarily concerned about the impact computerized information systems can have on individuals. We are concerned that the logical, categorizing processes of the computer will in some way run roughshod over our fundamental belief in the uniqueness and dignity of individual human personality.

It is, after all, the faith of the founders of this nation in the individual as a free and self-determining being that led them to set up our democratic form of government. Because of their faith in the individual, the framers of our Constitution took great pains to set up a system of limited government which could exercise only those powers which were expressly granted to it by the governed. They fashioned this system of limited government so as to maximize the protection of individuals from governmental interference. In order to guard against certain specific abuses of governmental power which would endanger individual freedom, the Founding Fathers added the first ten amendments to the Constitution, which we have come to treasure as the Bill of Rights.

PRIVACY AND THE BILL OF RIGHTS

The First Amendment was designed to protect the sanctity of the individual's private thoughts and beliefs. It protects the rights to speak and remain silent, to receive and impart information and ideas, and to associate in private and in public with others of like mind. After all, it is only by protecting this inner privacy that freedom of speech, religion, assembly and many other individual liberties can be protected.

The Third Amendment's prohibition of quartering soldiers in private homes protects the privacy of the individual's living space. This aspect of privacy is also protected by the Fourth Amendment's guarantee of "the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." In addition to the privacy of the individual's home and personal effects, the privacy of his person (or bodily integrity) and even his private telephone conversations are protected by the Fourth Amendment from unwarranted governmental intrusion.

The Fifth Amendment guarantees that an individual accused of a crime shall not be forced to divulge private information which might incriminate him. This privilege against self-incrimination focuses directly on the sanctity of the individual human personality and the right of each individual to keep private information which might place his life and freedom in jeopardy.

The Fifth Amendment also guarantees that no person shall be "deprived of life, liberty, or property without due process of law." This right to due process protects individual privacy by preventing unwarranted governmental interference with the individual's person, personality and property.

The Ninth Amendment's reservation that "the enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the People" clearly shows that the Founding Fathers contemplated that certain basic individual rights not specifically mentioned in the Constitution—such as privacy—should nevertheless be safe from governmental interference.

Just recently in *Roe* v. *Wade* the Supreme Court has located the right of privacy in the Fourteenth Amendment's guarantee that no state shall "deprive any person of life, liberty, or property without due process of law." Rights to give and receive information, to family life and child-rearing according to one's conscience, to marriage, to procreation, to contraception, and to abortion are all aspects of individual privacy which the courts have similarly held to be constitutionally protected.

PRIVACY AND THE INDIVIDUAL

To my mind privacy means more than merely restricting governmental interference in these specific areas. Someone has suggested that privacy is a catchword for the control the individual exercises over infor-

mation about himself. And yet because such a definition focuses on the information rather than the individual, it seems to look in the wrong direction. Control over information is important to our right of privacy only when that information is related to us as individuals. In the end, privacy depends upon society's recognition and protection of the importance and uniqueness of each individual.

GOVERNMENTAL INVASIONS OF PRIVACY

As chairman of the Senate Subcommittee on Constitutional Rights, I have over the years received many complaints about governmental invasions of individual privacy. In some cases, the government has intruded into the personal lives, homes and physical integrity of individual citizens in order to collect private information about them. In other cases, the government has used, or misused, such private information and has disseminated it without the knowledge or consent of the individual citizen involved.

DATABANK SURVEY

A while back it occurred to me that we did not even know how many data banks containing information about individuals the federal government has. So I wrote to fifty federal agencies and asked them just how many such databanks they have, what kind of information these databanks contain and who gets to see it and under what circumstances. Most of the responses are in a report that will be published later this year by the Senate Subcommittee on Constitutional Rights. So far we have received information on more than 750 databanks with varying contents, operational guidelines and the like.

The response we received earlier this month from the Office of Emergency Preparedness describes what must be the ultimate in governmental databanks. One of the databanks maintained by the Office of Emergency Preparedness contains records on some 5,000 individuals. But the Office of Emergency Preparedness does not know its contents and has no access to the information it contains. They just maintain it. Short of emergency circumstances the Office of Emergency Preparedness will never have access to this databank, which is "utilized and kept current on a regular basis by authorized specialists in the Personnel Operations element of the White House staff. No other agencies or individuals have access to these files." So here we have a federal agency maintaining a databank to which it has no access and the contents of which even the agency does not know. I have written to the White House to see if they can give us some clue as to what information is contained in these files and who has access to it.

DATA COLLECTION

Collection of information in governmental databanks is accomplished in a variety of ways. Some of it is obtained directly from the individuals involved. The Decennial Census is an example of this sort of data collection. Article II of the Constitution provides for an "Enumeration" every ten years so that Representatives can be apportioned among the states according to population. To make that head-count compulsory is perfectly all right. But nowhere does the Constitution countenance compelling citizens to respond on pain of criminal penalties to such personal questions as:

Do you have a flush toilet?

Have you been married more than once?

Did your first marriage end because of death of wife or husband?

What is your rent?

What is your monthly electric bill?

Did you work at any time last week?

Do you have a dishwasher? Built-in or portable?

How did you get to work last week? (Driver, private auto; passenger, private auto; subway; bus; taxi; walked only; other means)

How many bedrooms do you have?

Do you have a health condition or disability which limits the amount of work you can do at a job? How long have you had this condition or disability?

To my mind the use of the Federal criminal laws to force people to divulge such personal information, which bears no relation to any legitimate governmental purpose, is unconscionable.

Even worse, because of its lack of candor, is the Census Bureau's practice of sending out questionnaires on behalf of other government agencies. Theoretically, response to such questionnaires is wholly voluntary. But the Census Bureau's cover letters do not say that response is voluntary. Take, for example, a questionnaire the Census Bureau sent out at the behest of the Department of Health, Education and Welfare to retired persons. The questionnaire inquired into such private matters as:

How often do you call your parents?

What do you spend on presents for grandchildren?

How many newspapers and magazines do you buy a month?

Do you wear artificial dentures?

About how often do you go to a barber shop or beauty salon?

Taking things all together, would you say you're very happy, pretty happy, or not too happy these days?

Although response to this questionnaire was voluntary, many, if not most, of the retired folks who received the official Census Bureau packet feared that they would be penalized if they did not answer.

I have in the past introduced legislation to control the worst of these privacy-invading questions. But unfortunately, bitter opposition on the part of the Administration, as well as state and local governments and private agencies which use Census information, has so far blocked passage of such controls. It is unfortunate but true that bureaucrats who collect information can always think up reasons for wanting to collect more and more of it. Those of us who are concerned about individual privacy face an endless battle in constantly pointing out that just because government agencies want information about individuals should not be sufficient reason for forcing people to provide it or face criminal penalties. That is why I am in favor of putting the shoe on the other foot—forcing data collectors, such as the Census Bureau, to justify each bit of information they want to collect about us and honestly disclosing to each citizen that participation in many of these surveys is wholly voluntary.

SURVEILLANCE

One of the most disturbing aspects of governmental data collection is the use of surreptitious surveillance and intelligence operations to collect information on innocent citizens whose political views and activities are contrary to those of the Administration. Recent events have dramatized the disturbing prospect that such covert data collection may be even more widespread than we had feared.

Governmental surveillance can take many forms. Just recently, I learned that in cities from San Francisco, California, to Mt. Vernon, New York, high-powered cameras have been set up to keep track of individuals and their activities. These cameras are so sensitive they can read an automobile license plate five blocks away. They can focus on an individual as he talks with friends and associates and can follow him as he walks down the street. They can peek through the windows of the homes of innocent Americans and record what is going on inside. It seems to me that this is the very sort of secret prying into the private lives and activities of individuals which bodes much evil for our democracy. These cameras represent the tools of tyranny and totalitarianism which seeks total control over the lives of individuals. They are, in my opinion, utterly inappropriate in a society which values the privacy and civil liberties of the individual.

PUNITIVE SURVEILLANCE

I used to think that there could be nothing worse than this kind of invasion of individual privacy. But recently there has come to my attention instance after instance of the government's systematic invasion of the privacy of citizens who have done no wrong, but who disagree with the government's policies. Surveillance has become a kind of punishment for the exercise of constitutionally-protected First Amendment freedoms of speech, association and press.

DANIEL SCHORR

For example, in its continuing battle with the press the present Administration has resorted to this sort of systematic invasion of privacy in order to punish those members of the press who insist on criticizing Administration policies. Some of you may have heard about what happened to CBS newsman Daniel Schorr. After a series of articles critical of the Administration, Mr. Schorr woke up one morning to find himself the object of a full-scale FBI investigation. On the specious grounds that Mr. Schorr was being considered for "possible federal employment," the White House had ordered a thorough investigation of Daniel Schorr, his past and present associations, activities, employment and the like. Friends, acquaintances, colleagues, employers and former employers were telephoned and interviewed by FBI agents who asked about Mr. Schorr's character and patriotism, as well as his fitness for a position in the Executive Branch.

When I heard about what had happened to Mr. Schorr, I sought to find out from the White House just what high-level executive position purported to justify this apparently punitive surveillance of a newsman known to be critical of Administration policies and programs. First the White House replied that Daniel Schorr was "being considered for a job that is presently filled." A few days later the White House announced that Daniel Schorr was being considered for a new position which "has not been filled." In the end he was never offered any job by the Administration. The White House finally lamely announced that Daniel Schorr's name had been "dropped from consideration" and that the FBI investigation had been "terminated in the very early stages." According to the White House, the preliminary surveillance report, which was "entirely favorable," had been "subsequently destroyed." But the damage had already been done.

Daniel Schorr described the damaging effects of such surveillance on a news reporter in this way:

Even if the investigation had been set off by a tentative job offer, the effect, under the circumstances, had to be chilling to my work as a reporter. An FBI investigation is not a "routine formality." It has an impact on one's life, on relations with employers, neighbors, and friends. To this day, I must manage a strained smile when asked, on social occasions, whether my "FBI shadow" is with me. It has become standard humor to inquire whether I am still "in trouble with the FBI," whether it is safe to talk to me on the telephone.

I am left now to ponder, when a producer rejects a controversial story I have offered, whether it is because of the normal winnowing process or because of my trouble-making potential. Even more am I left to wonder, when I myself discard a line of investigation, whether I am applying professional criteria or whether I am subconsciously affected by a reluctance to embroil my superiors in new troubles with the Nixon Administration. I should like to think that the government cannot directly intimidate me. But my employer, with millions at stake in an industry

subject to regulation and pressure, is sensitive to the government, and I am sensitive to my employer's problems.

And Daniel Schorr's case is not unique. We now have reports of extensive surveillance, wire-tapping, and even burglaries perpetrated on other reporters.

When this sort of governmental prying into the private lives of individuals is used as a deterrent to the exercise of such constitutionally-protected freedoms, as freedom of the press, it involves a double evil: Not only is individual privacy invaded; that very invasion of privacy is used to punish or prevent the exercise of other rights.

ARMY SURVEILLANCE

Nor is this use of privacy-invading surveillance as a punishment for the exercise of cherished constitutional freedoms limited to the press. Early in 1970 we learned of an Army surveillance program which involved the use of Army intelligence agents to infiltrate and report on virtually every activist political group in the nation. This Army surveillance system collected information on both suspected violence-prone organizations and non-violent, pacifist organizations and religious groups, whose memberships had committed no crimes. All these citizens had done was exercise their constitutional rights to criticize and speak out against governmental policies which they felt were wrong.

This Army surveillance program was the subject of extensive hearings held by the Senate Subcommittee on Constitutional Rights in 1971. We heard testimony from Army intelligence agents who had been ordered to infiltrate all groups protesting certain government policies. They told us about joining peace groups, about infiltrating religious, civic and campus organizations, about reporting on speeches, activities and classes in cities and towns right across the nation. They compiled detailed reports on the finances, sexual activities, personal beliefs and associations of all sorts of people, from famous celebrities to anonymous Americans.

Some of these surveillance reports were microfilmed and others kept in file folders. Some of the information was analyzed by special intelligence analysts and kept in a computerized file. Often with very little to go on but some vague political statements, these intelligence analysts categorized each person's beliefs or status according to a special Intelligence Code for the computerized file. For example, the number 134.295 indicated that a person was a non-Communist; the number 135.295 (a difference of only one number) indicated Communist party membership or advocacy of Communism. Since many of the persons who were being subjected to this surveillance and categorization were young people with no settled political philosophy and no organizational memberships, the potentialities for error were almost as great as the invasions of privacy involved in collecting the information.

Once the Constitutional Rights hearings exposed this Army surveillance program for what it was—a dangerous, privacy-invading deterrent to the exercise of constitutionally-protected rights of free speech and association—the public outrage was so great the Army was forced shamefacedly to abandon the program. I have subsequently introduced legislation to prevent the use of military personnel for domestic political surveillance, to try to insure that this kind of systematic invasion of privacy does not happen again. We may succeed in stopping this one kind of surveillance program. But, like Hydra's heads, it seems as if two such surveillance systems replace each one we find out about and cut off.

DATA DISSEMINATION

I have just been talking about some examples of improper and reprehensible invasions of individual privacy in the collection of information, and the Executive Branch's use of such privacy-invading information collection to deter the exercise of other constitutional rights. But the difficulties with such data collection are not the only problems inherent in governmental data systems. It seems to me that one of the major drawbacks to the collection of information is the human temptation to use it, and in some instances to misuse it, by giving it out to those who have no right or reason to have it.

INFORMATION PRISONS

On the most general level it seems to me just plain unhealthy for some master computer to keep track of every detail of our lives—our words and deeds, our mistakes and failures, our weaknesses and our strengths. Some experts in the field of information systems have suggested that massive data collection on every detail of each individual's life poses the danger of creating an "information prison" in which the individual is forever constrained by his past words and actions. What is lost in the process is the individual's capacity to grow and change, to define and redefine himself and to redeem past errors. There is something to be said for forgiving and forgetting, and for the opportunity to start anew. That chance for a new start is, after all, the reason why many of our ancestors came to this country—to leave past lives and past mistakes behind, and to begin building a new life all over again. It was that same sense of being able to leave the past behind and begin again that led to the development of the West—settlers moving away from old lives and starting again in the frontier where the past could not catch up with them.

That time is gone forever now. But it seems to me that this spirit of the frontier—that there will always be somewhere a man can go and start all over again, where he can redeem his past mistakes by hard work and good deeds—ought not to be gone forever. That is why I am opposed to the collection of any more information about individuals than is absolutely necessary. That is also why I am skeptical about the use of the Social Security Number, or any other universal identifier, to tag each of us for life with all sorts of data about what we have said and done in the past. It seems to me that there is much to be lost by locking individuals into their pasts or, to put it another way, by strait-jacketing individuals in the dossiers of their past words and deeds.

We would do well to heed the warning of John Stuart Mill over a century ago that—

"A State which dwarfs its men, in order that they may be more docile instruments in its hands even for beneficial purposes—will find that with small men no great thing can really be accomplished. . . ."

If we do not heed this warning, there will come a time when records will become more important than the individuals, when the uniqueness of each human being will be sacrificed to the false gods of convenience and efficiency, when the opportunity for individuals to grow and change will have been eliminated. We have not reached that point yet, but vigilance seems in order lest it come upon us unaware.

IMPACT OF COMPUTERIZATION

It is in this area of information storage and dissemination that the impact of computerization is perhaps most significant. It is therefore not surprising that the computers, rather than their operators, have often been blamed for many of the serious problems involved in the dissemination of information about individuals. The capacity of computers to find and print out great masses of information at fantastic speed has magnified the adverse, as well as the beneficial, effects of ready access to this information.

INACCURATE INFORMATION

To begin with, in those cases where the information is inaccurate, a computerized system makes that inaccurate information more easily available to more people in less time than was ever dreamed possible in the pre-computer era. When I think of computers grinding away, and spewing forth more and more information about American citizens at ever faster rates, I am often reminded of a surprising communication I received from the Social Security Administration several years ago. It was a notification to my beneficiaries that they were eligible for death benefits on account of my demise. It made me think of Mark Twain's remark that the "reports of my death are greatly exaggerated." I was rather amused at the time; but I later paused to think of all the other erroneous information governmental computers send out routinely every day—sometimes with rather serious consequences.

DAMAGING INFORMATION

Some information can be very damaging to individuals whether it is accurate or not. Take for example arrest records or the narcotics users registries maintained by a number of federal agencies. The mere fact that an individual's name is recorded as a narcotics user or as having been arrested is often sufficient to deprive that individual of job opportunities, insurance, credit and many other important rights and benefits. Even worse, those individuals who have been branded as narcotics users or as having been arrested suffer this deprivation of rights and opportunities without a trial, without witnesses, without a chance to defend themselves—in short, without due process of law.

ARREST RECORDS

Much recent controversy has focused on what can and ought to be done to control the indiscriminate dissemination of arrest records. The federal government collects and computerizes such information in the National Crime Information Center run by the Federal Bureau of Investigation which in turn disseminates such information to all sorts of federal, state and local agencies. Not just law enforcement agencies, but employment, insurance, credit and many other organizations are accorded ready access to this sensitive information. All too often, particularly in areas where police conduct general dragnet (or round-up) arrests of everyone in the vicinity of a supposed crime, these arrest records reflect no wrong-doing.

Many people feel that the fact an arrest has been made is a valuable piece of information. But we should remember that it only represents the judgment of one person—a policeman, often acting on the spur of the moment on the basis of no more than strong suspicion that there may be probable cause to believe that the individual arrested may have committed a crime. No magistrate has reviewed that hasty decision; there has been no arraignment; and neither judge nor jury has established guilt beyond a reasonable doubt after a fair trial. Yet this preliminary judgment by a policeman can haunt a citizen for the rest of his life.

Most law-abiding citizens are tempted to take the complacent view: "Well, that could never happen to me." But do you realize that the men in this audience stand a 50–50 chance of being arrested sometime during their lifetimes? If you are a man living in a city, your chances of being arrested rise to sixty percent. If you happen to be black and live in a city, your chances of being arrested rise even further, to a whopping ninety percent.

Once your arrest is recorded, your chances of being arrested again are very great. The police have your name, photograph and fingerprints. You are on their list of potential criminals to be questioned about and rearrested for subsequent unsolved crimes.

Moreover, the potential adverse consequences of having an arrest record reach beyond the field of law enforcement. One survey in the New York area showed that seventy-five percent of the employment agencies in that area will not accept for referral applicants with arrest records. In addition to difficulties with finding employment, if you have an arrest record, you are likely to find getting insurance, credit and even a place to live extremely difficult.

All of this can happen to you without your having broken any law, much less having been convicted in a court of law. It seems to me that this sort of deprivation of rights, liberties and opportunities without trial is the very sort of abuse which our Constitution's due process guarantees were designed to prevent. The principle which is basic to our system of justice that a man is innocent until tried and proven guilty seems to me to require stringent controls on the dissemination of information which can wreak such harm on the lives of citizens.

I have long been in favor of legislation which would restrict the dissemination, by the FBI's computerized National Crime Information Center, of arrest records unaccompanied by some indication of the disposition of that arrest. In addition, it seems to me that even this information should be available only to those criminal justice agencies which can demonstrate that they need such arrest and disposition records in order to carry out their law enforcement duties. Other organizations, businesses and the like should have no access to this kind of information which can be so damaging to the lives and liberties of innocent citizens.

CONCLUSION

Mr. ERVIN. I am not for a moment suggesting that those who collect, computerize, and ever more widely distribute information on individuals, even damaging information such as arrest records, are acting out of ill-will or a desire to infringe the rights and interfere with the liberties of American citizens. I am certain that these officials feel that they are merely doing their jobs, which to them involve collecting the most possible information and making the widest possible use of it. The trouble is, human ingenuity is such that we can always think up reasons for needing to collect just one more bit of information. Once that information is collected, some reason can always be found for sharing it with others.

When I think about these ever-expanding computerized information systems, I am reminded of Justice Brandeis' warning that—

"The greatest dangers to liberty lurk in insidious encroachment by men of zeal, well-meaning but without understanding."

It seems to me to be high time for those of us who care deeply about individual liberties to call a halt to this burgeoning information collection and dissemination, unless and until the consequences of such collection and dissemination on individual lives and liberties are taken fully into account. Otherwise, the ostensible need for this piece of information and that bit of data will gradually encroach on our privacy and individuality until our control over information about ourselves is forever consigned to computers.

Discussions such as we are having this evening about the impact computerized information systems can have on individual rights to privacy and justice under law represent an essential bulwark against such infringements of human freedom. Our consciousness of and concern about the potential dangers to our cherished liberties is the best, and in the last analysis, perhaps the only protection for our liberties. As the great jurist, Learned Hand once wrote:

"Liberty lies in the hearts of men and women; When it dies there, no constitution, no law, no court can save it. . . . While it lies there, it needs no constitution, no law, no court to save it."

UNREASONABLE DEMANDS BY UNIONS

Mr. FANNIN. Mr. President, unreasonable demands by unions for wages and restrictive work rules have been a major factor in the inflationary spiral. This has been especially clear in the construction industry.

It was inevitable that with the soaring cost of union labor, there would be a reaction that would be detrimental to the unions and the workers in these unions.

Contractors have been turning more and more to nonunion labor. And we have seen an alarming increase in violence growing out of labor disputes.

Mr. President, the Wall Street Journal on Monday ran an editorial commenting on the situation in the construction industry. I ask unanimous consent that this editorial be printed in the RECORD.

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

[From the Wall Street Journal, July 31, 1973]

ASSERTING THE PUBLIC INTEREST

Peace reportedly has returned to Kalkaska, a Michigan village that for months has been beset by violence directed against an engineering company and its nonunion workers. Under terms of a court-ordered settlement, the company agreed that future hiring for construction of a $20 million natural gas processing plant will be done through a state Agency that will give preference to area residents without regard to union membership.

The company is a member of the Associated Builders and Contractors (ABC), a growing group of nonunion contractors. Since there will be no union contract at Kalkaska, this amounts to an important victory for nonunion labor in the nation's most heavily unionized state. It is a victory achieved at a high cost in terms of personal injury and destruction of company property.

Nevertheless, the settlement underscores the growing trend toward nonunion labor in the nation's largest industry. The some 6,000 member employers of ABC, with some 250,000 employes, have won billions of dollars worth of contracts in recent years. Its members' proportion of construction business now is said to be close to one-third of all industrial construction in the U.S. It is increasing because, for the most part, members of construction unions are not giving a fair day's work for a fair day's pay, as some concerned craft union officials have even admitted publicly.

Even organized labor's strongest sympathizers have difficulty defending the arrangement whereby a labor foreman for lower Manhattan's World Trade Center last year received $94,000, including $76,000 in overtime. Elsewhere, other labor foremen ("master mechanics") are highly paid, as are their assistants, even though their contribution to any given construction project often is marginal at best.

Construction companies could probably live with occasional abuses of this sort, if only for the sake of labor peace. What fewer and fewer of the companies can abide is generally exorbitant wage rates coupled with low productivity. A survey last year by Engineering News-Record estimated that as much as 40% of every construction payroll dollar is wasted by outright malingering (i.e., extended coffee breaks), tacit restrictions on output (e.g., cement finishers and bricklayers), limitations on labor saving devices, and work rules that require paying unionists (often at overtime rates) for nothing more strenuous than flipping a switch on in the morning and flipping it off at night.

Instead of working to eliminate these abuses, however, the craft union reaction to the nonunion challenge has often been similar to that which kept Kalkaska in turmoil. Several months ago ABC filed some 3,000 pages with the National Labor Relations Board alleging coercion, intimidation and terror directed at its members by AFL–CIO building trade unionists. Violence was so widespread in the Philadelphia area, where nonunion labor was hired to build a suburban hotel and shopping plaza after the unions rejected an offer to use 60% union work force, that even longtime union supporters became disenchanted.

Harper's associate editor John Fischer, one such longtime supporter, recently was moved to write: "For years the building trades have been getting away with such outrages, and worse, because they know they can intimidate most employers, and because their political clout makes public officials slow to intervene." He saluted contractor Leon Altemose "for his courage in defying the tyranny of the building trades unions," adding that "the best hope of breaking their stranglehold on all of us lies with Mr. Altemose and his fellow contractors who in recent months have been turning increasingly to nonunion labor."

For a long time it looked as though that stranglehold never would be broken, or that there would be no limit to union demands. But now the ABC promises to restore some measure of competition to a privileged and pampered industry, and from the standpoint of asserting the public interest the challenge could hardly come at a better time.

A LAND USE CONTROVERSY ALONG THE LOWER ST. CROIX RIVER

Mr. MONDALE. Mr. President, a land use controversy of national importance has developed along the Lower St. Croix River. Last October the Lower St. Croix became one of only nine river segments designated by Congress for "instant" Federal protection under the National Wild and Scenic Rivers Act. Unfortunately, however, full protection for the recreational and scenic character of this federally designated river has not been immediately forthcoming under the National Wild and Scenic Rivers Act. The act necessarily provides for the development of a master plan that can take a year or more before effective mechanisms are instituted to safeguard designated rivers.

Recognizing the danger of last-minute development which could ruin the natural values of the Lower St. Croix, the Minnesota-Wisconsin Boundary Area Commission and dozens of local communities along the river this spring endorsed a voluntary moratorium on construction on the bluffs of the riverway. Yet one developer and one community are moving ahead with a project that threatens to destroy a 5-year cooperative Federal-State and local effort to protect the Lower St. Croix.

The project is a $75 million luxury housing complex to be built in the city of Hudson, Wis., by Calder Corp. Plans for the project envision initial construction of 16 terraced apartments that would be built into the river bluff along with two 14-story "mid-rise" housing units and townhouses set back from the slope.

For a number of months Federal, State, and local officials have attempted to persuade city and company officials to delay action on the Calder project until the Lower St. Croix River preservation program becomes fully effective. At a minimum we have urged them to modify features of the project plans which are in direct conflict with the goals of protecting the natural integrity of the river corridor. Nevertheless, appeals to delay or adjust the project plans have failed to bring about the elimination of the terraced apartments, potentially the most destructive aspect of the company's plans. Instead the company and some city officials have been pressing forward toward construction.

Several weeks ago, representatives of my office, the Governors of Minnesota and Wisconsin, the Minnesota-Wisconsin Boundary Area Commission, and the Sierra Club met with officers of the company and officials of the city to discuss the project and to examine the proposed site for the terraced units. This meeting confirmed the views of State officials that urgent action was required to protect the Lower St. Croix.

Subsequently, Minnesota Attorney General Warren Spannaus filed suit in U.S. District Court to prevent construction of the project until the Lower St. Croix master plan becomes effective. Gov. Wendell R. Anderson of Minnesota announced his intention to use a newly approved Subdivided Land Sales Disclosure Act to prevent the sale of the project's housing units in the State of Minnesota if they are built contrary to the intent and provisions of the National Wild and Scenic Rivers Act. Governor Anderson also appealed to Interior Secretary Rogers C. B. Morton to join in the Minnesota lawsuit and to use all means at his disposal to help protect the river. At the same time, Wisconsin Gov. Patrick J. Lucey has directed officials of State agencies in Wisconsin to notify him of any requests for State permits or certification of housing and other developments along the Lower St. Croix River; and an environmental impact statement will be ordered not only for Calder, but for all projects that threaten the riverway.

While the environmental and legal grounds for stopping the project are strong, so far neither the company nor city officials have backed off. Now, new information has come to light regarding potential conflicts of interest on the part of several individuals employed by the city of Hudson. It was recently disclosed by the St. Paul Dispatch that the firm retained by the city of Hudson for engineering and architectural work is also the project architect for Calder Corp. and that the city planner is employed by the same firm of Hirsch, Stevens, and Samuelson. In addition, the Dispatch revealed that the city attorney drafted the articles of incorporation for Cardel Corp., the Wisconsin landholding firm owned by the Calder Corp.

Individuals involved in these and other instances of a doubling up of company and city jobs apparently do not see themselves in a conflict of interest. But consider a press report on a discussion with one official of the city:

Alderman Ed Younger, the council's public works committee chairman, said he doesn't feel there will be any conflict on the Calder job because the city engineer (Hirsch, Stevens & Samuelson) won't design Mont Croix streets and other utilities; rather the project engineer (Hirsch, Stevens & Samuelson) will do that. But he said the plans will all be checked by the city engineer (Hirsch, Stevens & Samuelson) to ensure they comply with local ordinances.

Despite the apparent lack of concern on the part of some city officials, many others, who do care about the fate of the St. Croix River and who believe that its nationally acclaimed values deserve full protection, are deeply concerned by the problem.

Last year, when the Lower St. Croix River Act was before the Congress, many witnesses testified of the inability of local communities acting separately to provide adequate protection and of the imminent danger if the Federal Government did not act quickly to safeguard this important natural waterway. Fortunately, with the leadership of the chairman and members of the Senate Interior Committee, that bill was passed in record time.

Certainly, the intent of the Congress in passing that measure and in adopting the 1968 Wild and Scenic Rivers Act was to preclude the kind of development which continues to jeopardize the Lower St. Croix. That is why the struggle taking place on the banks of the river is of major concern to the Congress, and that is why the future of other rivers like it across the Nation is dependent upon our success in assuring that the will of the Congress is obeyed.

The National Wild and Scenic Rivers Act states:

It is hereby declared to be the policy of the United States that certain selected rivers of the nation, which, with their immediate environments possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural or other similar values shall be preserved in free flowing condition, and that they and their immediate environments shall be protected for the benefit and enjoyment of present and future generations.

The short-sighted actions of a few individuals must not be allowed to jeopardize one of America's most magnificent natural rivers. When the master plan for the Lower St. Croix is submitted to the Congress, I am hopeful that it will be considered with full knowledge of its implications for the future of this important environmental asset.

And in view of the national significance of the impending threat to the Lower St. Croix River, I am hopeful that Interior Secretary Rogers Morton will use the full resources at his disposal to assist Governor Anderson, Governor Lucey, and the many communities along the St. Croix in the urgent effort to assure its preservation.

Mr. President, that my colleagues in the Senate may have an opportunity to review in greater detail the circumstances surrounding this controversy, I ask unanimous consent that an article from the St. Paul Dispatch and an editorial from the Minneapolis Star be printed in the RECORD.

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

[From the St. Paul Dispatch, July 26, 1973]

RIVERBANK HOUSING STIRS HORNET'S NEST

ST. CROIX PROJECT PLANS GO AHEAD AMID CONTROVERSY

(By Don Boxmeyer and Robert Whereatt)

The planned construction of a $75-million luxury housing development on the steep walls of the St. Croix River Valley in Hudson, Wis., has aroused widespread opposition and jeopardized inclusion of the lower St. Croix in the federal Wild and Scenic Rivers system.

The attorney general of neighboring Minnesota has filed a lawsuit to stop the project. A U.S. senator from Minnesota has vowed to halt the project. And the governors of the two states are opposed to portions of it.

The Hudson City Council, however, has persisted. It rejected a suggested building moratorium along the river banks, even though most other St. Croix valley communities embraced the voluntary construction stoppage.

For almost three years, Hudson's city fathers have slowly pushed and approved the plans of the Calder Corporation of St. Paul for Mont Croix, encouraged by the prospect of lower property taxes and a general boost in the local economy.

But in the process, questions have been raised about the propriety of some activities by city officials and others. Specifically:

The city council retains for city work a Hudson engineering and architectural firm which is also the project architect for the Calder Corporation's Mont Croix;

The city planner is an employee of that engineering firm, Hirsch, Stevens & Samuelson;

The part-time city attorney once did some legal work for the Calder Corp.;

The city attorney's legal secretary has served as legal agent for Calder's Wisconsin land-holding corporation, Cardel Corp.

Mont Croix is to spread along approximately a quarter-mile of river front on a large tract of vacant land overlooking the St. Croix, about a mile south of the Hudson Bridge. Two 14-story "mid-rise" luxury housing units will be set back from the steep

slope on flat grassland. Those structures and planned townhouses of the envisioned 1,500-unit Mont Croix are relatively noncontroversial.

But Calder wants to build 16 $95,000 terraced condominiums into the river bluff, a move which Minnesota Atty. Gen. Warren Spannaus has legally challenged in U.S. District Court. Spannaus contends development of the pristine bluff will disqualify the lower St. Croix for membership in the coveted federal wild and scenic rivers system.

But for Hudson, Mont Croix—the largest single development in city history—means the municipal tax base would more than double. That could substantially hike the city's tax revenue. It could even reduce property taxes.

"The long-term effects can only be beneficial to the city of Hudson," said Mayor Howard Wilcox.

Others, less enthusiastic than Wilcox about Mont Croix see the immediate local gain for Hudson as a long-range loss to the entire lower St. Croix River Valley. It amounts to a confrontation between the environment and the economy.

The St. Croix River from Taylors Falls to Prescott is under study now by Minnesota, Wisconsin and federal officials. A master plan on land and water use is to result from the study, after which—as early as September—the river would be ready for inclusion in the National Wild and Scenic Rivers System.

Peter Sipkin, an assistant Minnesota solicitor general in the attorney general's office, fears that the Mont Croix development could knock out the lower St. Croix as part of the system, largely because it would set a precedent for further uncontrolled development.

Spannaus' suit to halt the beginning of construction apparently has the full support of Sen. Walter Mondale, D-Minn., who said in a recent telegram to Calder officials: "I will support whatever legal action may be necessary to prevent implementation of (your) plans."

Similarly, Minnesota Gov. Wendell Anderson and Wisconsin Gov. Patrick Lucey implored the Hudson council last May to delay its action in approving the first phase plans of Mont Croix until the river study and master plan were completed. The council rejected the plea, approved the plans.

Only Monday, Gov. Anderson took another step. He ordered the Minnesota securities commissioner to use a 1973 law and prohibit the sale in Minnesota of Mont Croix units. Such a prohibition would severely reduce the potential market for selling the housing.

Hudson Mayor Wilcox stoutly supports the city council's actions that have allowed Mont Croix plans to proceed, and he defends the council's rejection of the construction moratorium which, at least temporarily, would have halted construction.

Mont Croix, said Wilcox, was not the reason for rejecting the moratorium. "Had we approved the moratorium as it was presented to us, it would have prohibited construction up to Third Street in Hudson."

Not so, says James Harrison, executive director of the Minnesota-Wisconsin Boundary Area Commission, an interstate agency that oversees the river boundary of the two states. The proposed moratorium, adopted by most Lower St. Croix River communities, could have been modified to meet local circumstances, said Harrison.

In Harrison's opinion, the Hudson council turned thumbs down on the moratorium only because a majority didn't want Mont Croix stopped. "They can use any other reason, but it's specious," he said.

The Boundary Area Commission is not opposed to the entire development, according to Harrison, just the step-like terraced apartments on the bluff. The apartments will destroy the natural characteristics of that portion of the river, he said.

Atty. Gen. Spannaus' lawsuit is more inclusive. It contends the entire project will "imperil final designation of the Lower St. Croix as part of the (Wild and Scenic Rivers) system."

Members of the Hudson City Council, at the very heart of the controversy, are now faced with a complication of another sort.

Gov. Anderson, in ordering the securities commissioner to prohibit the sale of Mont Croix units in Minnesota, also asked for an investigation of possible conflict of interest.

Questions have arisen.

Can the engineering firm of Hirsch, Stevens & Samuelson serve both Hudson as city engineering consultants and the developer as project architect?

Mayor Wilcox, a technical editor for 3M Co., says yes, that the integrity of the firm which has served his city for a dozen years—it is the only engineering firm in Hudson—is unmatched and not to be "impugned."

But others on the council are not so sure they will be able to get objective technical advice from an expert which serves two masters. For example, Calder project architect Hirsch, Stevens & Samuelson will design the streets, curbs, gutters and sewer connections for Mont Croix. And as city engineering consultant, Hirsch, Stevens & Samuelson may be called in by the City Council to review those plans.

Alderman John Dicke, one of the two new councilmen who opposed adoption of the project's specific implementation plans in May, said the question of a possible conflict of interest has been raised from time to time.

"We will constantly be faced with trying to determine whether the recommendation is ours (the city's) or theirs (Calder's)," Dicke said.

"But I asked Burt Stevens (a principal of the firm) how he felt about serving both sides and he said he had no trouble sleeping nights," Dicke recalled.

Stevens, in fact, told the Dispatch that the double service is a "definite advantage" to the city because the firm will have intimate knowledge of the Calder plans.

"I can't conceive of a point at which our position as project architects would conflict with our city consulting job," Stevens said.

Similarly, Alfred A. Albert, the vice president of the development firm, denies any conflicts of interest exist. "Nobody we're doing business with at Hirsch does business with Hudson. Jim Hirsch, the architect of the project, can't see a conflict . . . If I were on the council, I would want the city engineer on the project," Albert said.

Albert said a member of Hirsch, Stevens & Samuelson, acting as city engineer, even recommended a more expensive sewer system than what Calder proposed. The council approved the more expensive one.

Alderman Joann Persico feels there is a "definite conflict" that bothers many of her constituents; however, "There are certain things, certain people in this town you don't question."

Alderman Ed Younger, the council's public works committee chairman, said he doesn't feel there will be any conflict on the Calder job because the city engineer (Hirsch, Stevens & Samuelson) won't design Mont Croix streets and other utilities; rather, the project engineer (Hirsch, Stevens & Samuelson) will do that. But, he said, the plans will all be checked by the city engineer (Hirsch, Stevens & Samuelson) to insure they comply with local ordinances.

Harrison of the Boundary Area Commission said the engineering firm is entirely "reputable." "But can you really work for both people (the city and developer) and be truly objective? I think not."

Mayor Wilcox sees no problem or conflict. First, he points out, Hirsch, Stevens & Samuelson became the Mont Croix project engineer only within the past year, after several City Council decisions had been made.

"In the future," said the mayor, "if the council feels dissatisfied with the reports of our city engineer, I am confident they will seek other engineering opinions."

In the meantime, the city council may have to work around Hirsch, Stevens & Samuelson not only on the Mont Croix development, but also on the construction of a new Hudson Senior High School, sources said.

They are architects for that project. Dicke and Mrs. Persico predict complications because the council will need technical advice on street and sewer plans.

The "doubling up" of jobs extends further.

The part-time city planner, Charles Huntley, is an employe of Hirsch, Stevens & Samuelson.

It is to the city planning commission that subjects such as the building moratorium are sent. The planning commission, with the help of its professional planner, then recommended to the City Council.

The planning commission recommended last March that the building moratorium requests be turned down.

C. A. Richards, Hudson's part-time city attorney, said in an interview that he sees no conflict of interest in his role as the city's legal counsel and private lawyer.

Richards, in January, 1971, drafted the articles of incorporation for the Cardel Corporation, the Wisconsin land-holding firm owned by the Calder Corporation.

Richards said in an interview that the legal work was a one-time occurance and, in fact, that he was never paid for his labors. He has not represented Calder or Cardel since, he said.

Richards' office until recently, however, was used as the Wisconsin mailing address for the Calder and Cardel corporations.

The lawyers legal secretary, Jacqueline Olson, is listed as the registered agent for Cardel upon whom legal papers can be served.

Last month, the name of the legal agent for Cardel Corporation was changed in the office of the Wisconsin secretary of state. By last week, however, the change had not been recorded in the St. Croix County register of deeds' office, an action necessary to make the change valid, according to authorities.

Because of that, the Minnesota attorney general's office directed that the complaint filed against Calder and Cardel be served on Mrs. Olson as the registered legal agent in Wisconsin for the two corporations.

As the controversy swirls, the plans for the luxury development go on. The project area has been surveyed. Stakes with yellow cloth strips dot the river bank and bluff demarcating the development.

The Hudson City Council has given its permission for construction of three model townhouses. And shovels are ready to dig.

[From the Minneapolis Star, July 31, 1973]

PRESSURE ON THE ST. CROIX

"It is hereby declared to be the policy of the United States that certain selected rivers of the nation which, with their immediate environments, possess outstandingly remarkable scenic, recreational, geographic, fish and wildlife, historic, cultural, or other similar values, shall be preserved in freeflowing condition, and that they and their immediate environment of present and future generations."

So says the Wild and Scenic Rivers Act passed in 1968. Last fall President Nixon signed into law the Lower St. Croix River Act, which added the lower 52 miles of the river from Taylors Falls to the Mississippi to the National Wild and Scenic River system.

As many observers of the St. Croix have noted, it's something of a miracle that such a resource, located so close to a densely populated metropolitan area, should retain such fine qualities. Obviously, however, the pressure to develop that resource into something else is tremendous.

The immediate case in point is a proposed $75 million luxury housing development in Hudson, Wis. Without any detailed financial information about the project, we would guess its chances of being a success are good. We can imagine quite a few people wanting housing in that environment. And it is no surprise that Hudson officials, who see the Twin Cities metropolis sprawling out towards them in unplanned and unchecked fashion, might prefer a solid, orderly project of this type. The fact the project might ultimately double the city's tax base can't be overlooked either.

But a state-federal team now is drawing up a master plan for the valley as required by law. And the state of Minnesota, contending at least part of the proposed project would be inconsistent with the tentative master plan, is seeking to block the development. We approve of the Minnesota effort and hope the forthcoming master plan will indeed protect the valley "for the benefit and enjoyment of present and future generations."

FOOD ON OUR TABLES REQUIRES FUEL ON OUR FARMS

Mr. HUMPHREY. Mr. President, an excellent article dealing with the relationship between food and fuel appears in the current issue of The Farmer. The author notes the principal uses of fuel on our farms today and outlines some of the consequences if it is not available.

The point is made that we will start this harvest season short of fuel, unless a mandatory allocations program is instituted.

The writer points out that the fuel shortage faced by our farmers has been developing and obvious to many people for a couple of months, yet the administration has failed, to date, to take the needed steps to assure the availability of fuels for priority purposes, like the production of our food.

I ask unanimous consent that The Farmer editorial, entitled "Food on Table * * * Fuel in Tank" be printed in the RECORD.

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

FOOD ON TABLE . . . FUEL IN TANK

It's hard to figure why an administration that appears so concerned about an abundance of food for consumer is so slow to assure an adequate supply of fuel to producers and processors of that food.

Maybe pre-occupation with Watergate usurped this concern, as it has many normal functions of government. Maybe the big gas and oil lobbies want to bring independent and co-op suppliers, who have taken most of the brunt of the shortage, completely to their knees.

Whatever the reason, it wasn't for lack of sufficient warning. Secretary Butz knew in June that only 26% of the reported farm needs were being met through the voluntary ASCS reporting system (The Farmer, page 6, July 7). An Indiana extension engineer warned on June 5, after the government-called fuel and transportation meeting in Des Moines of May 31, that "whereas we ran short of crop-drying fuel in late November and December last year, we'll start short this year unless mandatory allocations are set up to provide the fuel needed."

Groups like the Minnesota turkey growers were in Washington by early July, pointing out that poults won't be started until growers get priorities for fuel to heat brooders. Manufacturers and distributors were telling policy officials by early July that crop dryers wouldn't be built unless farmers were promised fuel to operate them.

Drying and heating fuel is particularly vulnerable. L-P gas makes up only a small percent of total U.S. energy usage—about 3% or 4%. Of that, half goes for petro-chemicals, with production usually close to sources of supply, giving those users both a location and a large-purchase advantage.

That leaves crop drying, milk processing, poult and chick brooding, and similar farm uses on the short end. Producers and processors must not only compete with domestic heating and cooking for the remaining 50% of supply, but they face a demand which varies according to severity of fall and winter weather.

Importance of that demand, however, is vital, just as are adequate supplies of tractor and combine fuels for harvesting and fall plowing. As Kandiyohi County, Minn., farmer Evan Bosch said at the recent St. Paul crisis conference (page 16), "If consumers want food on their tables, farmers must have fuel in their tanks."

Either that or pray for a long, warm, dry fall. And The Farmer's weatherman, Oscar Moldenhauer, doesn't hold much promise of that. He predicts a wet one and an early, hard winter. Weather should be favorable from mid-September to mid-October. But it will then turn cloudy, with at least normal moisture and a cold snap by late October.

NOMINATION OF RUSSELL E. TRAIN

Mr. McGEE. Mr. President, in today's edition of the Washington Star-News, there appeared an excellent and convincing editorial on the nomination of Russell E. Train as the new chief for the Environmental Protection Agency.

I have known Russell Train for many years and have found him to be one of the really statesman-like leaders in the field of responsible conservation. I have found him to be extremely capable and an asset to our Government in meeting its responsibilities on a wide range of environmental and conservation matters.

I am in full agreement with the editorial that—

All available evidence suggests that President Nixon made an excellent choice the other day in selecting a new chief for the Environmental Protection Agency—Russell Train.

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

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

GOOD CHOICE FOR EPA

All available evidence suggests that President Nixon made an excellent choice the other day in selecting a new chief for the Environmental Protection Agency. It's true that Russell E. Train has no experience in administration on the large scale he now must grapple with, but neither does anyone else we know of who holds high credentials as an environmental leader. And these Train certainly has, along with a good deal of talent and persuasive ability.

The latter has been exercised lately in his strong contention—voiced to businessmen and others—that environmentalism is getting an unfair rap as a creator of economic and energy problems. Such claims are vastly exaggerated, he argues, with some rather impressive documentation.

His leadership of the Council on Environmental Quality, since its formation in 1970, has produced highly valuable results, in studies, recommendations and legislation. But his most striking achievements have been in mobilizing international action to curb ocean pollution, and protect endangered species of animal, marine and plant life all over the world. Progress in these areas has been truly remarkable in the past year, and Train was in the forefront as this country's representative at international conferences.

As head of the private Conservation Foundation, he was defending the environmental ideal for several years before entering government. Now comes his supreme test, for the EPA faces a severe dilemma in applying some difficult provisions of the Clean Air Act. Modifications in the law are proposed, and there will be pressures for more flexibility in other fields of pollution control as the pinch becomes more painful here and there. Train will occupy the position at which environmentalism and economics collide, as they surely will in some major instances. The question is, how much will he bend? To the very minimum that's required, we hope.

That seems to be the message, too, in his statement that the EPA will continue to operate with the same independence assumed under its able first administrator, William D. Ruckelshaus. And Train emphasizes that the burden of proof will be on those who want to ease the enviromental restrictions fixed by law. These are encouraging assurances, and we hope he proves equal to the pressures of politics, and divergent interests, that surely will converge with increasing momentum upon his agency.

FALSIFICATION—A WAY OF LIFE IN THE AIR WAR

Mr. HUGHES. Mr. President, nearly a year and a half ago, the investigation into unauthorized bombing and falsification of reports to conceal it began with the removal of Gen. John D. Lavelle from command of the 7th Air Force in Southeast Asia.

After efforts were made to also conceal the reasons for General Lavelle's removal, the Air Force acknowledged that its inspector general had confirmed false reporting in connection with three air strike missions into North Vietnam. It was on these grounds, we were later told, that General Lavelle was relieved of his command.

The Committee on Armed Services conducted extensive hearings into the unauthorized bombing, with particular emphasis on determining how a field

commander could conduct his own private war, and do so for weeks without being discovered. The answer is only now becoming clear.

Falsification of records was so routine and pervasive in U.S. combat air operations in Southeast Asia that few dared to question orders from their superiors to falsify yet another document.

This atmosphere of "business-as-usual" falsification no doubt accounts in large part for the fact that General Lavelle's subordinates carried out the unauthorized air strikes he directed. Two such key officers, General Slay and Colonel Gabriel, both testified that they had momentary doubts about Lavelle's orders, but dropped them on the assumption that "somebody's hand was on Lavelle's shoulder" authorizing the missions and false reporting.

It takes a great deal of courage to question the orders of a superior. General Wheeler, when asked before the Armed Services Committee what repercussions an officer could expect for questioning an order, replied that it would depend on whether he was right.

In military organizations that value loyalty and unflinching obedience over all other virtues, it is not difficult to understand an officer's hesitation to challenge an order, when he has no way of knowing whether he is right.

During the committee's Lavelle investigation, it was never clear that falsification of documents was a way of life. In fact, Air Force and Defense Department witnesses gave us to believe that falsification was so rare and so contemptible that it was good cause to remove General Lavelle from his command and drum him out of the service because he had ordered documents falsified.

In point of fact, General Lavelle was not demoted for ordering falsifications, for nearly everybody was doing it. He was demoted after having implemented the falsifications so clumsily that he got caught.

It was not until the secret Cambodian bombing was revealed that the Pentagon acknowledged widespread falsification of reports.

Of course, they deny the label "falsification," and contend that the system only involved "dual reports," one of which contained "erroneous" information; and they contend that "diplomatic considerations" were ample justification for the falsification.

Knowing now what Pentagon witnesses withheld from the committee during the Lavelle investigation—that false reporting was routine—I have concluded that there are probably insufficient grounds for a formal investigation of the Lavelle case leading to possible courts-martial of servicemen below the top levels of command.

Therefore, I will recommend to the committee that it suspend its requirements for special reports in regard to nominations of Navy and Air Force officers for promotion. These reports consist of: First, a separate listing of those officers who participated in combat air operations during the period of acknowledged unauthorized air strikes against North Vietnam, November 1971 to April 1972; second, a separate listing of those who served with the 432d Tactical Reconnaissance Wing during that period; and third, a certification that none of the nominees falsified a record or made false official statements in connection with the unauthorized raids.

I want my colleagues to be advised, however, that it is my intention to continue close examination of general and flag officers nominated for promotion. These are the officers upon whom we rely to protect the honor and preserve the integrity of the military services, and unless they are unequivocally opposed to deception and false reporting, the Senate should not acquiesce or approve their promotions.

THE ECONOMY—WHAT WENT WRONG?

Mr. HUMPHREY. Mr. President, a recent editorial in the Washington Post of July 28 entitled "The Economy: What Went Wrong" is must reading for every Member of Congress. It is even more imperative that those who advise the President on economic matters, such as Dr. Stein and other members of the Council of Economic Advisers, study carefully and thoughtfully the subject matter of this editorial.

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

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

THE ECONOMY: WHAT WENT WRONG

The American economy is now developing along altogether new and unpredictable lines. The confident forecasts of last January have been rapidly devoured by events. The death rate for official pronouncements has soared and the index of unpleasant surprises is unprecedented. This week the Agriculture Department published a drastic revision of its view of future food prices. It appears that all previous statements about declines in farm prices this autumn are, as the term goes, inoperative.

The administration's projections have gone dismally askew but, to be fair, so have most other people's. Past experience is not proving a very useful guide to present policy. The administration concedes that last winter's plans have not worked out at all well. But it has not offered any very clear or satisfactory explanation for the trouble. Since remedies proceed from a diagnosis, it is necessary to consider precisely what has gone wrong.

Above all, international markets are having a far greater influence on our domestic economy than Americans are accustomed to. At the same time, quite separately, here at home the sudden violent swings in public policy have created an atmosphere of uncertainty that encourages speculation and inflation. Unquestionably, over the past six months, the Watergate scandals have greatly deepened the doubts here and abroad regarding the capacity of the American government to carry out any sustained course of economic action.

The commodities that have given the price controllers the most trouble, over the past year, are uniformly those heavily involved in our foreign trade. Food and petroleum are, notoriously, at the top of the list. Lumber, leather and some of the metals are other examples. Americans are going to have to get used to the idea of worldwide competition with other nations that have become, in relation to their populations, as rich as we.

Over a wide range of vital commodities, U.S. domestic prices were traditionally far higher than world prices. Particularly in regard to food and oil, we constructed elaborate and effective mechanisms to prevent overproduction and intolerably low prices. But suddenly the world prices are higher than our traditional domestic prices and we are confronted with the opposite danger—not surpluses and low prices, but shortages and intolerably high prices. The intricate regulation that has served us well in farm and fuel production for a generation is suddenly useless. Foreign demand, reflecting the rising wealth of other nations, is no mere passing irritation. It will be a permanent and formidable pressure on our economy and we are going to have to learn to live with it.

When the United States agreed to devalue the dollar at the Smithsonian meeting in December 1971, our government described it officially as an overdue adjustment to the dollar's true value. But evidently there were people abroad, holding billions of dollars, who took a different view. They had been holding American money as the best assurance of security in an uncertain world. After the Smithsonian meeting, some of the dollar holders, like people catching the smell of smoke in a crowded hall, began edging toward the fire escapes. Inevitably the quiet shuffle turned into a stampede and the second devaluation last February was followed by a long downward float that may or may not have ended. The dollar is now traded at rates that bankers consider irrationally low, because dollar holders are cutting their losses to seek safer investments. The lower the dollar sinks, the higher the overseas demand for American foodstuffs.

When Mr. Nixon announced the first dramatic reversal of his economic policy in August 1971 (if anyone can remember back that far), he was widely applauded for the total unpredictability of his strategy. Unpredictability, his admirers declared, gave him great advantages as a negotiator. But the passage of time and the accumulation of experience demonstrate that unpredictability is a very expensive luxury in economic policy and its usefulness diminishes with repetition. The succession of phases and the changing of basic rules every few months, creates a hostile climate for orderly investment. It jeopardizes the calculations of businessmen and induces them to grab for the nearest profit rather than building for a longer prosperity. The extraordinary rises in industrial prices last sping were obviously owed, in some considerable part, to companies' jittery anticipation of another price freeze. By anticipating it, they made it necessary.

In devising remedies, wisdom begins with the acknowledgement that the recent changes in the world economy are not reversible. Wise policy has to be stable and settled, in contrast to the present frantic succession of last-minute surprises as we flip from one phase to the next. Businessmen and citizens need to know what basic rules they are going to be expected to operate under. Herbert Stein, the chairman of the Council of Economic Advisers struck precisely the wrong note last weekend with his fatuous assurances that the current controls will "get us over certain transitionary periods into a new economic paradise of stable prices, high em-

ployment and growth." A few days later the Agriculture Department reported that there will be less meat on the market for the remainder of 1973 than there was last year. It also reported that, to its great astonishment, more than half of the American wheat harvest for the year beginning this month has already been sold for export.

Mr. Stein's offhand remark is dismaying because it indicates that the White House still does not comprehend the changes that have swept over our country's economic circumstances within the past two years. The Watergate scandals have not only contributed to these changes, they are also clearly distracting the attention of the White House from the countermeasures that it urgently needs to consider.

THE PANAMA CANAL QUESTION

Mr. McGEE. Mr. President, the dialog has begun in the U.S. Senate on the question of our negotiations with the Government of Panama over the issue of the Panama Canal and the Canal Zone. Since this issue is one which vitally concerns me, I am hopeful that the dialog will not only continue, but also increase.

In this connection, I have had one of my summer interns, James D. Grant, researching the issue this summer. I have found James to be an exceptionally talented and capable young man. He has filed a preliminary report with me in preparation for his final and more comprehensive analysis of the issues involved in the Panama question.

I found his report to be very thoughtful and very stimulating. For this reason, I feel it should be printed in the RECORD. I emphasize this is not a report compiled by me. The report is the result of a significant amount of research. And, although I may not find myself in agreement with every point he raises in his report, I do feel it to be a very commendable effort on his part and important to the Senate dialog on this issue.

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

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

THE PANAMA CANAL QUESTION

(By James D. Grant)

For the sake of promoting dialogue on the important issue of what we should do with the Panama Canal and Canal Zone, I will present some points supporting the State Department's stance that we should strive to work out an agreement enabling the Panamanians to establish sovereign rights over the Canal Zone and Panama Canal.

The types of arguments used against the present Administration position are basically two-fold. The first argument is of a military-economic nature. The Panama Canal is said to be a key element in our internal and economic security because it links our two coasts by vital sea lanes. This justifies our maintenance of sovereign rights over the Zone and Canal because only with these sovereign rights can we hope to defend the canal in all situations. The second set of arguments contains an emotional strand. These arguments see the relinquishing of United States' rights over the Canal and Canal Zone as a humiliating defeat for the United States at the hands of an arrogant and ungrateful Panamanian people. This viewpoint links the withdrawal from Panama to our withdrawal from Vietnam and sees it as a withdrawal from our legitimate pretensions to world power.

To get some perspective on these arguments, it is first essential to keep in mind that the Panama Canal is not absolutely vital to our national defense either in military or in economic terms. The report completed for the Joint Chiefs of Staff in 1970 termed the Panama Canal "important" but not "vital" for our national defense. The simple fact is that only one bomb or missile can knock the Canal out of commission. Also, even with the troops we have there now, the Canal cannot be defended against concerted sabotage efforts. Because of these realities, the Navy has never been able to develop defense plans relying solely on the Panama Canal. The lack of absolute certainty as to the dependability of the Panama Canal has also been an argument used in the past to justify the existence of a two-ocean navy.

The military importance of the Panama Canal in the post-World War II decades has been primarily in terms of reducing the cost, slightly, of the land wars we have fought on the Asian continent. The military has saved on the transportation fees of goods from the East Coast of the United States to Asia. This has benefited the United States. The question is whether, in the final analysis, we must rest the case for continuance of sovereign rights over the Panama Canal and the Canal Zone on the double contingency that we have another land war overseas and that the Panamanians close the Canal to us.

Another military argument propounded by those in favor of the maintenance of sovereign rights is that it is vitally important that the United States maintain its position of strength in Latin American and that the Canal and Canal Zone are essential to this position of strength. For the purpose of maintaining its strength in Latin America, the U.S. at the present time has the Southern Command headquarters, concerned with hemispheric defense, in the Canal Zone and also the School of the Americas, which trains Latin American army officers. But justifying our control over the Canal Zone and Canal on grounds not directly related to the specific maintenance and defense of the Panama Canal is of a questionable legal nature. Article II of the Hay-Varilla Treaty of 1903 states: "The Republic of Panama grants to the United States in perpetuity the use, occupation and control of a zone of land . . . for the construction, maintenance, operation, sanitation and protection of said Canal. . . ." This mandate and subsequent judicial pronouncements recognize that the U.S. has a specific role in regards to the Canal and Canal Zone and does not suggest that we can use the Canal Zone for the more nebulous purpose of maintaining U.S. strength in Latin America or for the purposes of hemispheric defense. Furthermore, if we are concerned with maintaining a position of strength in Latin America, one can question whether this end wouldn't be better served by establishing a friendship based on economic criteria and a respect for the rights of the Latin American countries as nations rather than by perpetuating a presence which many Latin Americans consider to be a manifestation of American colonialism.

The economic concern of the United States in the Panama Canal is again important, but by no means vital. Seventy percent of the traffic using the Panama Canal either originates or ends up in the United States. But this comprises only 14% of our total foreign trade and our foreign trade—both imports and exports—comprises less than 10% of our GNP. Also only 2% of our total coast to coast trade uses the Panama Canal. Thus a closing of the Panama Canal to U.S. trade would not be a mortal blow to the U.S. To the contrary, these figures indicate that the closing of the Panama Canal to American import and export trade would hurt the Panamanians much more than it would hurt us. Panamanians view the Canal as their country's most valuable natural resource. The Canal is only a valuable natural resource to them, however, if it is used by trade. The fact that 70% of the present Canal traffic is American or destined for the United States is one of the most convincing reasons why Panama would not close the Canal to American trade.

Panamanian control of the Canal would lead to a significant increase in tolls. The United States is operating the Canal on a non-profit basis and has not raised the Canal tolls since the Canal's opening in 1914. The Panamanians, in contrast, would be seeking to make a profit off of the Canal. The Panamanians in their establishment of tolls would be limited by the competitive constraints of alternate modes of transportation and alternate trade routes. Already the new 150,000 ton supertankers and cargo ships can ship coal and oil to Japan more cheaply via the Cape of Good Hope than the 50,000 ton ships can ship these products via the Panama Canal at existing rates. There is no doubt, though, that American importers and exporters who use the Canal would find a Panamanian-controlled Canal more expensive than the present Canal. Again, however, one must ask whether a more disadvantageous position for some U.S. exporters and importers justifies a claim to never give up sovereign rights over the Canal. For those who argue that the Panamanians would simply not be able to manage the Canal, it must be remembered that not even the most extravagant of the current Panamanian negotiating positions foresees the U.S. giving up administration of the Canal before the end of the century. There remains considerable time for Americans to tutor Panamanians in the efficient use of their coutry's most important resource.

A further economic argument against giving up sovereign rights over the Panama Canal is that U.S. taxpayers have invested over five billion dollars in the purchase, construction, maintenance and defense of the Canal. The Canal Zone itself cost the United States $145 million, more than any other territorial purchase in the country's history. And because the little profit made by the Canal is plowed back into maintenance and improvement of the Canal, U.S. citizens have received very little direct repayment for their investment. But the fact is that indirectly the Panama Canal has saved the U.S. between eleven and thirteen billion dollars according to the UN's Economic Commission for Latin America (CEPAL). Savings to the users of the Canal between 1960 and 1970 are estimated at $5.4 billion. According to a former Governor of the Canal Zone the U.S. saved $1.5 billion in maritime transport costs during World War II alone by using the Panama Canal. The U.S. taxpayer thus has recouped on his initial investment and there is no evidence that he would stop benefitting in the future under Panamanian control.

With a recognition that the Panama Canal is not vital to our national interests, the people of the United States should attempt to understand why the issue of regaining sovereignty over the Panama Canal is so fervently felt by the Panamanians. It is the single issue capable of uniting all the people of Panama today. The goal of gaining control over the Canal does have a partial

foundation in a desire to reap economic advantages, but by far the most important motivation to regain control over their territory is one of national dignity—a desire on the part of the Panamanians to be their own masters, both politically and economically. Juan Antonio Tack, the Panamanian Minister of Foreign Affairs, has directly stated this: "the struggle of Panama goes deeper than simply gaining some economic advantages. The colonial situation that has driven Panama and which still exists must be eradicated."

The issue for Panama is primarily one of independence—independence from the domineering influence of the United States. The Panamanians want freedom from the humiliation of not being able to control their country's most valuable natural resource. They want freedom from the indignity of not having control over their nation's only two deep water ports and from having their country physically bisected by an alien power. How would we in the United States feel if any other country had sovereign rights over the Mississippi River and a five mile strip of land on either side?

A country's desire for independence and national dignity cannot be explained in rational terms, but this desire has proved a potent force throughout history for all peoples of the world. There are very few Americans who aren't proud of the fact that thirteen little colonies in North America were able to assert their independence from the greatest power in the world two centuries ago. For some of those who fought in the Revolutionary War there were political issues involved, but most of the American patriots at that time were simply possessed with the notion that we had a right to be free. And those patriots, most of them had suffered no injustice at the hands of the British, were willing to die for that notion. I think we are naive if we think that the Panamanians can not be moved by the passion and dignity of independence the way the American people were in 1776.

Panamanian President Torrijos, in a speech on March 15, 1973, stated: "The struggle being fought by the people of the Third World to obtain their true political and economic independence constitutes one of the worthiest examples we can leave as a heritage to succeeding generations." Any American who fails to recognize the emotional force behind these words and their implication for Panama is missing the essence of the Panamanian desire for control of the Panama Canal Zone and Canal. The Panamanian politicians are not playing games with the United States. They are expressing the deep-felt feelings of the Panamanian people. Political and economic independence are the only ultimate realities for the Panamanians. A recognition of this now by the United States will prevent incidents which could be embarrassing and diplomatically harmful to the US, as well as, perhaps, harmful to the functioning of the Canal. An acceptance of the right of Panamanians to sovereignty over their own land will allow us to truly help the Panamanians by diverting their emotional energies from the hostile and sometimes destructive channel that they are in now to a constructive channel which will help them strengthen their country and, eventually, when they do assume full control over the Canal, to manage the Canal well.

Those who do not want to see the United States relinquish sovereign rights over the Canal and Canal Zone because they consider such an action humilitating contribute to one of the strongest arguments for negotiating the sovereignty issue. International humiliation is not inherant in an act, but rather results from an acceptance of, and participation in, a competitive state of international affairs. International politics in the past have been determined to too great an extent by selfish me-first thinking. In the past, cut-throat competition has been condoned as legitimate to protect a country's so-called self-interest. But today we are faced with a different world situation. There is a world food shortage; there is an international energy crisis; ecological catastrophe threatens the whole world; drugs from one country destroy the people of another; hijacking exists only because the hijackers have some place to go. All of these are problems that can be dealt with adequately only by cooperation of the world community as a whole. Effective cooperation requires a willingness on the part of countries to give up immediate short-term interests to promote conditions that will eventually promote the goods of all.

An expression of willingness on the part of the United States to negotiate an issue so obviously important to us as the sovereignty issue in Panama would encourage other countries to negotiate issues which they feel important to them for the sake of strengthening the world community. France's decision to conduct nuclear tests in opposition to the wishes of nearly the entire world community is only one current example of a situation where a spirit of cooperation might have stopped an ecologically irresponsible act.

The path of international cooperation is clearly preferable to a path of economic and military competition. It is less costly and increasingly looks like the only way to insure world survival. But the international community is not accustomed to a spirit of cooperation. Some countries will have to lead the way in the quest for a cooperative spirit, and the United States, being the most powerful country in the world today, is in the best position to act as leader. The international community is in a position today where its members will have to change their perspectives so they can accept short-term sacrifices for long-term gains, rather than vice-versa. It is crucial to see negotiations of the sovereignty issue not as a defeat for the United States, but rather as a victory for the new global spirit of cooperation.

SUBSTANDARD CONDITIONS AT ARMY HOSPITAL

Mr. PROXMIRE. Mr. President, a Comptroller General's investigation of the Brooke Army Medical Center at Fort Sam Houston, San Antonio, Tex., has disclosed a staggering list of substandard conditions and mismanaged operations jeopardizing the care, comfort and, in some respects, the lives of patients.

The most outstanding example of inadequate conditions at this Army hospital concerns coronary care.

Emergency cases such as heart attack victims are brought to the emergency room in the main hospital. But the coronary care unit is located in a separate building, called the Beach Pavillion, 1.2 miles from the main hospital.

As a result, heart attack patients must be transferred by ambulance from the emergency room to the coronary care unit in order to receive specialized care. From February 1970, through December 1972, at least five heart attack victims died during this trip.

Physicians interviewed by GAO investigators said that transfer of cardiac patients between hospitals exposes the patient to added risk, delays delivery of specialized care, and is medically undesirable. One doctor said that, because of the separation of facilities medical personnel did not have a chance to save the patients who died.

INADEQUATE PATIENT CARE ACCOMMODATIONS

Other deficiencies at the Brooke Army Medical Center demonstrate inadequate patient care accommodations, inadequate ambulatory care facilities, duplication of medical services, lack of separation of inpatient and outpatient care areas, undesirable traffic patterns, and inadequate mechanical, electrical, and plumbing systems.

Among the specific conditions at Brooke:

There are not enough examination and treatment rooms for the average number of doctors on hand. The orthopedic clinic has only 7 examining rooms for 13 doctors. A minimum of 2 examination rooms per doctor is needed for efficient use of doctors in this clinic.

The main hospital has a radio paging system, but no public address system. Radio paging is a one-way system and there is no way for the radio center to know if messages have been received. According to doctors who work in the emergency room, there is no way to sound an alarm or reach admitting officers except by telephone.

Most patients are cared for in open wards divided into four-bed areas by partitions. One toilet area serves about 25 patients, affording them little or no privacy.

Individual patient areas are less than the normal square footage required by Federal regulations. Nearly one-half the patient areas are without windows.

The blood bank is located in the main hospital, separated from the surgery performed in the Beach Pavillion.

There are 12 different places within the main building for storing films from the radiology department. Some patients are X-rayed twice, because of the difficulty in finding patients' films.

There is no isolation room for patients with contagious diseases in the emergency facility of the main hospital.

The Obstetrics-Gynecology Clinic has insufficient examining rooms. The clinic handles about 50,000 patient visit per year, but has the staff capability to handle about 70,000 visits. Many patients will not discuss their problems, because the examining rooms have no floor to ceiling partitions and afford little privacy.

In the main building no areas have sprinkler systems for fire protection, not all areas are air-conditioned and there is no package conveyor, pneumatic tube or similar system for materials movement.

In the Beach Pavillion some beds are located in main corridors, toilet accommodations are inadequate, the support areas for nursing units are inadequate, supply space is inadequate, too much traffic has to pass through the surgical operating suite, because of poor design and layout and because there is no pa-

tient holding area in this suite patients arriving early for surgery must wait in the corridor, and the electrical and plumbing systems are antiquated and inadequate.

LUXURIOUS VIP FACILITIES

The substandard conditions to which members of the armed services are subjected at Brooke stand in sharp contrast to the luxurious VIP facilities that are reserved in some military hospitals, including Brooke, for generals, admirals, and high civilian officials.

In some respects the Brooke Army Medical Center is an excellent facility and I understand that some of the deficiencies are being corrected.

Unquestionably, the members of the armed services deserve better medical care than they are getting at this hospital.

INCREASE IN MILITARY MEDICAL COSTS

It is difficult to reconcile the tremendous increase in overall military medical costs—which exceeded $2.5 billion in 1971—with the conditions of this hospital disclosed by the GAO report.

The implications of substandard medical facilities, inadequate patient care and inefficient use of medical personnel go far beyond a single Army hospital.

The members of the Armed Forces deserve and should get first-rate medical care. Anything less than that is unacceptable.

DOCTOR RETENTION PROBLEM

Conditions such as those at Brooke may be a major reason why the military finds it difficult to attract and retain doctors. No self-respecting physician wants to work in an environment where it is not possible for him to give efficient, effective medical care.

These problems may also partly explain the high and rising costs of military medical costs.

THE CAMBODIAN BOMBING AND DEPUTY SECRETARY OF DEFENSE CLEMENTS: CLEARING THE RECORD

Mr. SYMINGTON. Mr. President, as of August 1, the Deputy Secretary of Defense, William P. Clements, Jr., wrote me with respect to his role in connection with the Cambodian bombing—and it is a privilege to ask unanimous consent that this his letter be printed in the RECORD.

May I add that the months I have worked with Secretary Clements have increased my respect for his integrity and capacity.

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

THE DEPUTY SECRETARY OF DEFENSE,
Washington, D.C., August 1, 1973.

Hon. STUART SYMINGTON,
Acting Chairman, Committee on Armed Services, U.S. Senate.

DEAR MR. CHAIRMAN: As I previously mentioned to you, Admiral Moorer and I are available to appear before your Committee to testify in reference to the B–52 bombing operations in Cambodia which have been the subject of current hearings. Meanwhile, there is a matter I would like to bring to your attention which relates to my role as Acting Secretary of Defense when material was forwarded to the Committee containing inaccurate information on Cambodian bombing statistics.

I share your concern and that of the Committee in its having received data from this Department which was neither complete nor accurate. I have reviewed carefully how this occurred and it was clearly a mistake and one which I deeply regret. As a result of this mistake there appears to have been a widespread misunderstanding of my role as one of personally misleading the Congress.

As you are aware, when this data was submitted I was the Acting Secretary and therefore the responsible person in the Department. Nevertheless, when these statistics were forwarded to the Committee, I was not personally aware we had been engaged in the Cambodian bombing operations. The report did not come through my office for review, nor was I informed that any of the data contained therein was either inaccurate or incomplete. Like many others, my first knowledge of these Cambodian strikes in 1969 and 1970 was obtained when it was disclosed publicly several weeks ago.

The Department of Defense must have, and maintain, the confidence of the Congress. This confidence must be based on both candor and integrity. I assure you that during my tenure here I will endeavor to achieve both throughout the Department.

Because of the relationship of the Department of Defense to the Committees, I have sent a copy of this letter to the Chairman of the House Armed Services Committee and both the House and Senate Appropriations Committees, as well as to Senators Tower and Bentsen, both of whom appeared on my behalf when I was before the Senate Armed Services Committee for confirmation.

Sincerely,

WILLIAM P. CLEMENTS, Jr.

LAND USE

Mr. ROBERT C. BYRD. Mr. President, I would like to call to the attention of the Senate an article by David S. Broder which appeared in the Washington Post on Wednesday, August 1. The article, entitled "Land Use Bill: 'Important as Watergate,'" stresses the importance of S. 268, the land use bill introduced by the Senator from Washington (Mr. JACKSON). This important legislation has passed the Senate and I am hopeful it will be ready for final consideration before the close of the 93d Congress.

Because of the great significance of land use planning to all Americans, I ask unanimous consent that the text of this article be printed in the RECORD.

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

LAND USE BILL: "IMPORTANT AS WATERGATE"

(By David S. Broder)

BEAVER ISLAND, MICH.—Out here on this island on the north end of Lake Michigan, Watergate-fever is as weak as the television signals that carry the witness' flickering image from the Senate caucus room via the stations on the mainland.

We have another concern out here—a referendum coming up in mid-August on revoking or retaining the new zoning ordinance of Charlevoix County, of which we are a part.

Beaver Island, which lay blessedly dormant in the century since the Irish and the Mormons fought a battle for its control, has been caught up in the great American recreational land boom.

Until the mid-1960s any beach you wanted to camp or swim or picnic on was yours to use. Then, the subdividers moved in and carved the best beaches into 100-foot frontages. Those lots have more than tripled in value in the past five years, as land-hungry families from Detroit, Grand Rapids and Chicago have ranged farther and farther north in their search for waterfront property.

The county government has moved to meet the challenge. A decade ago just as the first wave of developers arrived, the first contract was let to a Grand Rapids consulting firm to devise a land use plan for Charlevoix County. A member of that consulting team was hired two years ago to set up a one-man planning department for the county, and last October, the county enacted its first zoning ordinance.

Now, the infant zoning law is in trouble—for reasons as traditionally American as apple pie. Some folks are opposed to anything that limits their rights as property owners to put whatever they want on their land—be it condominium apartments or a carwash.

Others say they are willing to have zoning, but only if it's administered by a truly local government, the township, not that distant bureaucracy in Charlevoix. That sounds funny, but if you're out here in the lake or over at Boyne City, 20 miles east of the courthouse, you resent having to travel to Charlevoix for zoning hearings.

These forces of localism and individualism convince county planner Bill Mercer that the first weapon in his arsenal may be taken from him in the referendum—and then there will be no developers.

The local debate is part of a much larger national issue, which came to focus earlier this summer when the Senate passed and sent to the House, something called the Land Use Policy and Planning Assistance Act of 1973.

I had first heard of the bill more than a year ago, when its principal sponsor, Sen. Henry M. Jackson (D-Wash.), mentioned it one day on the presidential primary trail as "the most important bill" before Congress.

Somewhat skeptical, I made a mental note to look it up, and finally have gotten around to doing so. I have been sitting on the beach, reading the hearings and report and floor debate on S268, and, with the fervor of the newly converted, I am prepared to try to convince you that Jackson was right.

At the very least, I am now persuaded that the issue with which Jackson has been struggling for three years is as important to the future of this country as Watergate. And it is a matter of some chagrin that, except for the excellent coverage of the Christian Science Monitor's Robert Cahn, those of us in journalism have let it go largely unreported.

The issue is important because of the scale and pervasiveness of the problem. As Jackson said in his speech introducing the measure last January:

"Between now and the year 2000, we must build again all that we have built before. We must build as many homes, schools and hospitals in the next three decades as we built in the previous three centuries. In the past, many land use decisions were the province of those whose interests were selfish, short-term and private. In the future—in the fact of immense pressures on our limited land resource—these land use decisions must be long-term and public."

The other reason that the land use decision is as important as Watergate is that,

like Watergate, it raises in very direct fashion the question whether our institutions of self-government are fulfilling, or subverting the public will.

As the Interior Committee report on the Jackson bill says, "A citizen may significantly suffer from or enjoy the impact of decisions to site an airport, grant a subdivision permit, widen a highway, fill wetlands, or purchase parkland, made not by his community but by the municipality located downstream, downwind, across the road, or up the street from him. Yet, neither he nor the public officials for whom he has voted may be able to participate effectively in these decisions."

That is the two-sided problem the voters here on Beaver Island are confronting next month—how to make the land use planning decision both effective and representative.

Jackson's bill, which will be discussed in the next column, offers one solution to that problem. And whether your concern is saving parkland, securing a decent housing supply, making cities livable, or—in our case—preserving a Lake Michigan beach, his bill is important to you.

HEATING OIL SUPPLY SITUATION CRITICAL

Mr. McINTYRE. Mr. President, before we adjourn for the month of August, I should like to warn once again of the threat of a serious fuel oil shortage in New England and the Northeastern States next winter.

I regret that I must raise this issue once again. I had hoped that with the mounting accumulation of evidence of the impending crisis, the administration and its responsible oil policy officials would have taken positive action by now. As I pointed out in my floor statement of July 17, we cannot afford much more delay. In fact, I am fearful about the delays already caused by the removal of the experienced leadership in the oil policy area in June and the appointment of a new Energy Director, Governor Love. The Governor's first act was to order a delay in implementation of the mandatory allocation program; that delay has now stretched out to more than 6 weeks. These weeks of procrastination and indecision may prove to be fatal. It may already be too late to move, on schedule, the vast quantities of No. 2 fuel needed to meet the peak demands of winter in New England.

If homes go cold in our area this winter, I am afraid that the administration must bear a heavy responsibility. The responsible officials of the executive branch have had plenty of warning; they have had complete access to the facts. But they have refused to act.

They have refused to implement a mandatory fuel allocation system to channel home heating oil to the independent deepwater terminal operators and dealer-distributors. The stocks of New England independents, as I have pointed out in previous statements, are far below safe levels. Evidence of this fact is found in the submission of the Independent Fuel Terminal Operators Association on July 13 and I will ask unanimous consent that it be inserted at the conclusion of my remarks.

They have refused to take steps to provide for selective relaxation of sulfur content restrictions, to alleviate shortages in critical areas.

They have refused to take the steps necessary to assure an essential level of No. 2 fuel oil imports. Such imports must achieve record levels this winter if we are to avoid a shortage. This has been clearly demonstrated in the study released this week by the Petroleum Industry Research Foundation, Inc. I ask unanimous consent that the study "The Outlook for Distillate Heating Oil in the Winter of 1973–74" be inserted at the conclusion of my remarks.

The administration is also proposing special rules for retailers of No. 2 fuel oil under phase IV of the economic stabilization program that will contribute to a shortage. Those rules—specifically the ceiling on retail prices of home heating oil—will cause many dealers to stop delivery of fuel oil to homes; those dealers will, under the rules, be forced to sell at a loss. They simply cannot remain in business, and the homes who depend on them for fuel will go cold.

It is a sad story; a story of inaction and indifference. The disturbing part is that many thousands—perhaps hundreds of thousands—of homeowners will suffer next winter because of the bungling and paralysis of high officials here in Washington.

I can assure those homeowners, however, that we in the Congress are not giving up; we will not cease our fight to assure that a serious fuel oil shortage does not occur next winter.

I can also assure the major oil companies that their role in creating the fuel oil crisis will be carefully examined in the months ahead and will weigh heavily in forthcoming consideration of legislation to alter the structure of the petroleum industry.

Mr. President, last winter New England was saved from a serious fuel crisis by the arrival of unseasonably warm weather. This year I do not think we will be so lucky. Perhaps our only hope will be the arrival of the cool winds of reason down at the Executive Office Building, which will cause someone in a position of responsibility to take action to avert the looming crisis. For the sake of New England, I pray that this happens soon.

Mr. President, I ask unanimous consent that a letter and its attachment, dated July 13, 1973, from the Independent Fuel Terminal Operators Association to Gov. John A. Love, Director, Energy Policy Office, Executive Office of the President, be printed in the RECORD.

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

INDEPENDENT FUEL TERMINAL OPERATORS ASSOCIATION,
Washington, D.C., July 13, 1973.

Subject: Mandatory Fuel Allocation Program.

GOV. JOHN A. LOVE,
Director, Energy Policy Office, Executive Office of the President, Washington, D.C.

DEAR GOVERNOR LOVE: On behalf of the members of the Independent Fuel Terminal Operators Association*, I am writing to urge your prompt and positive action on recommendations that the current voluntary fuel allocation program be made mandatory.

Our reasons for this urgent request are as follows:

1. Fuel Shortage.

Unless such action is taken, there is almost certain to be a shortage of No. 2 fuel oil next winter among the independent marketers who serve nearly 25% of the consumers along the East Coast—and 40% of the consumers in New England.

2. Stocks.

Stocks of No. 2 fuel oil in the storage facilities of our members are at alarmingly low levels. At your request, we prepared and submitted last week an analysis which showed the following:

NO. 2 FUEL OIL INVENTORIES AS OF JULY 1

[Net, in thousands of barrels]

	1971	1972	1973
New England (7 companies)	2,130	2,410	355
New York City area (6 companies)	970	735	730
Total, Northeast (13 companies)[1]	3,100	3,145	1,085

[1] The remaining 3 members of the association market in Georgia and Florida.

Our members have a total No. 2 fuel oil storage capacity of 14 million bbls. Based on past experience, our tanks must be filled to at least 80% of capacity—or to nearly 12 million bbls.—by October 1, which marks the start of the heating oil season. As you are undoubtedly aware, stocks in home heating oil storage facilities must be near capacity levels before the start of cold weather, when the process known as "winter draw down" begins.

3. Summer Deliveries.

The process which raises inventories to capacity or near-capacity levels *before* the onset of cold weather is known as the "summer fill." Unfortunately, *this year the summer fill is not taking place.* It will not take place unless you move immediately to institute a mandatory allocation program, which will require domestic refiners and their foreign affiliates to deliver No. 2 fuel oil to independents during the customary summer fill period—the third quarter of this year—and beyond.

The voluntary allocation program has been a failure. The alarming inventory levels and supply prospects outlined above offer ample proof of this fact. Few refiners have cooperated with the voluntary program; most have, despite encouraging public statements, simply refused to comply. Nearly all of the refiner-suppliers who have provided oil to the members of our Association on an annual basis over the past 5 to 15 years have refused to renew their supply contracts. No deliveries are scheduled or promised from these suppliers over the next few months, much less the next year.

4. Need for Prompt Action.

An allocation program must be announced and implemented within a few days. As indicated, between now and October, *our stocks must be built up by more than 11 million barrels over today's levels.* Given the nature of the fuel oil business, a shortfall of this magnitude cannot be "made up" after October 1; demand is simply too great after the

*The Association is composed of 16 companies who operate deepwater oil terminals along the East Coast from Maine to Florida. A list of members and a more detailed analysis is attached (Attachment A).

weather turns cold. If all primary and secondary storage along the East Coast is not filled close to capacity at the start of the heating season, a fuel oil shortage is almost certain to occur.

Increased inventories in other storage systems, that is, major oil company tanks along the East and Gulf Coasts, offer little reason for complacency. It is misleading to the public and deceving to the policy-makers to rely on the American Petroleum Institute's total stock levels for the entire country. The API statistics, as you may be aware, involve only primary (i.e., refiner) storage; they do not measure volumes held in secondary (i.e., independent) storage.

As we have indicated, independent deepwater terminal operators, whose stocks are not included in the API total handle 25% of the heating oil volume along the East Coast—and 40% of the volume in New England. We move that oil through a massive and expensive distribution system, involving docks, storage tanks, pipelines, racks, inland storage facilities, and fleets of trucks.

There is no substitute for this system; it cannot be magically replaced on short notice by the major oil companies or by Government order. Simply stated: over the next heating season we will perform an essential function which no one else can. And, *if our distribution systems are not fully supplied, the millions of homeowners who rely on us for heating fuel will go cold.*

Thus, unless you act immediately, it may be too late. Unless refiners are required to move substantial quantities of No. 2 fuel oil into the independent distribution and storage system this summer, no amount of emergency action by you next fall or winter will avoid a serious shortage.

MANDATORY ALLOCATION PROGRAM

The Mandatory Allocation Program must, as you are aware, not only be announced immediately, but also promptly and effectively implemented. Based on our own experience in the fuel oil business, we believe the mandatory system—if it is to be effective—must provide the following:

a. Base Period.

A base period of calendar year 1972 must be used. This period would assure the most ample, equitable deliveries of fuel oil to independent marketers. A base period which moves into calendar year 1973 enters a period (the first quarter of 1973) when a substantial number of independents, particularly in the Middle West, were being cut off.

b. Customer Eligibility Period.

We strongly oppose establishment of a customer eligibility period (March 1973, we understand, is being proposed); this will prove completely unworkable. Such a provision might avoid some inconveniences—and avoid a slight loss of profits—to some refiners; but it would cause administrative chaos, force substantial delays in implementation, and, as a result of such delays, put a number of additional independents out of business.

The base period concept itself provides a sufficient—*and the only workable*—measure of the supplier-customer relationship.

c. Supply Levels.

The base period *volume*—not a percentage—must establish the minimum obligation of a supplier to a customer. If in any case a percentage test provides additional quantities to the customer, that option must be made available.

Sales of all products by overseas affiliates of U.S. companies to U.S. customers during the base period must be included in the calculation of base period deliveries; in addition, overseas production by such affiliates must be considered as available to meet domestic requirements under the Mandatory Program.

Such a requirement would conform to the realities of the fuel oil business. Much product, particularly along the East Coast, comes from the overseas affiliates of American companies. If such sales and shipments are not considered as part of the base period quantity, then the American companies which supply this product would be free to cut off independents and divert supplies into their own systems or elsewhere in the world. If this were permitted, the American refiners could easily put a number of East Coast independent marketers of fuel oil and residual oil out of business; in addition, severe shortages of these vital products would occur.

This aspect of the program is particularly critical in the case of No. 4, 5 and 6 oils—the residual oils. The vast majority—more than 90%—of residual fuel oil consumed along the East Coast is produced by the foreign affiliates of American companies; the giant U.S. owned refineries in the Caribbean area are the source of most of this fuel. Unless the program is clarified as we recommend, a large volume of U.S. consumption and many independent marketers will fall outside its authority.

In brief, the East Coast relied on overseas supplies and products during the base period; it must continue to rely on such overseas fuel under the Mandatory Program.

d. Priority Users.

Primary emphasis and reliance must be placed in any allocation system on the regular market and supply mechanism as the source of volumes for priority users. Such users were supplied by that system, and in many cases by independent marketers, during the base period. Restoration of base period supply relationships will assure in most instances, that priority users are adequately served.

Those who are not served must, of course, be able to appeal to the Office of Oil and Gas for assistance and intervention. We are concerned, however, that the allocation proposals you are now considering will place undue emphasis on OOG intervention, *before* it is needed.

e. Coverage.

All suppliers and customers must be included. All products and crude oil must be included; separate programs should be established for products and crude oil.

Allocation requirements must apply to inter-refinery sales, that is, sales by one refining company to another during the base period. If this is not done, there could be substantial reduction in the supplies made available to independent marketers; if one refiner were cut off by another, the former would obviously have less product available for allocation to independent marketers.

Suppliers in Puerto Rico and the Virgin Islands must be covered. If they are not, a substantial volume of fuel oil customarily available and required to meet East Coast demand is likely to be sold elsewhere.

f. Prices.

The price provisions must be carefully drawn to require suppliers to charge prices—and establish credit and delivery conditions—that bear a normal and reasonable relationship to the prices charged to all other customers at all levels of their distribution system.

We hope that this information and these recommendations will be useful to you. We will, of course, be pleased to provide any additional assistance you might need.

In conclusion, we wish to stress, once again, the urgency of this matter. Our very survival is at stake.

Thank you very much.

Sincerely,

ARTHUR T. SOULE,
President.

Attachment.

MEMBERS, INDEPENDENT FUEL TERMINAL OPERATORS ASSOCIATION

Belcher Oil Company, Miami, Florida.
Burns Brothers Preferred, Inc., Brooklyn, New York.
Cirillo Brothers Terminal, Inc., Bronx, New York.
Colonial Oil Industries, Inc., Savannah, Georgia.
Deepwater Oil Terminal, Quincy, Massachusetts.
Gibbs Oil Company, Revere, Massachusetts.
Meenan Oil Company, New York, New York.
Northeast Petroleum Corp., Chelsea, Massachusetts.
Northville Industries, Corp., Melville, New York.
Patchogue Oil Terminal Corp., Brooklyn, New York.
Ross Terminal Corp., Bayonne, New Jersey.
Seaboard Enterprises, Inc., Boston, Massachusetts.
Southland Oil Company, Savannah, Georgia.
C. H. Sprague & Son Company, Boston, Massachusetts.
Webber Tanks, Inc., Bucksport, Maine.
Wyatt, Inc., New Haven, Connecticut.

The companies listed above own or control terminals capable of receiving ocean-going tankers; one is affiliated with a major oil company. All are qualified to participate in the No. 2 fuel oil program established under Section 2(a)(1) of Presidential Proclamation 3279, as amended, and Section 30 of the Oil Import Regulation, under which 50,000 b/d of home heating oil is presently being imported into District I (the East Coast). The members of the Association are independent marketers of No. 2 fuel oil, No. 6 fuel oil, gasoline and other petroleum products.

Members of the Association distribute 40% of the No. 2 fuel oil consumed in New England, and more than 20% of the No. 2 fuel oil consumed along the East Coast (District I). Metropolitan Petroleum Company (a subsidiary of the Pittston Company), a non-member, is an independent who markets an additional 3-4% in District I.

The independent share of the total East Coast market for No. 2 fuel oil, at the terminal level, is approximately 25%; the remaining 75% is controlled by refiners.

Of the nation's No. 2 fuel oil consumption (for heating purposes), New England accounts for 20%. New York, New Jersey and Pennsylvania account for 35% and the remainder of District I accounts for 10%. Thus 65% of the nation's No. 2 fuel oil is consumed in District I.

THE OUTLOOK FOR DISTILLATE HEATING OIL IN THE WINTER OF 1973–74

SUMMARY OF FINDINGS

For the second consecutive year we approach the winter with the likelihood that heating oil supplies will be insufficient to meet demand. Last winter a shortage was averted as a result of a very mild 1st quarter—approximately 10% warmer than normal—following a 6% colder than normal 4th quarter.

Had the 1st quarter been normal, the additional increase in demand would have reduced distillate stocks by more than 20 million barrels which would have resulted in widespread shortages.

Our calculations show that—after adjustment for a decline in secondary stocks at the East Coast—we will enter the coming heating season with stocks only slightly higher than a year ago. Since demand is expected to be up by over 6% and since last year's comparable stock level would have been clearly insufficient for a normal winter, the distillate heating oil supply outlook for next winter is quite precarious, notwithstanding the apparent high level of current primary stock accumulation.

If the winter is even slightly colder than normal, if the substitution of distillate fuel oil for curtailed gas supplies is significantly larger than last year, if refinery runs cannot be sustained at an average rate of 92% of capacity over the next 9 months or if the level of imports falls 3–4% below our projected average volume of 500,000 b/d during the heating season, a shortage could be expected to develop. To prevent, or at least contain, the shortage, the government must take several steps in advance of the heating season. These would include imposition of mandatory product allocation so that available supplies of heating oil are evenly distributed throughout the market, encouragement of maximum imports by permitting a full pass-through of the substantially higher cost of foreign oil; and raising the permissible sulfur level of all distillate imports to 0.5–0.7%, since the available quantities of foreign oil with a lower sulfur content are insufficient to meet our projected import requirements.

An analysis of the above findings is found in the following pages.

HISTORIC GROWTH

In the past two years distillate demand increased at an average annual rate of 7%—more than 3 times its average growth during the previous five years (1964–69). This reflects the sharp raise in the requirements of peripheral distillate fuel oil markets—electric power plants and natural gas customers with alternate fuel facilities. The effect of the increase in electric utility demand on total distillate fuel oil demand is shown below.

TABLE I.—DISTILLATE DEMAND, I–IV

[Thousand barrels per day]

	1970	1971	1972	Annual increase
Utility	66	92	144	+48.0
Other	2,242	2,305	2,497	5.5
Total	2,308	2,397	2,641	7.0

OUTLOOK FOR 1973 HEATING SEASON

Table II below shows the actual distillate supply-demand position for the 1st quarter of 1973 and projections for the subsequent four quarters.

TABLE II.—DISTILLATE SUPPLY/DEMAND PROJECTION DISTRICT I–IV

[Thousand barrels per day]

	1973					1974, 1st quarter
	1st quarter (actual)	2d quarter	3d quarter	4th quarter	Year	
Crude runs[1]	10,359	10,483	10,600	10,545	10,498	10,495
Distillate yield	25.17	22.40	22.75	24.0	23.6	24.75
Output	2,607	2,348	2,410	2,530	2,473	2,598
Plant	5	5	5	5	5	5
Imports	531	200	175	450	338	550
Net to V	−13	−25	−20	−20	−19	−20
Supply	3,130	2,528	2,570	2,965	2,797	3,133
Demand	3,567	2,230	1,885	3,250	2,730	3,900
Stock (mmbls)	(−39.3)	(+28.0)	(+13.0)	(−26.2)		(−69.0)
Stock end quarter (mmbls)	102.1	130.1	193.1	166.9		97.9

[1] Includes net unfinished oil.

We are projecting an increase in demand of 6.2% over the comparable period of the year before—with distillate demand averaging 3,571,000 b/d for the entire heating season. The increase is about in line with the increase in the last heating season after adjustment for degree day differential.[1]

The stock levels in Table II are the balancing items in our projection. The 97.9 million barrels figure shown for the end of the heating season will be equal to about 25 days of 1st quarter demand.[2] This would be the lowest ratio in more than a decade. Thus, the stock levels shown in Table II do not assure adequate supplies in the 1st quarter of 1974. On the other hand, these stock levels would probably be sufficient to minimize a shortage. The question is therefore whether it is likely that the supply projections in Table II will be attained and the demand projections not exceeded. As is shown in the following paragraphs, this is by no means certain. In the absence of specific government actions it may even be considered unlikely.

(1) In the past the industry has estimated the maximum sustained *utilization of refining capacity at 92%*. This rate has been used in our projection. Currently U.S. refineries are running at a higher rate. In a major attempt to resolve the gasoline shortage refineries during the past several weeks have been operating in excess of 95% of capacity.[2] It is not known how long the industry can continue to operate at this rate. Several refineries that should have come down for normal maintenance were not shut down this summer. Last year the industry experienced several breakdowns. It is conceivable that the stress placed on refineries this summer due to the high operating rates and the higher average sulfur content of imported crudes could result in additional unscheduled downtime during the next eight months.

(2) We have assumed that the '73–'74 *winter will be normal*. If it turns out to be only 3% colder, demand would increase by more than 75,000 b/d—and stocks at the end of the 1st quarter would be drawn down by an additional 14 million barrels. To make up this shortfall refineries would have to operate at a sustained crude throughput rate of 95%. Since this is unlikely, a heating oil shortage during the first quarter would probably develop.

HEATING SEASON DEMAND—PAD I–IV

[In thousands of barrels per day]

	Number	Stocks end 1st quarter million barrels
A. Normal winter	3,571	97.9
B. 3 percent colder	3,648	83.9

(3) Even if the weather is normal, our demand projection in Table II could prove conservative. This is due to the uncertainty surrounding the extent of the *natural gas shortage* this winter—and the effect it will have on distillate heating oil demand. Firm gas curtailment[3] last winter (November–March) totaled 565.6 billion cu. ft. Based in part on data presented by the Federal Power Commission to the Cost of Living Council it can be projected that approximately 27% of this shortfall was replaced by distillate fuel oil—the equivalent of 26 million barrels. Given an FPC projection of a firm gas shortfall of 670.2 billion cu. ft. for this winter the equivalent distillate requirement would amount to 31 million barrels as illustrated on the following page.

FIRM GAS CURTAILMENTS WINTER (NOVEMBER–MARCH)

	1972–73 billion ft³	Million barrels	1973–74 billion ft³	Million barrels
Met by:				
Distillate	152.7	26	181.0	31
Residual	260.2	41	308.3	49
Other fuels and unmet demand	152.7	.....	180.9	.....
Total	565.6	.....	670.2	.....

A large portion of the shortfall last year was met either by other fuels or remained unmet. If customers this winter attempt to have all their needs met and other fuels are not available, distillate demand could be considerably higher than projected, as a result of the firm gas shortfall.

In addition, there is virtually no information on the volume of distillate and residual fuel oil consumed as a result of gas curtailments to interruptible users.

(4) Another problem this winter not generally encountered in the past is that secondary stocks are currently very low, relative to primary stocks,[4] and will likely remain so into the heating season. This would affect our estimate of a minimum safe working inventory of primary stocks, since it assumes a normal relationship between secondary and primary stocks.

[1] The 1972/73 season was colder than the previous one.

[2] Crude runs to refinery capacity excludes NGL's etc.

[3] Excludes gas curtailments for interruptible gas users.

[4] Primary stocks are those carried by refiners and pipelines. Only primary stocks are reported to the API and are the basis for inventory calculations both by the API and the Bureau of Mines. Stock figures in Table II are primary stocks.

A survey of the expected stock levels of most East Coast independent terminal operators indicates that they expect to go into the heating season with inventories some 9 million barrels below what they consider normal—about 70% of physical storage capacity.

Stocks of independent terminal operators district I, September 30

million barrels

Expected L level	3.50
Desired level	12.05
Short fall	8.55
Capacity	17.50

On September 30, 1972 the combined stock levels of this group was 8 million barrels which was then considered insufficient for a normal winter. This projected shortfall in stocks is serious since the independent terminal operators account for approximately 25% of District I distillate fuel oil sales (and 40% of New England's sales). In a number of markets distribution facilities are predominantly controlled by Independents. If these marketers are short of oil their customers will be, too, even if the overall level of primary stocks appears adequate. It is for this reason that mandatory governmental allocation of available supplies are required. In the absence of such allocation there is a considerable possibility of sporadic shortages next winter.

(5) Table II projects an import level of 500,000 b/d during the six month winter period and while 531,000 b/d did come in during the 1st quarter of 1973, it is likely that a portion of that volume had been stored offshore in expectation that restrictions on imports would be relaxed. Furthermore, European distillate stocks were unusually high last February as a result of a very mild winter. Thus, the record imports of the first quarter are no indication that this level can be maintained throughout next winter.

(6) Another factor which could well impede imports of distillate fuel oil is the statutory *sulfur content* of this product. In a growing number of markets in the Northeast air pollution regulations require a maximum sulfur level of 0.3 or 0.2 percent for distillate heating oil. Next October sulfur levels will be lowered in Philadelphia and both counties of Long Island. U.S. supplies can generally meet the lower sulfur levels without difficulty. However, foreign distillate heating oil—particularly European products—cannot. Most European product has a sulfur level of 0.5% or slightly more. In the first quarter of this year the U.S. brought in 200,000 b/d of distillate from Europe and other Eastern Hemisphere sources of which only about 25% had a sulfur level below 0.5%. This winter our demand for this type of product will be significantly higher while Europe's supply will be lower since low-sulfur African crude oil shipments to Europe are on the decline while high-sulfur Middle East shipments are rising, as the following table shows.

Western European crude oil imports

[Million barrels]

	African	*Middle East*
1970	1,665	2,072
1971	1,415	2,494
1972	1,332	2,950

If the U.S. is to import 500,000 b/d of distillate oil, an excess of 200,000 b/d will have to come from Eastern Hemisphere sources (primarily Western Europe). This can only be accomplished if the sulfur levels of imported distillate could be temporarily raised by means of legal waivers to about 0.5–0.7% in areas where statutory limitations require a lower sulfur content. Since about ⅔ of East Coast distillate supplies will be of domestic origin and, hence, can probably meet the more stringent sulfur level requirements, a waiver on the sulfur levels of imports would not significantly increase air pollution.

(7) Another way to increase distillate imports would be to temporarily *relax statutory sulfur levels of residual fuel oil.* The entire increase in residual fuel oil imports into PAD I during the next heating season—about 125,000–130,000 b/d—will be in the sulfur level category of 0.5% and less.

This type of residual fuel oil is qualitatively very close to distillate fuel oil. Most of it is made in Caribbean export refineries from a mixture of 65–75% low-sulfur African crude and 25–35% Venezuelan or other high-sulfur crude. In the second half of last year 450–500,000 b/d of low-sulfur crude oil was imported into the Caribbean for this purpose. This year the volume of this crude oil required to meet East Coast low-sulfur residual fuel oil demand is likely to be 150–200,000 b/d higher, according to industry estimates.

If residual fuel oil sulfur levels in all East Coast areas where the statutory limit is below 1% could be raised to 1% for the heating season, this would permit the importation into the U.S. of significant volumes of distillate heating oil which otherwise would go into the production of low-sulfur residual fuel oil. While it is difficult to determine the magnitude of this volume, a rough estimate would be 100,000 b/d.

The raising of residual fuel oil sulfur levels in the U.S. would also permit the substitution of high-sulfur Middle East crude for low-sulfur African crude in Caribbean refineries, with the result that some of the freed low-sulfur crude could be imported into the U.S. In this connection, the National Petroleum Refiners Association has estimated that 350,000 b/d of U.S. refining capacity is idle because of inability to obtain low-sulfur crude oil, the only usable feedstock for certain domestic refineries. If this capacity could be activated it would yield up to 95,000 b/d of distillate fuel oil.

(8) The *substantial current price differential between imported distillate oil and domestic contract cargo supplies* could also impede maximization of imports.

Historically, imported distillate fuel oil has generally been lower priced than the domestic product. This relationship prevailed until the late fall of 1972. At the beginning of last year's heating season, the landed price of distillate heating oil (ex-duty) ranged from 9.0¢ to 9.5¢/gallon, while the domestic cargo contract price stood at 10.9¢/gallon.

Since last December this relationship has drastically changed. The landed price of the foreign product ranges currently from 21.5¢ to 23.5¢/gallon, while the domestic contract cargo price is 12¢/gallon. Thus, the imported product is now nearly twice as expensive as the domestic product purchased under contract.

Under these circumstances marketers with substantial deficits between contractual supplies and total requirements are reluctant to import distillate fuel oil, since this would render them uncompetitive with marketers able to draw primarily on domestic supplies, such as integrated refiners and their contract customers. The current relatively low level of imports is evidence of this reluctance. More foreign oil could be imported than is actually the case. But despite inadequate inventories, independent cargo buyers are fearful of bringing in a product whose landed cost approaches the prevailing retail price to ultimate consumers.

Permission by the Cost of Living Council to average the cost of foreign and domestic supplies in the determination of resale prices does not significantly alleviate the problem for marketers with a preponderance of import requirements.

In an uncontrolled market prices would tend to rise to the level of imports. Under the existing system of controlled domestic prices this is of course not possible. Thus, the attempt to protect the consumer from price increases may aggravate the shortage, unless a way can be found to distribute the higher cost of imports more evenly among all marketers than is presently the case.

APPENDIX

1972—DISTILLATE FUEL OIL DEMAND

[In thousands of barrels per day]

	1st quarter	2d quarter	3d quarter	4th quarter	Year
District:					
I	2,040	1,088	736	1,735	1,396
II	1,112	741	623	1,049	883
III	281	238	321	280	278
IV	68	80	83	96	84
Total	3,501	2,147	1,763	3,160	2,641

LAND USE AND COASTAL ZONE MANAGEMENT

Mr. HOLLINGS. Mr. President, as chairman of the Oceanic and Atmospheric Subcommittee of the Commerce Committee, it is my pleasure today to report to the Senate that the administration has changed its mind and has recognized the wisdom in supporting the funding and implementation of the National Coastal Zone management program passed by Congress in 1972. Heretofore, the administration has ignored or refused to recognize the existence and importance of the congressionally initiated legislation. As may be recalled, Congress began considering a separate management program for our coastal land and waters back in 1969, an action which finally culminated in the passage of the Coastal Zone Management Act in October and the signing into law of this program by President Nixon.

Unfortunately, however, this year the administration revived the previous strong difference of opinion between Congress and the administration on whether there should be one, all-inclusive national land-use policy program, including coastal lands and waters or whether there should be two; one for the critical and unique problems existing in our coastal areas, and another for the broader, more diffuse problems inland from the coastal zone.

The Senate, however, this year passed the National Land Use Policy and Planning Assistance Act, S. 268, containing a definitive finding that land use and coastal zone management should be separate programs, fully coordinated on both the State and Federal level but, nevertheless, separate from each other—with the coastal zone program administered by the National Oceanic and Atmospheric Administration and the land use policy program administered by the Secretary of the Interior. Only through the outstanding leadership of Senator WARREN G. MAGNUSON of Washington, chairman of the Committee on Commerce and the original sponsor of the Coastal Zone Act, and Senator HENRY M. JACKSON, chairman of the Senate Committee on Interior and Insular Affairs, and original sponsor of the land use bill, was this compromise effected.

After much hard work in creating these programs, it is gratifying to receive

word today that the administration has changed its views on funding the coastal zone program separately from the pending land use policy legislation. The change in the administration's position was disclosed by Dr. Robert M. White, Administrator of the National Oceanic and Atmospheric Administration. NOAA is the agency Congress authorized to administer the coastal zone program. Dr. White informed the Senate Government Operations Committee that the President and the Office of Management and Budget have approved submission of a NOAA budget amendment to be forwarded to Congress requesting $5 million to fund the act in fiscal year 1974.

Dr. White's statement was in response to a question posed at my request by Senator ABRAHAM RIBICOFF, chairman of the Government Operations Subcommittee on Reorganization, Research and International Organizations, during a hearing on the administration's legislation proposing creation of a new Department of Energy and Natural Resources. Dr. White was asked if the administration was continuing to prefer that coastal zones be included in the land use program and that the separate coastal zone program remain without funding.

He replied that he had been authorized to state that there has been a change in administration policy on this issue and that the funds to implement the Coastal Zone Management Act would be requested shortly, so as to allow the coastal zone program to be implemented separately, by NOAA, from any land use policy legislation which Congress may enact.

This is extremely important to our coastal States, Mr. President. By forcing incorporation of coastal zone management into the proposed land use bill, there is no doubt that State efforts to control and manage development in coastal areas would have been set back, perhaps for many years. The pressures upon coastal States for large-scale development such as deep water ports, refineries, powerplant siting and second home recreational areas has made the need for action in the coastal zone now all the more apparent. Gov. Jimmy Carter of Georgia, on behalf of the National Governors Conference, testified last Wednesday before the Joint Committees of Commerce, Interior and Public Works on superport licensing legislation and stated:

The governors of the various states, in conference, expressed concern that while the Administration seems anxious to permit the development of deep water ports, it is not willing to provide the states the funds required to carry out coastal zone management programs which would insure a safe and practical incorporation of these superports. I would ask you to recall that the Coastal Zone Management Act of 1972 authorized $45 million for grants to the states, and then the act was left unfunded in the upcoming budget. Thus, the act remains little more than a piece of paper. While we support the concept of integrated and comprehensive land-used planning, it is vital that coastal zone management funds be made available at the earliest possible time to prevent the continuation of haphazard development of our coastal resources and their consequent degradation.

Mr. President, the majority of our coastal States—21 or 30—are moving forward with various types of State legislation in the area of coastal zone management, and they are ready and willing to join hands with the Federal Government for the kind of progress mandated by the act. Moving ahead now in the coastal zones will, I am confident, provide a test case for the same kinds of problems and solutions to be faced by the pending land use program.

It is thus with considerable confidence that I express my satisfaction in the kind of efforts being made by our coastal States. Now that the administration has joined in this effort, I am sure that this program will move forward with success.

REMARKS BY SENATOR GOLDWATER ON THE EXPANSION OF BOUNDARIES OF THE GRAND CANYON NATIONAL PARK

Mr. FANNIN. Mr. President, my colleague from Arizona (Mr. GOLDWATER) is unavoidably absent this week because of illness in his family, but he had planned to deliver this week the following remarks on the Senate floor regarding the legislation which he has introduced to expand the boundaries of the Grand Canyon National Park. Senator GOLDWATER has asked if I would insert his remarks in the RECORD for him, and, on his behalf, I ask unanimous consent that his statement, together with certain insertions he requested, be printed in the RECORD.

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

THE GRAND CANYON AND THE SIERRA CLUB—IN PURSUIT OF TRUTH

(By Senator GOLDWATER)

Mr. President, it grieves me to do this, but I must raise in open before my colleagues and the wide audience that reads the RECORD, the matter of unsupported, misleading and downright erroneous propaganda which one of the prominent conservationist groups, the Sierra Club, is making against a bill I have introduced, together with some twenty-six other Senators, in order to enlarge the boundaries of the Grand Canyon National Park and improve the protection given the Grand Canyon under law.

Mr. President, I would not ordinarily bring such a subject up on the Floor of the Senate, but would consider the respective Committees of the House and Senate having jurisdiction over the legislation to be the appropriate forums before which we could receive, analyze, and act upon any responsible criticisms that might be made about a bill which I happen to be sponsoring or supporting. However, in this instance, the Sierra Club has raised a national propaganda campaign of such size and of such an improper character, that I must lay the matter openly before this chamber and the eyes of the many readers of the RECORD in order to make the truth known as widely as possible.

Mr. President, I wish to give a little of the background on this subject before detailing the specific instances in which I believe wrong practices are being used. For I have personally devoted a great deal of individual time and effort to the subject of the Grand Canyon over the period of the last four years with the goal of developing legislation that is widely acceptable among the conservationist and wildlife fields and which would thereby stand a high chance of becoming enacted into law.

For example, in 1969, I held a working session on Grand Canyon Park Legislation in my Senate Office Room here in Washington with Lloyd Tupling of the Sierra Club, together with representatives of the Audubon Society, the National Resources Council, the Wilderness Society and other well known conservationist-oriented organizations. In addition, I have met personally at my office and at my home with several additional groups and individuals who have a particular interest in preserving the Grand Canyon. Most recently, I held two open gatherings at my home in Phoenix to try to work out a good piece of legislation. Among those attending were two leaders of the Sierra Club, as well as representatives of several other organizations, Indian tribes and Federal agencies.

During all of these meetings, I kept revising my legislation to fit the best ideas and suggestions that were presented. I might add that during the two sessions held at my home, the Sierra Club representatives were given the floor and held the attention of our group for a long and thorough expounding of the type of bill which the Sierra Club would like to see passed for the Grand Canyon. And, as a direct result of these several consultations with leaders of the Sierra Club, many of their major suggestions were accepted and incorporated into my bill.

For example, I accepted the recommendation by the Sierra Club that the park be extended all the way from Marble Canyon to Grand Wash Cliffs within the canyon rim. Also, I included a Sierra Club provision for the establishment of a "Zone of Influence" by the Secretary of the Interior within areas outside but adjacent to the park. Then, too, I added at the urging of the Sierra Club a provision placing more than half of a million acres of park lands within the Wilderness System.

What I believed, Mr. President, was that the Sierra Club leadership had been brought in on the development of this bill so closely and had succeeded in changing so much of the bill to conform with their goals, that they now viewed the bill as a good compromise which they would support. In other words, I understood that the Club was working within the usual legislative process by which those who take a lead in trying to reach a compromise will, after achieving the greater part of what they have recommended, feel a moral obligation to accept the reworked version as being the best agreement obtainable.

If one party accomplishes 80% or so of what they sought to obtain, they ordinarily welcome their accomplishment and work together with others for the success of the mutual agreement. This is what I believed had happened in this case.

So, Mr. President, you can understand that I was absolutely astounded when I was told that the Sierra Club had testified against my Park legislation at the Senate Hearing of June 20. My surprise became even greater when I learned that they had attacked at the hearing certain provisions of the bill which they themselves had originated.

Mr. President, let me give some specific examples of the practices of the Sierra Club with respect to my Grand Canyon Park Bill which I consider to constitute a reneging on their part of an agreement which certainly should have been understood to exist by anyone who deals according to the tenets of fair play. First, I have already mentioned that my bill extends the Park boundaries downstream to the Grand Wash Cliffs, bringing over 300,000 additional acres under park protection. What I did not mention is that this boundary is based on the exact lines proposed by two leaders of the Sierra Club who presented this proposal with a map which they brought and handed out at one of the meetings on this matter in my home earlier this year. It was their map which I turned over to the map service as the guide for drawing boundaries in this area.

Now, it turns out that the Sierra Club is distributing a newsletter all across the country attacking these same boundaries as being deficient because they do not include other plateau lands above the Canyon Rim which the Club now decides should be added. In others words, they are criticizing the very same boundaries which they themselves had put forward in the first place. Without any subsequent consultation on their part with any of us who have tried to work with them, they suddenly blitz the mailboxes of their membership with a newsletter that attacks the proposal they had earlier found acceptable. In turn, they ask their members to write to their Representatives in Congress to challenge these boundaries, never mentioning, however, that the boundaries had originated with the Sierra Club leadership itself.

Second, I have referred to the "Zone of Influence," a concept which originated under a different name with the leadership of the Sierra Club. Even though my office was told by the two Sierra Club spokesmen, who had written the initial language of this provision, that the final language was much stronger than the provision they had written, the Club now attacks this provision as fostering economic exploitation of the Canyon and its surrounding areas. This is the interpretation which Club members are giving to the Club's opposition to this provision and it is one of the most ridiculous innuendos which the Club is making about my bill. Strangely enough, the very economic interests whom the Club infers will benefit from the "Zone of Influence" are the people who, with the Club, have expressed the most vocal opposition to this provision at the Senate hearings on the bill.

Actually, the provision for a "Zone of Influence," or a "Conservation Zone," or a buffer zone by whatever name it might be called, within which lands near the park could receive coordinated, interagency protection was a good conservationist idea that could have stood as a landmark precedent for the protection of other areas of the National Park System, but it apparently has been shot down as a viable idea in Congress because it was opposed even by the conservation group which fathered it. I am saying, Mr. President, that if the Sierra Club had gone before the Senate hearings and testified vigorously for this concept, which they had initially drafted, instead of opposing it, it might have stood some fair chance of coming out of Congress in a useful form that could be built upon in future years.

Third, the Sierra Club has even asked my office to temporarily drop the wilderness propoal for the Grand Canyon Complex from my bill because it does not include 100% of what they now ask for this area. Apparently, they would rather have nothing at all at this time, if they cannot get everything that they want. Again, the Club has not viewed this important provision of the bill as being one which would lay a good foundation from which they could build on in the future, but instead have treated it as an all or nothing proposition.

Mr. President, I should like to remind the Sierra Club that it does not help the legislative process one bit to make a recommendation on one day and then to turn against it shortly afterwards without even consulting the people who have worked with them on implementing the original idea. And it similarly does not aid the legislative process to take an attitude where it is only the other individual and group who is expected to make any compromises. There never would be any progress toward passage of a park bill giving greater protection to the Grand Canyon if this is the way every individual and group who has an interest in the proposal would look upon it.

Now, Mr. President, a word about a letter containing completely unsubstantiated charges directed to my bill which the Sierra Club has apparently sent to all other Senators. This letter claims that my bill "would remove from park protection more than twice the total area ever authorized for deletion from the National Park System in its entire history."

"The Club," it continues, "is alarmed by the precedent which would be set" by my bill. The Club also asserts the particular areas involved are qualified for park status.

The truth is, Mr. President, that Congress previously has made deletions from the National Park System of more than 280,000 acres transferred from 57 different units of the system. Thus, far from constituting any precedent, transfers have been made out of the National Park System at least 57 times in the past.

Moreover, the charge is totally without foundation that my bill would remove more than twice the total areas previously authorized for transfer. As it stands, my bill calls for total deletions from the Park System of merely 41,630 acres, in comparison with which a total of over 280,000 acres have been transferred from the System in the past. I will ask that a compilation of the several laws of Congress making these transfers be inserted in the Board at the conclusions of my remarks.

Mr. President, if there is any evidence of gross misrepresentation by the Sierra Club, this is it. They patently make the charge that by bill would take out of park protection more than twice the total area ever deleted from the Park System, when the actual truth of the matter is that there has been deleted from the Park System more than 6 times the total acreage which my bill would authorize for transfer.

Mr. President, the charge also ignores the fact that my bill provides for a net addition of over 34,000 acres to the Park System.

Next I should say a word about the three areas involved because the Club is also wrong in its assertion that these lands are essential for protection of the Grand Canyon. I might begin by observing that the National Park Service itself has proposed the deletion of these three sections of land, Slide Mountain, Tuckup Point, and Jensen Tank, in its Master Plan of the Grand Canyon dated January 1971. In its formal statement on this plan, the Park Service declared that these sections of land "are not required for the protection of the Canyon resource and are better suited for grazing. They should be deleted and transferred to appropriate Federal land management agencies." Thus, the Park Service itself has never laid claim to these lands as being necessary for the protection of the Grand Canyon.

It is true, Mr. President, that there are newly discovered indications that archeological resources may exist in some of this area and that, for this reason, the Park Service now proposes to give adequate protection to any archeological sites which may become known. I share this concern, as does everyone with whom I have talked about the bill, and we have worked out an amendment which would provide total protection for any archeological resources which may possibly be found to exist in these three areas.

Under the safeguard of this provision the Secretary of the Interior may put a halt to any activities he chooses until he has an opportunity to conduct archeological surveys and salvage excavations in the area. Upon the discovery of any significant archeological resource, the Secretary then can impose additional limitations within the vicinity of the site so that it may be preserved, maintained or restored as a national archeological site.

Mr. President, as the Park Service has indicated in its Master Plan of 1971, the three areas concerned have historically been grazed, in fact, dating back to the time when grazing was unmanaged under the old public domain. Also, these areas are ideally suited for management designed to reestablish wildlife, such as antelope, which has become extinct there. There is a potential for high-quality hunting of trophy-type deer in these areas as well, but all three lands are in need of the intense wildlife management practices which they could receive by being placed under multiple use management. Accordingly, these transfers of land from one Federal agency, the National Park Service, to another, the BLM, are not without precedent and would not be harmful in any way to the Canyon.

In short, the Club's attack on my bill ignores the overall purpose and result of the legislation which is to put the Grand Canyon in the state of protection it is going to need for the future and to achieve a net addition of over 34,000 acres to the National Park System itself, not to speak of nearly doubling the Canyon lands which will be given park status and protection. Moreover, my bill will protect 273 miles of the Canyon, *three times* the miles now given park protection.

Mr. President, I am sorry that it has become necessary for me to go into this past history of a personal nature, but I feel it is important to make the truth known. For what we are witnessing is the Sierra Club once again making a concerted effort to have it appear that anyone who votes for a piece of legislation which is not absolutely in tune with their demands is automatically against conservation and either in favor of exploiting our environment or indifferent to the possibility that such might occur.

What we are seeing is a practice similar to the propaganda tools which the Club used during its fight against the SST program, and even earlier than that, during its campaign regarding a dam in the Colorado River.

Mr. President, I think we can all remember what happened during the SST debate, when the members of the Senate and the public were given the most ridiculous kind of propaganda. They were told that development of the SST would cause an epidemic of skin cancer throughout the world. They were told that a vote in the Senate for the SST was virtually a vote for atmospheric changes so enormous that they might melt the polar ice-cap and flood important centers of civilization. They were fed equally ridiculous scare stories about the possibility of the entire nation literally rocking and rolling to the sound of supersonic booms.

And turning the clock back to an earlier time, I can remember when the Club was charging that a particular dam could flood the Grand Canyon, quite a feat when one considers that there is not enough water in all the rivers in the entire world to flood the Grand Canyon. And if the water were available, it would have required a dam approximately 12.5 miles long, a mile high, and proportionately deep, to hold back the water. It would have literally taken more concrete to build such a dam than exists in the entire world. Nevertheless, this propaganda myth was asserted.

Mr. President, I am happy that we are proceeding without the dam, but I do not think that the Sierra Club or any other organization has a right to mislead, distort and improperly inform the people of this country on any subject.

In closing, Mr. President I might mention that I have been a conservationist for all of my adult life. Long before the words "ecology" and "pollution" became prominent in public discussions, I was known in my native state of Arizona as a "Desert Rat" and as a "Grand Canyon Buff" because of my concern for my beloved desert land and my interest in the Grand Canyon. So, I want to reassure my colleagues that the bill which I and they are sponsoring is a strong, conservationist measure that is for the long-term benefit of the Grand Canyon and that the ridiculous charges that have been leveled against our bill are no more than that, non-

sense and scare stories and unsubstantiated charges.

Mr. President, those of my colleagues who are sponsoring or supporting this bill with me can take comfort in the fact that the Arizona Conservation Council, which is composed of 16 different conservationist organizations who are the closest to this matter, has endorsed our legislation. A Sierra Club motion opposing my bill with the Club's own substitute plan was voted down by the Council. Thus, the Council had both plans before it and clearly went on record as endorsing my legislation over the Sierra Clubs' alternative.

Mr. FANNIN. Mr. President, I ask unanimous consent that a news article appearing in the Arizona Republic of July 2, 1973, headed "GOLDWATER Canyon Plan Endorsed," be printed at this point in the RECORD.

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

GOLDWATER CANYON PLAN ENDORSED

The Arizona Conservation Council Thursday night voted to endorse the concept of Sen. Barry Goldwater's bill to put all of Grand Canyon in one national park.

The action highlighted the monthly meeting of the 16 statewide, conservation-oriented organizations making up the council. It met at the Phoenix Parks Department Adult Center.

In taking the action the council requested that Congress not delete park land to expand the Havasupai Indian Reservation, leaving that problem to separate government action, and also requested that the authority condemn in-holdings of private property not being removed. The council declined to become involved in other controversial matters concerning the park expansion.

The Arizona Republican's bill would consolidate the present Grand Canyon National Park, Grand Canyon National Monument, Marble Canyon National Monument, a portion of the Lake Mead National Recreation Area, and some national forest and public domain land into the park.

In other action the council voted to ask the Arizona Conservation Foundation, a nonprofit, tax-exempt corporation, to assist the Arizona Wildlife Federation financially in a lawsuit to enjoin further channelization of the Gila River.

The action was taken following a report from Richard Small, executive secretary of the federation, who said AWF attorneys believe there is a good chance of enjoining the U.S. Bureau of Reclamation from any further channel work.

The council also voted to support observance of National Hunting and Fishing Day, Sept. 23.

Mr. FANNIN. Also, Mr. President, I ask unanimous consent that a list of the past statutes by Congress making deletions of land from 57 units of the National Park System be printed in the RECORD at this point.

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

Total deleted from National Park System, 289,224 acres.

NATIONAL PARK SYSTEM AREAS CREATED BY EXECUTIVE ORDER PROCLAMATION OR LEGISLATION, WHICH HAVE BEEN TRANSFERRED TO OTHER FEDERAL AGENCIES OR POLITICAL SUBDIVISIONS PURSUANT TO ACTS OF CONGRESS

I. NATIONAL PARKS, MONUMENTS, BATTLEFIELDS, HISTORIC SITES

Area, size, location, creation, disposal, and Transferee

1. Atlanta Campaign National Historic Site; 5 Sites, 15 Acres; Catoosa, Whitfield Gordon, Bartow, and Paulding Counties, Georgia; Secretarial Order October 13, 1944, 9FR12868; Act of Sept. 21, 1950, 64 STAT. 896; Park System, State of Georgia.

2. Castle Pinckney National Monument; 3½ acres; Shoots Folly Island Charleston, South Carolina; Proclamation No. 1713 Oct. 15, 1924, 43 STAT. 1968; Act of March 29, 1956, 70 STAT. 61; GSA for Disposal.

3. Chickamauga and Chattanooga National Military Park; 310 acres; Tennessee-Georgia; Aug. 19, 1890, 26 STAT. 333; Act of Mar. 5, 1942, 56 STAT. 133; State of Georgia.

4. Father Millet Cross National Monument, .0074 acres; Fort Niagara State Park, New York; Proclamation No. 1745 Sept. 5, 1925, 44 STAT. 2286; Act of Sept. 7, 1940, 64 STAT. 691; State of New York.

5. Fossil Cycad National Monument; 320 acres; South Dakota; Proclamation No. 1641 Oct. 21, 1922, 42 STAT. 2286; Act of Aug. 1, 1956, 70 STAT. 898; Returned to Public Domain.

6. Holy Cross National Monument; 1,392 acres; Holy Cross National Forest, Colorado; Proclamation No. 1877, May 1, 1929, 46 STAT. 2993; Act of Aug. 3, 1950, 64 STAT. 404; U.S. Forest Service.

7. Lewis and Clark Cavern, National Monument; 160 Acres; Jefferson County, Montana; Proclamation No. 807, May 11, 1908, 85 STAT. 2187, May 16, 1911, 37 STAT. 1697; Act. of Aug. 24, 1937, 50 Stat. 746; State of Montana for State Park and Recreation.

8. Mackinac Island National Park, Administered by Secretary of War; about 2 square miles; Straits of Mackinac, Michigan; act of March 3, 1875, 18 Stat. 191; act of March 2, 1895, 28 Stat. 189; State of Michigan.

9. New Echota Marker, National Monument; 1 acre; Georgia; Executive Order No. 6228, July 28, 1933; act of Sept. 21, 1950, 64 Stat. 896; Park System, State of Georgia.

10. Old Kasaan National Monument; 39.7 acres; Prince of Wales Island, Alaska; Proclamation No. 1351; Oct. 25, 1916, 39 Stat. 1812; Act of July 26, 1955, 69 Stat. 380; Tongass National Forest.

11. Papago-Saguaro National Monument, 2,050.43 acres; Maricopa County, Arizona; Proclamation No. 1262, Jan. 31, 1914, 38 Stat. 1991; Act of April 7, 1930, 46 Stat. 142; State of Arizona, city and Tempe and National Guard of Arizona, for Park and Rifle Range respectively.

12. Santa Rosa Island, National Monument; 9,500 Acres; Escambia County, Florida; Proclamation No. 2337, May 17, 1939, 53 Stat. 2542; Act of July 30, 1946, 60 Stat. 712; Escambia County, Florida.

(Note: Area included in Gulf Islands National Seashore, authorized January 8, 1971.)

13. Shoshone Caverns, National Monument; 210 Acres; Cody, Wyoming; Proclamation No. 880, Sept. 21, 1909, 36 Stat. 2501; Act of May 17, 1954, 68 Stat. 98; City of Cody, Wyoming.

14. Sully's Hill, National Park; 960 Acres; Benson County, North Dakota; Act of April 27, 1909, 33 Stat. 323 and Proclamation of June 2, 1904, 33 Stat. 2370; Act of March 3, 1931, 46 Stat. 1509; Dept. of Agriculture as Sully's Hill, National Game Reserve.

15. Verendrye, National Monument; 253 Acres; T192N, R93W (Garrison Reservoir), North Dakota; Proclamation No. 1380, June 29, 1917, 40 Stat. 1677; Act of July 30, 1956, 70 Stat. 730; Part of Garrison Dam project, part to North Dakota as an Historic Site.

16. Wheeler, National Monument; 3,001 Acres; Cochetopa and Rio Grande National Forests, Colorado; Proclamation No. 831, Dec. 7, 1908, 35 Stat. 2214; Act of Aug. 3, 1950, 64 Stat. 405; U.S. Forest Service.

17. Glacier National Park; 68.47 acres; Montana; Act of May 11, 1910, 36 Stat. 354; Act of April 11, 1972, 86 Stat. 120; Forest Service.

18. Lassen National Park; 482 acres; California; Act of Aug. 9, 1916, 39 Stat. 442; Act of April 11, 1972, 86 Stat. 120; Forest Service.

19. Petersburg National Battlefield; 257.53 acres; Virginia; Act of Aug. 24, 1962, 76 Stat. 403; Act of April 11, 1972, 86 Stat. 120; City of Petersburg, Virginia.

20. Arches National Monument; 9,359 acres; Utah; Proclaimed April 12, 1929, 46 Stat. 2988; Act of Nov. 12, 1971, 85 Stat. 422; Bureau of Land Management.

21. *Capitol Reef National Monument; 12,570 acres; Utah; Aug. 2, 1937, 50 Stat. 1856; Act of Dec. 18, 1971, 85 Stat. 739; Bureau of Land Management.

II. (NATIONAL RECREATION DEMONSTRATION AREAS)

22. Oak Mountain; 8,000 Acres; Shelby County, Alabama; Executive Order No. 7496, Nov. 14, 1936, 1FR1946; Act of June 6, 1942, 56 Stat. 326; State of Alabama.

23. Mendocino Woodlands; 6,000 Acres; Mendocino County, California; Executive Order No. 7496, Nov. 14, 1936, 1 FR1946; Act of June 6, 1942, 56 Stat. 326; State of California.

24. Hard Labor Creek; 4,500 Acres, Morgan County, Georgia; Executive Order No. 7496, Nov. 14, 1936; 1 FR1946; Act of June 6, 1942, 56 Stat. 326; State of Georgia.

25. Alex. Stephens Memorial; 900 Acres; Taliaferro County, Georgia; Executive Order No. 7496, Nov. 14, 1936, 1 FR1946; Act of June 6, 1942, 56 Stat. 326; State of Georgia.

26. Pine Mountain; 3,500 Acres; Harris County, Georgia; Executive Order No. 7496, Nov. 14, 1936, 1 FR1946; Act of June 6, 1942, 56 Stat. 326; State of Georgia.

27. Pere Marquette; 3,000 Acres; Jersey County, Illinois; Executive Order No. 7496, Nov. 14, 1936, 1 FR1946; Act of June 6, 1942, 56 Stat. 326; State of Illinois.

28. Versailles; 6,000 Acres; Ripley, County, Indiana; Executive Order No. 7496, Nov. 14, 1936, 1 FR1956; Act of June 6, 1942, 56 Stat. 326; State of Indiana.

29. Winemac; 6,500 Acres; Pulaski County, Indian; Executive Order No. 7496, Nov. 14, 1936; 1 FR1946; Act of June 6, 1942, 56 Stat. 326; State of Indiana.

30. Otter Creek; 8,000 Acres; Meade County, Kentucky; Executive Order No. 7496, Nov. 14, 1936, 1 FR1946; Act of June 6, 1942, 56 Stat. 326; State of Kentucky.

31. Camden Hills; 7,000 Acres; Knox, Waldo, Counties, Maine; Executive Order No. 7496, Nov. 14, 1936, 1 FR 1946; Act of June 6, 1942, 56 Stat. 326; State of Maine.

32. Waterloo; 13,000 Acres; Washtenaw, Jackson Counties, Michigan; Executive Order No. 7496, Nov. 14, 1936, 1 FR 1946; Act of June 6, 1942, 56 Stat. 326; State of Michigan.

33. Yankee Springs; 4,000 Acres; Barry County, Michigan; Executive Order No. 7496, Nov. 14, 1936, 1 FR 1946; Act of June 6, 1942, 56 Stat. 326; State of Michigan.

34. St. Croix; 20,500 Acres; Pine County, Minnesota; Executive Order No. 7496, Nov. 14, 1936, 1 FR 1946; Act of June 6, 1942, 56 Stat. 326; State of Minnesota.

35. Lake of the Ozarks; 14,500 Acres; Miller, Camden Counties, Missouri; Executive Order No. 7496, Nov. 14, 1936, 1 FR 1946; Act of June 6, 1942, 56 Stat. 326; State of Missouri.

36. Cuivre River; 5,500 Acres; Lincoln County, Missouri; Executive Order No. 7496, Nov. 14, 1936, 1 FR 1946; Act of June 6, 1942, 56 Stat. 326; State of Missouri.

37. Montserrat; 5,000 Acres; Johnson County, Missouri; Executive Order No. 7496, Nov. 14, 1936, 1 FR 1946; Act of June 6, 1942, 56 Stat. 326; State of Missouri.

38. Bear Brook; 5,500 Acres; Merrimack, Rockingham Counties, New Hampshire; Executive Order No. 7496, Nov. 14, 1936, 1 FR 1946; Act of June 6, 1942, 56 Stat. 326; State of New Hampshire.

39. Crabtree Creek; 6,000 Acres; Wake

*(42,240 acres deleted by above statutes from National Parks, Monuments, and Battlefield.)

County, North Carolina; Executive Order No. 7496, Nov. 14, 1936, 1 FR 1946; Act of June 6, 1942, 56 Stat. 326; State of North Carolina.

40. Lake Murray; 3,000 Acres; Carter County, Oklahoma; Executive Order No. 7496, Nov. 14, 1936, 1 FR 1946; Act of June 6, 1942, 56 Stat. 326; State of Oklahoma.

41. Silver Creek; 10,800 Acres; Marion County, Oregon; Executive Order, No. 7496, Nov. 14, 1936, 1 FR1946; Act of June 6, 1942, 56 Stat. 326; Transferee State of Oregon.

42. Raccoon Creek; 5,000 Acres; Beaver County, Pennsylvania; Executive Order, No. 7496, Nov. 14, 1936, 1 FR1946; Act of June 6, 1942, 56 Stat. 326; Transferee State of Pennsylvania.

43. French Creek; 7,000 Acres; Berks, Chester Counties, Pennsylvania; Executive Order, No. 7496, Nov. 14, 1936, 1 FR1946; Act of June 6, 1942, 56 Stat. 326; Transferee State of Pennsylvania.

44. Laurel Hill; 3,000 Acres; Somerset County, Pennsylvania; Executive Order, No. 7496, Nov. 14, 1936, 1 FR1946; Act of June 6, 1942, 56 Stat. 326; Transferee State of Pennsylvania.

45. Blue Knob; 8,000 Acres; Bedford, Blair Counties, Pennsylvania; Executive Order, No. 7496, Nov. 14, 1936, 1 FR1946; Act of June 6, 1942, 56 Stat. 326; Transferee State of Pennsylvania.

46. Hickory Run; 13,500 Acres; Carbon County, Pennsylvania; Executive Order, No. 7496, Nov. 14, 1936, 1 FR1946; Act of June 6, 1942, 56 Stat. 326; Transferee State of Pennsylvania.

47. Beach Pond; 2,200 Acres; Kent, Washington Counties, Rhode Island; Executive Order, No. 7496, Nov. 14, 1936, 1 FR1946; Act of June 6, 1942, 56 Stat. 326; Transferee State of Rhode Island.

48. Cheraw; 4,500 Acres; Chesterfield County, South Carolina; Executive Order, No. 7496, Nov. 14, 1936, 1 FR1946; Act of June 6, 1942, 56 Stat. 326; Transferee State of South Carolina.

49. Waysides; 300 Acres; Kershaw, Aiken, Greenville, Georgetown, Greenwood, Colleton, Cherokee Counties, South Carolina; Executive Order, No. 7496, Nov. 14, 1936, 1 FR 1946; Act of June 6, 1942, 56 Stat. 326; Transferee State of South Carolina.

50. Kings Mountain; 10,500 Acres; York, Cherokee, Counties, South Carolina; Executive Order, No. 7496, Nov. 14, 1936, 1 FR 1946; Act of June 6, 1942, 56 Stat. 326; State of South Carolina.

51. Custer Park; 20,500 Acres; Custer County, South Dakota; Executive Order, No. 7496, Nov. 14, 1936, 1 FR 1946; Act of June 6, 1942, 56 Stat. 326; State of South Dakota.

52. Montgomery Bell; 4,000 Acres; Dickson County, Tennessee; Executive Order No. 7496, Nov. 14, 1936, 1 FR 1946; Act of June 6, 1942, 56 Stat. 326; State of Tennessee.

53. Shelby Forest Park; 10,000 Acres; Shelby County, Tennessee; Executive Order No. 7496, Nov. 14, 1936, 1 FR1946; Act of June 6, 1942, 56 Stat. 326; State of Tennessee.

54. Falls Creek Falls; 7,500 Acres; Van Buren, Bledsoe Counties, Tennessee; Executive Order No. 7496, Nov. 14, 1936, 1 FR1946; Act of June 6, 1942, 56 Stat. 326; State of Tennessee.

55, Swift Creek, 7,500 Acres; Chesterfield County, Virginia; Executive Order No. 7496, Nov. 14, 1936, 1 FR1946; Act of June 6, 1942, 56 Stat. 326; State of Virginia.

56. Waysides; 384 Aces; Hanover, Pulaski, Amherst, Mecklenburg, Fauquier, Pittsylvania Counties, Virginia; Executive Order No. 7496, Nov. 14, 1936, 1 FR1946; Act of June 6, 1942, 56 Stat. 326; State of Virginia.

57. Lake Guernsey**; 1,900 Acres; Platte County, Wyoming; Executive Order No. 7496, Nov. 14, 1936, 1 FR1946; Act of June 6, 1942, 56 Stat. 326; State of Wyoming.

**(Total of 246,984 acres deleted from National Recreation Demonstration Areas.)

ADMINISTRATION IS FAILING TO KEEP FUEL PRICES IN LINE

Mr. HUMPHREY. Mr. President, the American consumer should be warned there is no evidence the Nixon administration intends to hold down the price of gasoline, fuel oil, and other petroleum products.

Petroleum price increases beyond the guideline level are occurring day after day.

In fact, the evidence we have shows that prices charged by the major oil companies for fuel oil and gasoline have gone up by 25 to 50 percent over previous contract prices.

It is readily apparent that administration efforts to hold down these prices have failed. Also, as we have noted in Senate debate during the last few days, it has failed to adopt a mandatory allocation system to get supplies where they are most urgently needed.

The administration has claimed that on March 23, 1973, the Cost of Living Council put mandatory controls on 23 integrated oil companies to hold price increases on all sales to an average of not more than 1.5 percent over base period prices.

But I have been puzzled and alarmed in recent months by the price increases that have come to my attention, all of which are far in excess of the 1.5-percent Cost of Living Council guideline.

The wholesale price index for refined oil products, for example, has risen by 23 percent from March through June. And for crude oil it rose 9 percent. The Consumer Price Index for gasoline and motor oil went up 6 percent and fuel oil was up 4 percent.

Although we know these indexes are somewhat deficient as measures of what has actually happened, other information I have received on oil prices shows even more spectacular increases.

At June hearings in Minnesota by the Subcommittee on Consumer Economics of the Joint Economic Committee, which I chair, persons directly involved in purchasing from the major oil companies advised me that fuel oil and gasoline prices had gone up by 25 to 50 percent over previous contract prices.

I cite these examples:

Ross L. Thorfinnson, chairman, National Rental System, testified that new contract price increases for bulk fuel purchases from the majors ranged from 30 to 50 percent across the country.

Louis B. Olsen, assistant general manager of the Metropolitan Transit Cos. of Minneapolis, testified that the prices on new diesel contracts rose by about 25 percent.

James N. Penn, general manager, Minnesota Motor Transport Association, testified that prices to their members for new contracts on gasoline and fuel oil increased by about 50 percent.

I was shocked by this information, and immediately informed the chairman of the Cost of Living Council, Dr. John Dunlop, of the Subcommittee's findings. I requested of him a comprehensive account of what is going on with the prices of oil, by product category, by region of the country.

What I received in reply was a statement filled with endless detail about procedure, but not a single bit of information about results.

Mr. President, I ask unanimous consent to have printed in the RECORD at the close of my remarks my letter to Dr. Dunlop and the information submitted by Dr. Dunlop's office.

To a great extent, the response from the Cost of Living Council is an explanation of why the administration has not, in fact, developed any control over price increases in the petroleum industry.

Although the Cost of Living Council's so-called mandatory petroleum controls were established on March 6, no documentation was required until June or July.

Thus, it is now almost 5 months since the imposition of price controls over the oil industry and, because of this delay, the first reports of the controlled companies have not been evaluated—let alone enforced.

Mr. President, I again call upon the President and the Cost of Living Council to reveal the facts on consumer prices in the oil industry, and to enforce their stated policy of confining price increases to an average of not more than 1.5 percent a year.

If this policy is not to be enforced, then the Congress and the people deserve an explanation.

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

JUNE 11, 1973.

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

DEAR MR. DUNLOP: During your testimony last Tuesday before the Subcommittee on Priorities and Economy in Government, you agreed to report to the Subcommittee on price conditions in the oil industry. I promised to provide some details on instances of very large price increases that have been brought to my attention. I hope that your report will deal with both the general situation in various regions and product markets and also with these specific instances.

The following list includes all quantative references to price changes gleaned from testimony before the Joint Economic Committee's Subcommittee on Consumer Economics in Minneapolis on Saturday, June 2. The story is very consistent. It shows price increases of 25 percent or more attributed to major oil companies.

1. Testimony by Mr. Ross L. Thorfinnson, Chairman, National Car Rental Systems, Inc., 5501 Green Valley Drive, Minneapolis, Minnesota, 55431; telephone 612 955-1100:

My purpose today is to explain briefly the current impact of the fuel energy crisis on our industry as a result of the events of the past six weeks. . . . This impact has been primarily an economic one, since I know of no instance where we have been unable, yet to rent or lease a car or truck because of lack of fuel.

The economic impact has resulted from increases ranging generally between 30 percent and 50 percent in the price of our bulk fuel purchases. In some cities, no major oil com-

pany has been willing to bid on our fuel needs. In those situations we are buying on an individual lot basis from independent bulk suppliers at prices that add as much as 70 percent to our fuel costs. . . .

In virtually every city when our present contracts expired, our present suppliers have refused to bid on a renewal of the contract. Other major oil companies, if they submit bids, substantially increase the price virtually to the retail pump price level and require escalation clauses for any upward fluctuations in the bulk oil market price.

I take Mr. Thorfinnson's testimony to indicate that price increases from major companies ranged from 30 to 50 percent. He implies that this was true all across the country. I presume that reference in your base-price guideline to "classes of customers" recognizes a clear distinction between bulk (wholesale) and retail customers, and that it is not permissible for oil companies to construe their retail pump price as the base price to be applied to all purchases.

2. Testimony by Mr. Louis B. Olsen, Assistant General Manager of the Metropolitan Transit Commission, Minneapolis, Minnesota; telephone 612 827–4431.

Since 1959, the Standard Oil Division of American Oil Company had supplied diesel fuel to Twin City Lines, Inc. and, in 1970 when the Metropolitan Transit Commission acquired the private company, continued to supply fuel by bid and contract arrangement.

The one-year contracts with Standard Oil began June 1 and expired May 31 . . . In 1972, there were but two bidders, Standard Oil at 11.88 cents per gallon and another major oil company at 12.41 cents per gallon.

* * * On January 5, 1973, the Standard Oil Division of American Oil advised the Metropolitan Transit Commission that due to an extreme shortage of No. 1 grade diesel fuel, beginning immediately they would be supplying the Commission with AMOCO premier diesel fuel, a mixture of No. 1 and No. 2 diesel fuel. (No. 2 is a cheaper, inferior fuel, but no price adjustment was made.) . . .

In late April, 1973, the MTC solicited bids from all major and independent suppliers for diesel fuel and petroleum products for the new contract year. . . . The solicitation elicited no bids for the 24,000 gallons of gasoline needed, and only one bid for diesel fuel—that from the MTC's present supplier, Standard Oil, who bid on 3,733,000 gallons of the 5 million asked for in the bid specifications. In addition, the bid was for AMOCO premier diesel (a mixture of No. 1 and No. 2 diesel) not No. 1 as asked for in the bid specifications. The price rose from 11.88 cents per gallon, the price under the '72–'73 contract, to 14.9 cents per gallon (a 25 percent increase) and the bid contained the following clause: "The prices and/or quantities set forth herein are subject to revision by seller, at its option, at any time or times, on 10 days written notice to buyer . . ."

In addition to the 25 percent increase in diesel fuel costs, bids for petroleum products resulted in the following cost increases:

	Percent increase
No. 30 H.D. motor oil, 60,000 gallons	40
Hydraulic Transmission Fluid 12,000 gallons	20
No. 2 lithium grease, 10,000 pounds	28
No. 140 gear lubricant, 19,000 pounds	13

3. Testimony by Mr. Kent P. Shoemaker, Assistant Vice President for Operations of the Soo Line Railroad, the Soo Line Building, Minneapolis, Minnesota, 55402; telephone 612 332–1261.

For the period between June 1, 1972 and May 31, 1973, Soo Line's fuel oil "contracts" covered 31,820,000 gallons of diesel oil.

As to our diesel fuel requirements for the year ending May 31, 1974, we only have firm contracts described below:

Location	Vendor	Location	Calendar year
Marquette	Murphy Oil	Marquette, Mich.	690,000
Superior	Murphy Oil	Superior, Wis.	2,020,000
CF yard			
Stevens Point			
Ashland	Koch Refining Co.	Roseport, Minn.	5,040,000
Shoreham			
Genwood			
Harvey			
Minot	Westland Oil	Williston, N. Dak.	886,000
Porta			
Shoreham	Conoco Oil	Minneapolis, Minn.	7,170,000
Total			15,796,000

We have oral quotations from American Oil Company (AMOCO) for 14,598,000 gallons to be delivered at eleven points. Within the last three days AMOCO has orally indicated it will probably supply an additional three to six million gallons depending upon the application of a formula AMOCO is now developing which we understand is partially based upon the voluntary allocation program.

I would like to point out that Soo Line's supplier, the Koch Refining Company of Roseport, Minnesota relies heavily on Canadian crude . . .

Our Purchasing Department has also been negotiating with the Imperial Oil Company of Regina, Canada for approximately 5,100,000 gallons of diesel oil.

. . . We anticipate that our fuel costs may increase by 25 to 30 percent.

4. Testimony by Mr. James N. Denn, General Manager, Minnesota Motor Transport Association, 1821 University Avenue, St. Paul, Minnesota, 55104; telephone 612 646–7351.

. . . The situation is still very pressing. This expressed in various ways such as in cutbacks of fuel supplies, non-renewal of contracts, special short notice contract provisions for either unilateral price increases or contract termination by the supplier, or price increases of almost 50 percent for diesel fuel and gasoline.

The pricing situation is indeed serious. Based on reports we have received, the price increase is approximately in the range of about 4 cents a gallon for diesel and over 5 cents a gallon for gasoline. This, of course, is in a case where a major oil supplier is the source. Fuel purchased from independent suppliers has been recorded at prices up to 10 cents a gallon over that previously paid the majors and, of course, fuel from truck stops is typically purchased at even higher prices.

5. Testimony by Mr. Cy Carpenter, President of the Minnesota Farmers' Union, 1275 University Avenue, St. Paul, Minnesota, 55104; telephone 612 646–4861:

In addition to an inadequate supply of fuel, many grain truckers relate an increase in cost of fuel of approximately 30 percent within the past year, and the price is continuing to move upward.

6. Testimony by C. L. Bowar, Minnesota State Automobile Association, 7 Travelers Trail, Burnsville, Minnesota, 55378; telephone 612 890–2500:

. . . we are one of a number of AAA clubs around the nation which is now engaged in a weekly reporting system on the gasoline shortage . . . Our survey showed that, in general, there has been an increase of 2 cents per gallon during the last two months. In communities where the price of gasoline has been depressed (so-called gas wars) the increase has been as much as 7 cents and 8 cents per gallon.

7. Mr. Arnold Odegaard, Wood City Aero Service, Inc. Route 3, Box 382A, Cloquet, Minnesota, 55720; 218 879–7533:

. . . at Cloquet the fuel situation hit us hard as we were a Union 76 dealer and they are out of the aircraft gas business. Fortunately we were able to get set up with Phillips 66—at a higher cost per gallon of course. At this time we are unable to obtain 80-octane fuel which we have a great demand for.

I hope that the Cost of Living Council in its investigatory activities is taking note of the fact that in some cases the quality of products or services is being debased without corresponding price adjustments. This practice was noted above by Mr. Olsen in connection with the admixture of inferior No. 2 diesel fuel with No. 1 fuel without any price reduction. I am sure you are aware also that many retail gasoline stations are cutting back on service and marketing attractions without price reductions. This practice is tantamount to a price increase and should be considered as such. I wish to point out finally that I have received a number of other letters documenting the situation mentioned by Mr. Odegaard in Case No. 7 above, i.e. an attempt by suppliers to substitute aviation gasoline of 100-octane or more for lower priced 80/87-octane gas—at of course a corresponding higher price.

I am grateful to you and your staff for having a look at these cases, which I believe are symptomatic of a situation that threatens both the attempt to restore price stability and public faith in the integrity of the controls system.

Sincerely yours,

HUBERT H. HUMPHREY,
Chairman, Subcommittee on Consumer Economics.

COST OF LIVING COUNCIL REPLY TO SENATOR HUMPHREY

Senator Humphrey requested that Dr. Dunlop submit for the record a report on the Cost of Living Council's price monitoring of oil prices by product category and by region for the 24 companies under mandatory controls, and for independent oil refineries and distributors.

1. INDUSTRY MONITORING

The Cost of Living Council is continuing to closely monitor industry compliance, both through established reporting requirements (the CLC–2, CLC–8 and CLC–9 reporting forms) and through ongoing IRS investigative surveys. In conjunction with our public hearings in February, the Council directed an extensive IRS investigation of the major oil companies which had implemented price increases for heating oil, and IRS investigations are being continued on an ongoing basis since the reimposition of mandatory controls on March 6. However, our purpose in conducting such investigative activities is not to record all price movements within the industry, but to determine compliance with the regulations.

Under the reporting requirements of Phase III, all firms having annual revenues in excess of $250 million must file the CLC–2 forms with the Council on a quarterly basis. The form was published in the May 7 Federal Register, and the Cost of Living Council conducted a public hearing on June 6 on proposed rule-making for the CLC–2 public disclosure requirements. The Council issued final regulations on public disclosure of data contained in the CLC–2 reporting form on June 15 for companies which have increased prices of a substantial product by more than 1.5%. The changes require disclosure of information filed by companies reporting on Form CLC-2 showing 1) cost justification for price increases and 2) compliance with base period profit margin rules.

In addition to this quarterly reporting requirement, the oil companies covered by Special Rule No. 1 must further provide the Council on a monthly basis records of posted price movements, cost increases and supply conditions on CLC–9. This form was published in the Federal Register on June 19. The reports for March, April and May 1973 must be received by the Cost of Living Council no later than 30 days from the date of publication in the Federal Register, and subsequent forms must be submitted no later than 30 days after the close of each calendar month. Firms subject to Special Rule No. 1 must also submit Form CLC–8, "Petroleum Industry Special Report," which is a one-time report of price increases for crude petroleum and petroleum products. The form requires data on price increases put into effect from February 1, 1973 through March 31, 1973. This form was also published in the June 19 Federal Register and these reports are due to the Cost of Living Council within 30 days of publication. (These forms are attached as reference.)

Oil companies not included under the mandatory regulations have been required to comply with the general price standard set for the voluntary sectors of the economy in Phase III under Section 130.13 of the Cost of Living Council regulations. If annual revenues are $50 million or more, these companies have been required to maintain financial records of costs, prices and profits to be made available for inspection or audit if required. However, independent jobbers, wholesalers and retailers who were included in the Phase II Small Business Exemption have not been directly subject to these standards. Since the Freeze was announced on June 13, the Cost of Living Council has extended reporting requirements to firms treated as record-keeping companies (i.e., those firms with annual revenues between $50 million and $250 million) and these firms are to submit the CLC–2 form to the Cost of Living Council by June 30.

2. PRICE MOVEMENT IN THE OIL INDUSTRY

The Cost of Living Council depends upon Bureau of Labor statistical data, i.e., WPI and CPI figures, to indicate price movement in the economy for crude petroleum and petroleum products. We also receive reports of complaints from the IRS and complaints directly to the Council from the general public and business firms. We also periodically direct investigations and surveys and request spot checks by the IRS in specific localities. Data, especially for the Council's review, is obtained from the reports submitted to us by companies subject to controls, as outlined above. The Council's Energy Policy Committee is currently developing a more comprehensive program for monitoring crude oil and product price movement, but substantive data resulting from this effort will not be available until this fall. However, we have prepared a study of retail gasoline price trends, based upon government and industry statistical data, and this is enclosed as Attachment No. 1.

3. 60-DAY FREEZE EFFECTED JUNE 13

Since implementation of the Freeze on June 13, virtually all wholesale and retail gasoline and fuel prices, including propane, are frozen at the price at or above which the seller priced at least 10 percent of these products concerned in transactions during the first eight days of June. The only dollar pass-through for increased costs incurred subsequent to June 12 are for imports of crude petroleum or product so long as the commodity is neither physically transformed by the seller or becomes a component of another product. (See Section 140.14 of the Cost of Living Council Freeze Regulations, attached.)

During the freeze, the IRS is conducting intensified compliance checks for oil products. These efforts have resulted in nearly 1100 rollbacks across the nation thus far for gasoline prices which were above freeze prices. (Attached is a release on these rollbacks.)

ATTACHMENT #1

What has been happening to retail prices of gasoline in the United States?

Retail prices of gasoline in the United States have been going up. They have risen by 8.4 percent in the last year. (See Table 1). On the other hand, most of this growth has been since the ending of Phase II in January 1973. If you consider the entire period since the beginning of price controls in April 1971, gasoline prices have gone up by 5.5%, while the average of all prices has risen 7.0%.

It is important to bear in mind that the price increase since January reflects to a large extent the catching up by the industry after what had, in effect, been the prolongation of the freeze.

TABLE I.—PRICE INCREASES APRIL 1972-APRIL 1973 WITH RELATIVE WEIGHTING

	Percent of consumer dollar expended	Price increase in the last 12 months (percent)
Housing	33.9	3.6
Food	27.5	11.5
Health and recreation	17.9	2.9
Apparel and upkeep	10.7	3.3
Transportation (including gasoline)	10.1	3.4
(Gasoline)	(2.9)	(8.4)
National average	100.0	5.1

As the chart shows, gasoline price increases in the last year exceeded the national average. Gasoline, however, is a minor part of consumer spending. The increases in gasoline prices are not sufficiently high to raise the total transportation increases as much as the national average.

In addition, much of our increased consumption of gasoline this year must be supplied by foreign sources. The price of foreign gasoline, over which we have no control, has been increasing far more rapidly than the price of U.S. gasoline. (See Table 2.)

TABLE 2.—PRICE PER GALLON, WHOLESALE UNITED STATES AND ITALIAN 1973 PREMIUM GASOLINE PRICES

	Italian gasoline			U.S. gasoline
	FOB	Tanker	Total	
March	15.15	1.61	16.79	17.15
April	19.56	1.76	21.32	17.77
May	27.34	2.16	29.50	21.07

HEALTH PROGRAM APPROPRIATIONS

Mr. JAVITS. Mr. President, I recently testified before the Senate Appropriations Committee and focused upon the urgent need for increased health program appropriations, including biomedical and behavioral research.

Although there has been a spectacular explosion of knowledge about the diseases that afflict mankind, I believe such advances in knowledge, though striking, will be found to be small in relation to the discoveries yet to be made. I testified that the potential for future progress requires that we insure the flow of the brightest and most talented young people into research and teaching.

On July 26, the National Student Lobby and the Graduate Student Government at the State University of New York at Buffalo testified on the need for increased funding for biomedical and behavioral research training grants and fellowships—which as I said, "insures the flow of the brightest and most talented young people into research and teaching." Their testimony was brief, and while I do not concur in all of it, it is impressive and should be called to the attention of my colleagues. It also documents the need for the national research service award bill I authored with Senator KENNEDY—S. 2071—and now title I of the "National Biomedical Research Fellowship, Traineeship and Training Act"—H.R. 7724—recently ordered reported by the Labor and Public Welfare Committee—and which will be before the Senate when we return in September.

I ask unanimous consent that the full text of the testimony of the National Student Lobby and the Graduate Student Government at the State University of New York at Buffalo before the Senate Appropriations Committee be printed in the RECORD.

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

TESTIMONY OF THE NATIONAL STUDENT LOBBY BEFORE THE SENATE SUBCOMMITTEE ON LABOR AND HEALTH EDUCATION AND WELFARE

(By Fran Reibman, Associate Director, National Student Lobby and Allan Miller, President, Graduate Student Government, State University of New York at Buffalo)

Mr. Chairman, we would like to thank you for the opportunity to testify here today. We appear on behalf of the National Student Lobby and the Graduate Student Association, SUNY at Buffalo in opposition to the impending phase-out of the National Institutes of Health Training Grants and Fellowships.

Today we are well aware of the potential damage to our nation that develops when our natural resources are taken for granted, however, it would appear that we do not learn from our mistakes. We are here this afternoon not to remind you that our forests, natural fuel, and waters are in jeopardy, but to speak of the imminent stifling of our most precious natural resource, OUR MIND POWER. Has it not become clear to us that "A Mind Is a Terrible Thing to Waste?"

THE NEED FOR BIOMEDICAL RESEARCH

The Administration has taken the position that the "need for a greater number of trained biomedical research scientists has passed . . .," and that the supply of researchers will soon exceed the demand. Furthermore, they argue that this oversupply will lead to a situation of unemployment. These arguments are not consistent with the projections of the NIH Reports[2] that state that by 1983 we will need 112,360 Doctoral biomedical scientists, as compared with 66,800 scientists in 1971; accordingly we question the justification for eliminating this program. The President's Science Advisory Committee has stated that "The implication that we are training a surplus of biomedical Ph. D.'s appears unfounded, at least to the panel. All but 1.3% of these Ph. D.'s graduating in 1968 and 1969 found positions in which they are appropriately utilizing their graduate education . . ."[3] Furthermore, we must realize that with every new advance made a broad range of research opportunities are created, expanding the potential job market. It is rather obvious

Footnotes at end of article.

that the Nixon Administration has rejected the advice of a panel which it created.

The Administration has proposed a new system of contracting as an alternative to fellowships and training grants. We consider this system inadequate, as it will tend to restrict students to specific projects and force students to work only with their assigned professors. The contract system has already been proven ineffective in Europe and would turn research in this country back to an apprenticeship system. Contract research along with training grant cutbacks is an expression of "We know all there is to know." When will we begin to recognize the fact that many of our major breakthroughs in science have been discovered through basic research, conducted in areas not even focused on.

The weakness in the proposed contracting system is that it is equivalent to having charged the National Cancer Institute to cure cancer in 1946, long before we had knowledge of the structure of DNA. This system is also a reflection of the contract system in the U.S.S.R., where genetics was completely ignored because Lysenko, the man at the top, did not believe in genetic theory. Experience has made it crystal clear that a research picture directed from the top can be short sighted and ultimately disastrous. The latent function of this system might be to delay any major breakthrough in curing cancer, heart disease, or other health menaces for years.

The need for expanded funding for fellowships and training grants

We would like to call your attention to a basic point, that we believe the Administration and the Office of Management and Budget appear to be oblivious to; research, whether publicly or privately funded; whether on the Masters, pre- or post-Doctoral level is a full time job. Research grants are not a charitable handout, in fact, in a great many instances students working in laboratories, hospitals, and clinics are a source of cheap labor, (what research scientist in his right mind would work for $3,200 or less). According to Nobel Laureate Dr. James Watson, researchers between the ages of 25 and 35 are in their peak periods for creative research. Are we going to throw away these young minds, because the OMB deems these grants unnecessary?

In his testimony before the House Sub-Committee on Public Health and Environment, Dr. Zapp stated that, "The program does not target funds on needy or disadvantaged students." He went on to state "Beneficiaries of research training support—whether M.D. or Ph. D.'s—are generally qualified for jobs with substantial income potential. Such persons are generally able to afford the costs of loans and other general financial assistance for their education as an investment in their own future . . ." This statement was evidently made with complete disregard of the PSAC report or the findings of the Bureau of Social Science Research.

We question the rationale behind Dr. Zapp's argument. The BSSR survey found that most students could not finance their own education, nor could their families substantially contribute, and their loans could not be substituted for stipends without negative consequences.[4] Let us not cloud this issue by introducing dubious arguments pertaining to discrimination or the status of disadvantaged students. In fact, without this program, study in this area would be restricted to only the affluent. This program is open to all students who meet the academic requirements regardless of their social or economic backgrounds.

The economic payoffs that Dr. Zapp alludes to are illusory. In 1970 the average Ph. D. with a doctorate in bio-science earned $16,000.[5] Obviously, full-time bio-medical research is not a lucrative field. Yet the advances made by R&D's over recent years have saved billions of dollars in health care[6] and provided billions of dollars to the pharmaceutical industry.

Let us consider the fact that without basic research there is no medical science. Have we found so many answers that we have no more questions, or do we want to hide our heads in the sand and hope that the maladies that now afflict us will go away? Are we willing to place research on the wholesale market and sell it to the highest bidder?

In reply to a letter from the Director of the OST, the Chairman of the President's Cancer Panel stated: "It is my opinion that fellowships and training grants, assuming proper selection and wise administration are essential if we are to carry out the mandate of the President and Congress in the National Cancer Act of 1971 . . . there are certain areas where sufficient numbers of highly skilled bio-medical scientists do not exist today and are essential. We need fellowships and training grants to attract the brightest scientists to programs."

In a letter to President Nixon, dated January 25, 1973, the President's Cancer Panel stated the following: "Most bio-medical scientists and the National Cancer Advisory Board are concerned we spend too little on basic research and too much applying present care, when it is inadequate."

Considering the aforementioned statements, we cannot understand why no new training grants or fellowships have been awarded since January 27, 1973. What happened to the $42,603,000 that went unspent in research training programs, or the $105,293,000 that was not spent in other research programs? If we consider that the pressure for more research increases in proportion to the rapidly rising health care costs, then, we can only assume that these funds were unjustifiably impounded in an effort to present the public with a picture of how the Administration has effectively saved money. Ultimately, the cost of these training grants and fellowships cannot be measured in terms of money, they must be measured in terms of saving human lives.

CONCLUDING RECOMMENDATIONS

To date, there is no truly accurate way to project the number of bio-scientists that will be needed in the future; we must rely on the past to predict the future. In the early 1950's when penicillin was discovered we had no way of knowing that new strains of bacteria would appear that would be immune to it. However, these new strains of bacteria created a new field of research positions. With every answer a new question arises, answers that lead to new and more complex questions. We are forced to work on the assumption that our projections are understatements.

The theory of oversupply that the Administration postulates is unfounded. The ratio of R&D's must be increased in relation to health care costs or medical technology will be severely handicapped. The situation of unemployment that the Administration is projecting must be viewed as a direct result of the vast cuts in funding to Medical Schools, Clinics, Nursing Programs, and Laboratories. Unemployment in bio-medical research is not an indication of oversupply, rather, it is an indictment against the Administration for its shortsighted economic policies in the area of research and medical technology.

In conclusion, we believe that phasing out this program would serve only to divert young, original minds to other more lucrative fields. We therefore respectfully suggest that the 1974 Budget appropriate $152,996,000 for Research training programs, and add to that amount $42,503,000 from last year's funds.

FOOTNOTES

[1] Administration Press Release on the 1974 Budget.

[2] The Training Programs of the Institutes of the National Institutes of Health, Fiscal Year 1974. Volume I.

[3] President's Science Advisory Committee, Scientific and Educational Basis for Improving Health, Report of the Panel on Biological and Medical Science of the President's Science Advisory Committee . . . Office of Science and Technology, 1972.

[4] The Bureau of Social Science Research, Inc. of Washington, D.C. Questionnaire Responses.

[5] Subcommittee on Public Health and Environment, Hearings, March 20, 22, 23, 1973, page 25.

[6] The Journal of Laboratory and Clinical Medicine, Vol. 79, March 1972, Number 3 . . . Editorial "The Dollar Benefits of Biomedical Research: A Cost Analysis by: H. H. Fudenberg, Professor of Medicine, University of California, San Francisco, page 7.

DEMAND FOR DOCTORAL BIOMEDICAL SCIENTISTS: ESTIMATED ACTUAL FISCAL YEAR 1971 AND PROJECTED TO FISCAL YEAR 1983

[Thousands]

Fiscal year ending June of—	Nature of demand			Demand on biomedical-science manpower pool for—				
	Total	Replacement	New	All activities	Research	Teaching	Clinical service	Administrative, etc.
ESTIMATED ACTUAL								
1971	6.8	2.3	4.5	66.8	30.20	19.20	7.20	10.20
PROJECTED								
1972	6.7	2.5	4.2	70.98	32.25	20.22	7.66	10.85
1973	6.92	2.65	4.27	75.25	34.51	21.11	8.11	11.82
1974	7.02	2.81	4.21	79.46	36.93	21.82	8.53	12.18
1975	7.10	2.97	4.13	83.59	39.33	22.49	8.94	12.83
1976	7.07	3.13	3.94	87.53	41.69	23.06	9.33	13.45
1977	7.09	3.27	3.82	91.35	43.98	23.60	9.72	14.05
1978	7.08	3.42	3.66	95.01	46.18	24.10	10.11	14.62
1979	7.04	3.55	3.49	98.50	48.26	24.59	10.49	15.16
1980	6.98	3.68	3.30	101.80	50.19	25.06	10.88	15.67
1981	7.19	3.81	3.38	105.18	52.19	25.52	11.28	16.19
1982	7.45	3.93	3.52	108.70	54.28	25.98	11.70	16.74
1983	7.73	4.07	3.66	112.36	56.45	26.46	12.14	17.31

Source: Vol. I, NIH Fiscal Year Report, 1974.

FAMILY PROFILE OF NIH TRAINEES DURING CALENDAR YEAR 1970 [1]

[In percent]

Characteristics	Training level		
	Predoctoral	Postdoctoral	
		Ph. D.	M.D.
Marital status, current:			
Single	41	19	13
Married	56	78	86
Other status	3	3	1
Total number of dependents:			
None	58	35	18
1	21	22	15
2 or more	21	43	67
Number of dependent children:			
None	74	49	24
1	14	26	20
2 or more	12	25	56
Occupation of father:			
Unskilled laborer or farmworker	5	6	3
Skilled, semiskilled operative	22	23	11
Technical or semiprofessional worker	5	4	2
Salesman or clerical worker	8	11	10
Proprietor, manager, business executive, or official	26	24	31
M.D., D.D.S., D.V.M	6	6	17
Teacher, college professor, other educator	7	7	6
Other professional	16	15	16
Other	5	5	3
Father's highest education level:			
Less than high school graduate	19	23	17
High school graduate	23	25	18
Some college	17	16	15
College graduate	17	15	17
Postgraduate study	23	20	34
Parent's income at trainee's graduation from college:			
Less than $5,000	9	14	9
$5,000 to $9,999	33	37	26
$10,000 to $14,999	28	24	23
$15,000 or more	30	24	41
Median	$10,785	$9,885	$13,090

[1] Based on a population of 4,758 for NIH predoctoral trainees, 811 for NIH postdoctoral Ph. D. trainees, and 1.198 for NIH postdoctoral M.D. trainees. Student trainees questionnaire, items 11, 13, 15, 16, and 17.

Source: Table 28, vol. I, NIH Fiscal Year Report, 1974.

AEROSPACE WORKERS

Mr. GURNEY. Mr. President, I ask unanimous consent to print in the RECORD, for the appropriate reference of my colleagues, an interesting and informative study made by two professors at the Florida State University School of Business, Dr. Robert G. Turner and Dr. William Whitaker III.

The report is entitled "A Survey of the Post Layoff Experiences of Aerospace Workers in Brevard County, Fla." Brevard is the county in Florida which houses our Nation's Kennedy Space Center complex at Cape Canaveral. Most of the persons surveyed, then, were directly involved in the space program. When we began cutting back on the space program, these people were the first ones affected.

This report and its conclusions are particularly valid, I think, in pointing out the need for additional Federal measures which will insure that America does not lose its lead in scientific and technological expertise. As recently as July 20, for instance, a group of Senators representing States with substantial numbers of unemployed scientists, engineers, and technicians, Senators CRANSTON, TUNNEY, JAVITS, KENNEDY, RIBICOFF, and I requested the inclusion of a $6,875,000 budget request in the Labor-HEW appropriation bill. This money is just enough to finance a 1-year extension of the technology mobilization and reemployment program, which provides a variety of useful manpower services to thousands of technical people who have lost their jobs through changing Government policies.

I have continually expressed my support of the space program, not only on an economic basis, but also because I feel it is imperative to maintain this expertise if we are to solve our Nation's complex environmental and sociological problems.

I appreciate the work of Dr. Turner and Dr. Whitaker, and I ask unanimous consent that the report be printed in the RECORD.

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

A SURVEY OF THE POST LAYOFF EXPERIENCES OF AEROSPACE WORKERS IN BREVARD COUNTY, FLA.

SUMMARY

Since 1968, the economy of Brevard County, Florida, has been suffering through the effects of mass layoffs of area workers as a result of decreasing activity at Kennedy Space Center. The civilian labor force plummeted from a high of 102 thousand workers to a low of 85 thousand. In the same time period the unemployment rate rose from 1.9 percent to a high of 7.4 percent.

Following mass layoffs, migration of affected workers from the area is typical. Yet a certain group of individuals often refuse to leave even when taking severe income and asset losses. The purpose of this study was to develop a profile and analyze the characteristics of those workers in the aerospace industry of Brevard County, Florida, who had elected to remain after suffering a layoff from the industry.

Aerospace companies with operations in Brevard County were requested to supply information on persons laid off between January 1968 and January 1971 in order that the population might be identified. Seven companies participated and supplied the names of 3,552 laid-off workers. Through comparison with employment records of the Florida Department of Labor and with telephone listings, a target population of 1,868 was identified and sent a mail questionnaire. The target population was reduced, based on returned questionnaires which were not forwardable and those which were filled out by persons not residing in Brevard County, to 1210 persons. Usable responses were received from 405 of these individuals, for a 33.5 percent response rate which was considered acceptable in light of the questionnaire length.

Once the responses were obtained, the profile was developed. The average age of the laid-off aerospace workers still residing in Brevard County was 43 years. Nine out of 10 respondents were males and the same proportion were married. The majority of the respondents had a high school degree as their highest level of formal education and a majority of the respondents had also received vocational and technical training. The typical respondent had resided in Brevard County for 11 years prior to 1972.

During the layoff period, defined as January 1968 to January 1972, the average respondent held three different jobs with the majority of turnovers caused by layoff. Following the initial layoff, the duration of unemployment was 18 weeks. Following the second layoff, the duration of unemployment fell to 8 weeks. The typical respondent holding three different jobs and being laid off twice was unemployed for 26 weeks.

Average weekly wages prior to the first layoff equalled $195.00. In the second job held wages fell to $160.00 and remained near there in succeeding jobs. In part, the lower wages reflected occupational shifts. Two occupations: Scientists-Engineers and Technicians, recorded a significant decrease in respondents over the layoff period. Apparently, the Scientists-Engineers became Officials-Managers as this occupation gained significant respondents and the job requirements could be generally met by the highly educated Scientists-Engineers. The Technicians accepted jobs in the Semiskilled Labor or Service Workers categories. On balance, these occupational shifts resulted in lowered incomes.

As income fell due to occupational shifts, an attempt was made to minimize the decrease by lengthening the work week. For the initial job held in the layoff period, the average work week was 41.5 hours. For the last job held, the average work week was almost 43 hours.

Severance pay provided more financial assistance for those laid off than any other source. The average payment was $1,090. Unemployment compensation was the next most important source with an average duration of less than 15 weeks at almost $44.00 per week, producing $650 financial assistance each period of unemployment. The G.I. Bill and Project Retro were minor sources of financial aid.

Only eight percent of the respondents had removed themselves from the labor force during the layoff period. As of the survey week (January 23, 1972), 92 percent were still in the labor force. For those in the labor force, the rate of unemployment was 13.7 percent, a figure more than twice the rate of unemployment for Brevard County as a whole.

The lowered income of the respondent was reflected in lowered family incomes. Whereas the weekly wages of the aerospace worker fell $35.00 as a result of job changes, the overall family income fell almost $65.00 weekly. The mass layoffs, with resultant increase of labor on the supply side of the market coupled with falling demand for labor, resulted in a bidding down of wages throughout the local economy. The former aerospace worker received lower wages in his new job and additional family members who worked in non-space related employment experienced a fall in wages also, due to the increased overall competition for employment.

As family income fell, other family members increased their participation in the labor force. The number of other family members employed rose substantially while the number looking for jobs remained stationary, thereby producing an overall increase in labor force participation by other family members.

In response to a query regarding willingness to leave Brevard County, a rather high percentage (47%) of respondents were willing to migrate. One wonders why they haven't. The answer lies in their requirements for relocation. The new job must equal that held in the aerospace industry, both with respect to wages and job description. Also, almost three-quarters of the respondents would require payment of moving expenses, while one-third would need assistance in selling their homes. Geographically, the job should be located within the Southeast or on the West Coast.

INTRODUCTION AND PURPOSE

Following the early 1960's promise of President John F. Kennedy to place a man on the moon within a decade, the economy of Brevard County, Florida became heavily dependent upon the fantastic growth associated with the Kennedy Space Center, the prime launch site of the space program. Beginning in early 1968, major cutbacks in federal spending on space efforts drastically reduced employment by aerospace industry suppliers and contractors. These reductions produced significant increases in unemployment, increased migration from the region, and generated corresponding adverse eco-

nomic repercussions that persist in Brevard County even today.

In the time period between January 1968 and 1972 more than 16,000 workers were laid-off in Brevard County. The peak civilian labor force in Brevard County occurred in June of 1968 (102,000) with the trough in October of 1971 (85,200). The unemployment rate peaked in November 1970 (7.4 percent) while the lowest unemployment of the layoff period was 1.9 percent in September-October 1968. From peak to trough, the civilian labor force lost 16,000 participants while the increase in the unemployment rate equalled 5.5 percentage points. A combination of three labor force phenomena occurred during this time period: (1) laid-off persons remained in Brevard County but removed themselves from the labor force, (2) laid-off persons remained in Brevard County and in the labor force but unemployed, and (3) laid-off persons removed themselves from Brevard County. The characteristics of the significant number of workers laid-off by the aerospace industry, yet remaining in Brevard County, either in or out of the labor force, are the subject of this study.

The purpose of this investigation was to study those persons still residing in Brevard County who were at one time laid-off by the aerospace industry. The objective was to ascertain and analyze the following characteristics of the residents:

(A) Demographic and educational background.

(B) Employment history.

(C) Financial assistance received when not working.

(D) Current employment.

(E) Income and dependent participation in labor force.

(F) Migration potential.

By collecting the indicated data over the entire layoff period and then analyzing the trends, it was hoped that additional insights into the impact of mass layoffs on those who refused to migrate would be gained.

METHODOLOGY

Aerospace company layoff lists

The first task was to obtain a listing of workers laid-off by aerospace contractors in Brevard County, Florida. A letter requesting data on each person laid-off in the time period of January 1968 to January 1971, was mailed to each aerospace contractor. (See Appendix A for the entire letter.)

The following companies were requested to participate in this study by supplying the desired data for their laid-off workers:

Boeing Atlantic Test Center.
Bendix, Launch Support Division.
Delco Electronics.
Trans World Airlines, Incorporated.
IBM.
Martin Marietta Corp.
Pan American World Airways, Incorporated.
Technicolor, Incorporated.
Chrysler Corporation.
McDonnell Douglass Astronautics Company.
RCA.
North American Rockwell Corporation.
Grumman Aerospace Corporation.
Pan American Employment Service.
Lockheed Missiles and Space Company.
TRW Systems Group.
Rocketdyne.
Convair Aerospace.
Federal Electric Corporation.
General Electric Company.

Requests for the layoff lists were made up to a maximum of three times when responses were not quickly forthcoming.

Table 2 indicates those companies that participated by supplying all or part of the request information and the indicated number of persons laid-off.[1]

[1] The following companies indicated that they had no layoffs in this time period: IBM and Pan American World Airways, Inc.

Table 2—Companies supplying layoff lists

	Number of persons laid off
Bendix, Launch Support Division	602
Chrysler Corp	850
Lockheed Missiles & Space Co	180
North American Rockwell Corp	720
Pan American Employment Services	1,174
Rocketdyne	4
Technicolor, Inc	22
Total	3,552

Identification of the target population

A data packet was prepared for each of the names supplied by the responding companies. Unfortunately, some of the companies did not supply all of the requested information. Social Security numbers were supplied by the responding companies for only 2410 persons. Each of these Social Security numbers was checked against the State of Florida Department of Labor files for all persons that were in covered employment in 1970–1971, or had drawn unemployment compensation in 1970–1971, in either Brevard or Orange Counties. This search indicated that 949 persons either were currently residing in Brevard County or had recently been participants in the labor force of the area.

Each of these 949 persons was included in the target population.

Of the 1142 persons for whom a Social Security number was not supplied, a search of telephone listings in Brevard County indicated that 594 of the 1142 persons maintained a telephone number. This method proved to be not very precise in accurately identifying persons residing in Brevard County. The responding aerospace companies frequently had supplied initials only, rather than complete first and middle names. Even where the companies supplied full names the telephone listings frequently involved initials and not full names. Therefore, due to the inclusion of any name with a telephone listing whether actually the laid-off individual or a person of the same or similar name the list of 594 names generated can be viewed as exhaustive but not exclusive.

Of the 3552 names supplied by the responding companies, 1543 were identified as residing in Brevard County due either to a search of employment and unemployment roles or a search of telephone listings. Since a number of the 2009 unattached persons could still reside in Brevard County a random sample of 325 names (16 percent) from this list of 2009 names previously not included was added to those already in the target population.

A total of 1868 laid-off individuals were ultimately included in the list. The target population was therefore developed in the following manner:

Persons identified from employment-unemployment roles, 949.

Persons identified from telephone listings, 594.

Random sample of remainder of names provided by responding aerospace companies, 325.

Total target population, 1868.

Data collection procedure

After the target population was identified three possible methods of obtaining data concerning population characteristics were explored. One was personal interviews with a sample of individuals from the target population. The personal interview approach is a costly procedure. Given the limited budget of this study it was believed that relatively few personal interviews could therefore be conducted. Consequently, in an effort to increase the sample size, this approach was rejected.

A possible combination of personal interviews and mail questionnaires was considered. This approach was rejected because of the frequent problem of non-comparability of data which results from combining interview technique data with those derived from the mail questionnaire approach.

In order to assure a large number of responses, within the budgetary and time limitations of this study, it was decided to conduct a census of the target population (1868 persons) through the use of mail questionnaire. (See Appendix B–1 for the questionnaire used in this study).

Responses to questionnaires

Questionnaires were mailed to the 1868 persons enumerated in the target population. Included in the questionnaire was a letter explaining the purpose of the study with a request for responses. There were three mailings of the questionnaires, with three to four weeks between mailings.

Of the 1868 persons surveyed, responses to the mail questionnaire were distributed in the following manner:

Returned usable questionnaires, 405.

Returned questionnaires by persons no longer residing in Brevard County, 206.

Questionnaires returned "not forwardable", 452.

No response, 805.

Therefore, reducing the 1868 target population by those definitely not residing in Brevard County (206) and those with a very high probability of no longer residing in Brevard County since the questionnaires were not forwardable, produced a revised target population of 1210 persons. Usable responses of 405 questionnaires therefore resulted in a response rate of 33.47 percent over the revised target population. When the length of the questionnaire, the nature of the data requested, and the negative attitudes of these individuals toward their former employer and the space program are considered, the response rate does not appear at all unusually low.

DEMOGRAPHIC AND EDUCATION CHARACTERISTICS

Age

Generally, the age category of greatest mobility is the relatively young (16–30). Young people are both willing and able to relocate in search of better employment opportunities. As a person ages, his geographical mobility tends to decrease due to (a) a lack of new job opportunities (unable to relocate), (b) a larger stock of wealth, frequently tied to land (unwilling and perhaps unable to relocate), and (c) increasing social involvement in the "home" community (unwilling to relocate).

Consequently, it was not surprising to discover that the average age for those laid-off individuals still residing in Brevard County was a relatively high average of 43 years. The largest number of respondents to this survey were in the 40–49 age category followed by those between the ages of 50 and 59 years old. As subsequent elements of the profiles of respondents are developed, conclusions reached will largely reflect the aged nature of the group.

TABLE 3.—AGE DISTRIBUTION

Age grouping	Number laid off	Percentage
20 to 29	48	11.85
30 to 39	100	24.69
40 to 49	121	29.88
50 to 59	115	28.39
60 to 66	17	4.20
No response	4	.99
Total	405	100.00

Note: Average age, 43.35 years.

Sex and marital status

About 92 percent of the respondents were male while only 8 percent were female. The very low percentage of respondents that were female was somewhat surprising. About 16 percent of the respondents to a similar study conducted by the Battelle Memorial

Institute were female.[1] The exact causes of the low percent of females in Brevard County responding to the questionnaire are unknown, however, several possibilities exist: (1) since none of the aerospace contractors' national headquarters were in Brevard County, the clerical staff as a percentage of total employment would be low, (2) laid-off female workers left the county in larger numbers than males (which seems unlikely), or (3) many female workers had completely removed themselves from the labor force and refused to participate in the study because of a lack of personal interest. Probably a combination of factors (1) and (3) produced the low female response.

Since the average age of those responding to the study was 43 years, the very high percentage of respondents that were married (90 percent) was expected. In addition, the mobility of single persons is generally greater than married persons. It would be natural for larger proportions of the unmarried to migrate more quickly than their married counterparts who typically have heavier community involvement and investment.

TABLE 4.—SEX AND MARITAL STATUS

	Number	Percent
Male	372	91.85
Female	30	7.41
No response	3	.74
Total	405	100.00
Married	361	89.14
Single	18	4.44
Other [1]	24	5.93
No response	2	.49
Total	405	100.00

[1] Includes divorced persons paying or receiving child support and alimony.

Education

It is widely believed that the bulk of workers affected by the layoffs in Brevard County were Scientists and Engineers. Education data on those laid-off do not support this belief. Fully 69 percent of the respondents had a formal education consisting of a high school degree *or less*. And only 20 percent had a four year college degree. This is not to minimize the severe adverse effects the layoffs had on collegiately trained personnel. It does point out, however, the pressing need to improve the plight of the very large numbers of laid-off personnel with little formal education.

Many of those holding a high school degree or less have made concentrated efforts to improve their skills through vocational-technical training. About 61 percent of those persons without a high school degree and 72 percent of those whose highest level of formal education was a high school degree reported receiving vocational-technical training. The demonstrated willingness of these persons to participate in retraining should be considered significant for any plans or programs aimed at easing the problems faced by the workers.

[1] Battelle Memorial Institute, *A Survey of Aerospace Employees Affected by Reductions in NASA CONTRACTS*, (Columbus, 1971), p. 20.

TABLE 5.—EDUCATION

Highest level of education	Formal education	Vocational-technical training
Less than a high school degree	46	28
High school degree	232	168
Associate degree	22	14
Bachelor's degree	61	40
Master's degree	18	8
Doctorate degree	1	
Other [1]	21	12
Total	401	270

[1] Includes business college degrees, collegiate courses without degrees, and armed services schools.

Years resided in Brevard County

To this point, data indicate that the average respondent was middle aged, male, married, and possessed a formal education through high school. He also had resided in Brevard County for a relatively long period of time. The average respondent had resided in Brevard County about 11 years. This is consistent with prior observations about the immobility created as a person becomes more socially and financially committed to the community. Even when faced with economic adversity, he generally is not willing to migrate from the area.

TABLE 6.—NUMBER OF YEARS RESIDED IN BREVARD COUNTY

Years	Number of persons	Percentage
0 to 5	65	16.05
6 to 10	163	40.25
11 to 15	108	26.67
16 to 20	42	10.37
21 to 25	12	2.96
Greater than 25	9	2.22
No response	6	1.48
Total	405	100.00

EMPLOYMENT HISTORY

The layoff period

Since 1967, there has been a series of major layoffs in Brevard County associated with cutbacks in the space program. For the population examined in this study, there were three peak layoff periods:

November–December, 1968.
August–September, 1969.
May–June, 1970.

This section examines the work experiences reported by the respondents between January 1968 and January 1972, in order to gain insights regarding the impact of layoff on subsequent employment and earnings.

Employment turnover and tenure

For the 370 respondents who indicated the number of jobs held, each respondent averaged 2.72 different jobs during the four years (Jan. 1968–Jan. 1972). Stated in a different manner, there was a change in jobs on the average of every 18 months for each respondent.

The job turnover situation was especially severe for the respondents who indicated they held four or more jobs during the four year time period. A substantial portion of this problem was the result of the layoffs and their effect on the local economy as the employment multiplier worked out its downward effect following the layoffs.

Table 7.—Number of jobs held between January 1968 and January 1972

Number of Jobs Held:	Number of Responses
1	48
2	132
3	105
4	53
5	19
6	10
7	3
Total response	370
Average	2.72

One possible explanation for the high rate of job changes could be that the respondents had a high general propensity to change jobs. This explanation does not appear to be valid, however, when the tenure in the first job held during the four year period is examined.

The typical respondent served a tenure of 5.23 years in the job held as of January 1968. Fully 105 respondents, or 29 percent of total responses, served a tenure of 7 or more years in this first job. Long tenures of 10 or more years were recorded by 43 of the 365 respondents supplying data on their job tenure.

The respondents did not have a high propensity to change jobs prior to the layoff period. Rather, they tended to have very stable employment. During the layoff period, the average job tenure dropped from the high of 5.23 years in the first job to an extremely low average of only 45 weeks for each subsequent job.

As the respondents changed jobs, their tenure on the new job decreased with each job change. While tenure in the first job was 272 weeks, tenure on the second was only 57 weeks dropping to 34 weeks for both the third and fourth job tenures and to 27 weeks on the fifth job. With the shorter tenures the employment and earnings pattern became heavily overlaid with uncertainties. These uncertainties naturally resulted in many employees leaving Brevard County in search of security in employment. However, for those who remained, the uncertainties and lack of stable employment continued to be substantial problems.

TABLE 8.—*Number of years employed in first job held between 1968 and 1972*

Number of years employed:	First job
0–1	37
1–2	44
2–3	52
3–4	48
4–5	34
5–6	24
6–7	21
7–8	32
8–9	17
9–10	13
10–15	38
15–20	4
20–25	1
Total response	365
Average	5.23

TABLE 9.—NUMBER OF WEEKS EMPLOYED BY JOB NUMBERS

Number of weeks employed	Job number						
	1st	2d	3d	4th	5th	6th	7th
1 to 26	15	96	86	43	18	11	1
27 to 52	22	75	55	29	10	1	1
53 to 78	15	67	37	7	3	1	1
79 to 104	29	43	7	5	1		
105 to 130	27	16	2				
131 to 156	25	11	1	1			
157 to 182	23	8					
183 to 208	25	4					
Over 208	223						
Total response	365	320	188	85	32	13	3
Average	271.96	57.06	34.46	34.02	27.28	16.38	43.33

Cause of Job Termination

One reasonable inquiry following such overwhelming data of the high job turnover is into the expressed reason for job termination. Altogether, respondents gave reasons or explained 675 different job terminations. By far, the most significant cause of termination was layoff, an involuntary termination on the part of the employee. A total of 481 terminations, or 71 percent of all explained terminations, were attributed to layoff. In other words, 71 percent of the terminations were caused by the employer rather than the employee.

Voluntary terminations included job transfers representing job terminations for purposes of taking a new job, plus resignations, sickness caused terminations, and retirement. Most of the voluntary terminations were job transfers where the respondent was moving to a better job.

Once again the involuntary nature of job changes is demonstrated for the respondents. By nature, they desired to maintain stable employment. Layoffs disrupted their employment goals.

Job Search

When employees, who in the past experienced stable employment, are suddenly shocked by mass layoffs, their ability to obtain new employment is frequently impaired due to a lack of knowledge regarding the job search. For many of those laid off in Brevard County, it had been 7 or more years since they had actively been in search of a job. Their knowledge of the market and how to approach the market was therefore dated. Evidence of this fact is the high typical gap of 18.4 weeks between the 1st and 2nd job held during the layoff period.

TABLE 10.—REASONS FOR JOB TERMINATION

Reasons	Job number 1st	2d	3d	4th	5th	6th	Total
Layoff	287	111	50	23	6	3	481
Job transfer	35	70	43	16	4	1	169
Resigned	2	8	4	2			15
Sickness		1	3	1			5
Retired	3	1					4
Total response	327	192	100	42	10	4	
Total job terminations explained							675

Once forced to enter the job market, however, the employee gained knowledge about job search and, if subsequently laid off, more quickly obtained employment. In other words, job search is an activity which is subject to a learning curve. As the activity is repeated, the knowledge gained from prior applications leads to greater efficiency and a shorter time interval for the repetitions. Even though there was an 18 week gap between the 1st and 2nd jobs, this gap was approximately 8 weeks between the 2nd and 3rd jobs, as well as the 3rd and 4th jobs. By the time the respondent moved from his 4th to 5th jobs the gap between jobs was only 5 weeks.

TABLE 11.—GAP IN WEEKS BETWEEN JOBS

Gap in weeks between jobs	Job number 1–2	2–3	3–4	4–5	5–6	6–7
0	100	99	49	17	8	1
1 to 13	129	77	30	16	4	2
14 to 26	47	17	8	1	1	
27 to 39	27	8	6			
40 to 52	11	5	6			
53 to 65	10	2		1		
66 to 78	15	2	1			
79 to 182	18					
Total response	357	210	100	35	13	3
Average	18.40	7.94	8.58	4.83	3.23	3.33

Earnings

Many of the employees affected by the layoffs in Brevard County were in above average earnings categories due to the technical nature of their work and their relatively high skill levels. Following layoff, their complete array of skills was no longer demanded and the income they received in new jobs was lower. For the 1st job held, the weekly salary of the respondents was $195, but for additional jobs weekly salary averaged only $160. Based on last job held, salaries had only recovered to a level of $167 weekly, still well below the weekly salaries of the respondents entering the layoff period.

TABLE 12.—WEEKLY SALARY, BY JOB NUMBLR

Weekly salary	1st	2d	3d	4th	5th	6th	7th	Last job held
$0 to $99	12	52	28	12	2	2	1	45
$100 to $199	165	172	114	47	18	7	2	210
$200 to $299	154	70	36	17	8	2		81
$300 to $399	25	11	2	6	1			15
$400 to $499	2	1	1		1			
$500 to $599		1						
$600 to $699		1	1					2
Total response	358	308	182	82	30	11	3	353
Average	195.03	160.70	157.99	160.94	175.70	150.09	117.33	167.16

Occupations

Much of the reduction in earnings following the layoffs in Brevard County resulted from shifts in occupational categories toward lower wage categories. For the respondents, the two dramatic occupation categories reporting losses were: Scientists-Engineers and Technicians. There were 60 respondents employed as Scientists or Engineers in their 1st job. This dropped to only 32 for the 2nd job. Based on last job held, only 45 respondents were Scientists or Engineers at that time.

Based on 1st job held, the largest number respondents were Technicians. By their 2nd job, the number of Technicians had fallen from 92 to 51 and based on last job held, had climbed back to only 46. As was true of the Scientists and Engineers, the Technicians had to move to a different occupation for employment.

Given their high level of education and skills, it appears that the Scientists-Engineers tended to move into the Officials-Managers occupation. Even though typically paying good salaries, there were still salary losses as a result of this occupational shift.

The plight of the Technicians was somewhat more difficult. These individuals, possessing skills heavily space industry oriented, appear to have been forced into the occupations of Semi-skilled Labor or Service Workers. With a gain of 26 respondents in the Service Worker occupations from the 1st job to the last job held, a large portion of the loss in Technicians was accounted for by the gain in low-paying Service Worker jobs.

TABLE 13.—OCCUPATIONS BY JOB NUMBER

Occupations	Job number 1st	2d	3d	4th	5th	6th	7th	Last job held
Officials—managers	12	21	18	4	2			32
Scientists—engineers	60	32	17	4	2	2		45
Professional—administrative	37	18	8	6	3			26
Technicians	92	51	27	14	5	3	1	56
Office—clerical	40	34	15	5	1			37
Skilled labor	74	70	53	20	8	2	1	70
Semiskilled labor	26	38	25	15	7	6		44
Unskilled labor	20	21	12	8	1		1	25
Serviceworker	9	37	15	7	3			35
Total response	370	322	190	83	32	13	3	870

Work week

For the respondents, as well as most employees throughout the country, the most frequently reported work week is 40 hours. However, while nationally the trend is toward a shorter work week, the trend for the respondents was one of an increasing work week after their first job. Based on the first job held, only 66 respondents had a work week in excess of 40 hours. For the last job held, 96 respondents were working over 40 hours weekly.

One possible explanation of the longer work week is the shift in occupations toward the Officials-Managers category, one

which is not typified by an income tied to the number of hours worked per week and a category noted for placing heavy demands upon the time of those who occupy it. A detailed analysis of the responses indicated that this was not the primary reason for the longer work weeks as a large number of hourly workers, not salaried workers such as Officials-Managers, were reporting long work weeks.

A second, and more plausible explanation of the longer observed work week is the desire on the part of respondents to maintain their income level or minimize any loss in income. By working a longer work week and, in many instances, receiving bonus pay for overtime, the employee could partially offset income losses forced by the layoff and the frequently required shift to another occupation.

TABLE 14.—HOURS WORKED PER WEEK BY JOB NUMBER

Hours worked per week	Job number							
	1st	2d	3d	4th	5th	6th	7th	Last job held
0 to 39	6	18	9	3	1	1	----	1
40	293	220	121	47	21	10	2	253
41 to 49	30	28	21	13	2	1	1	38
50 to 59	26	31	20	9	3	----	----	34
60 to 69	9	11	9	6	3	----	----	17
70 to 79	----	4	3	1	1	----	----	2
80 to 89	1	4	2	1	----	----	----	3
90 to 99	----	2	1	2	----	----	----	2
Total response	365	318	186	82	31	12	3	362
Average	41.50	42.62	43.17	46.05	43.65	38.58	42.67	42.8

FINANCIAL ASSISTANCE RECEIVED WHEN NOT WORKING

Unemployment compensation

Once laid-off and unemployed, the worker typically applies for unemployment compensation to provide a minimal income while seeking new employment. Of the 405 persons in the sample, 275 indicated receipt of unemployment compensation at least once during the layoff period.

The duration of receipt of unemployment the first time paralleled closely the previously reported gap in time between the first and second jobs held during the period. The average gap in weeks between the first and second job held was 18.4 weeks. The average length of time for which unemployment compensation was received the first time was 16.0 weeks.

TABLE 15.—DURATION OF UNEMPLOYMENT COMPENSATION

Number of weeks	Times received				
	1st	2nd	3rd	4th	Total
1 to 8	96	24	13	----	133
9 to 16	49	23	5	1	78
17 to 24	30	7	2	----	39
25 to 32	89	6	----	----	95
33 to 40	6	----	----	----	6
41 to 48	5	1	----	----	6
Total response	275	61	20	1	357
Average	16.00	12.08	7.45	15.00	14.85

The amount of compensation received weekly was close to the $40 per week maximum allowable state unemployment compensation. Where private companies supplemented the state unemployment compensation with subsistence pay, the average for the 1st layoff exceeded the $40 state allowance by only $3.89. Of the 348 different times that unemployment compensation was received, in only 113 instances (32.5 percent) was the total compensation received greater than the state maximum.

TABLE 16.—AMOUNT OF UNEMPLOYMENT COMPENSATION RECEIVED

Weekly amount	Times received				
	1st	2d	3d	4th	Total
0 to $39	11	2	----	----	13
$40	191	30	6	1	228
$41 to $49	46	16	7	----	69
$50 to $59	16	10	8	----	34
$60 to $99	3	3	----	----	6
$100 to $199	4	----	----	----	4
Total response	265	61	21	1	348
Average	43.22	45.56	47.67	40.00	43.89

Educational assistance

In addition to unemployment compensation, two additional sources of financial assistance were used by a small number of respondents. Both of these sources were used to gain additional education or training in order to develop a new career, occupation, or specialty.

Twenty respondents used the G.I. Bill, funded through the Veterans Administration, to return to school for more formal education. They averaged almost 32 weeks of compensation, a figure which closely parallels the number of weeks in two semesters or three quarters, both of which are the typical academic year.

Ten respondents participated in the retraining program, funded through the Manpower and Development Training Act (MDTA), entitled Project Retro. These individuals averaged 26.7 weeks in training under this particular program. One respondent distorted the average due to his unduly long reported tenure in Retro. When this person is not included, the average length of training falls to 21 weeks which closely parallels two quarters of a junior college or vocational-technical school year.

The amount of compensation received under the G.I. Bill averaged $45.39 per week. Under Project Retro average compensation was $62.25 per week. Should a respondent be so fortunate as to receive both, then his weekly compensation averaged $107.64, a figure which would support the typical family during the period of education and retraining.

One unfortunate fact about the G.I. Bill and Project Retro programs was the small number of respondents who participated. Only 20 of the 405 persons in the sample received the G.I. Bill, while 10 were in Project Retro. Given the low participation rates these sources of support during layoffs were relatively minor compared to sources such as unemployment compensation or severance pay.

TABLE 17.—DURATION OF EDUCATIONAL ASSISTANCE RECEIVED

Weeks	VA-GI bill	MDTA Retro
0 to 9	----	2
10 to 19	4	2
20 to 29	7	3
30 to 39	5	1
40 to 49	1	1
50 to 59	----	----
60 to 69	2	----
70 to 79	1	1
Total response	20	10
Average	31.45	26.70

TABLE 18.—AMOUNT OF EDUCATIONAL ASSISTAN RECEIVED

Amount	VA-GI Bill	MDTA Retro
0 to $19	----	----
$20 to $39	5	1
$40 to $59	11	5
$60 to $79	3	3
$80 to $99	----	----
$100 to $110	----	1
Total response	19	10
Average	45.39	62.25

SEVERANCE PAY

Severance pay was received at least 352 different times by the respondents. A total of 268 respondents received severance pay at least once with 65 receiving it at least twice. The amount of severance pay received upon employment termination tends to be a function of tenure in the job. The longer one has worked, the greater the lump sum payment received upon termination of employment.

TABLE 19.—AMOUNT OF SEVERANCE PAY RECEIVED

Amount	Job termination number				
	1st	2d	3d	4th	Total
0 to $199	13	9	2	2	27
$200 to $399	50	15	8	----	73
$400 to $599	42	11	3	----	56
$600 to $799	18	10	2	----	30
$800 to $999	22	3	1	----	26
$1,000 to $1,499	49	8	----	----	57
$1,500 to $1,999	20	4	----	----	24
$2,000 to $2,999	32	3	----	----	35
$3,000 to $3,999	13	1	----	----	14
$4,000 to $4,999	6	----	----	----	6
$5,000 to $5,999	3	1	----	----	4
Total response	268	65	17	2	----
Average	1,222.03	769.78	351.65	90	1,090.05
Total lump sum payments					352

The pattern of average amounts received after the 1st, 2nd, 3rd and 4th employments were consistent with the shorter duration in each additional job held during the layoff period. Following the 1st job termination, the average severance pay was $1,222.00. This decreased to $770.00 after the second job, $352.00 after the third and $90.00 after the fourth. As earlier reported, the average tenure in the 1st job was 5.23 years falling to 57 weeks, and 34 weeks in succeeding jobs.

Severance pay was a widespread source of funds for use during periods of unemployment and actually produced more funds when received (an average of $1,090.05) than was typically received from unemployment

compensation (average of 14.85 weeks at $43.89 equals $651.77 per recipient each time received).

CURRENT EMPLOYMENT

Labor force participation

During the survey week beginning January 23, 1972, a total of 316 respondents were gainfully employed while 50 were classified as unemployed. Therefore, of the 396 persons for which responses were available, 92 percent were in the labor force. The unemployment rate for the respondents was 13.7 percent. When contrasted to the 6.4 unemployment rate over the entire civilian labor force of Brevard County during January, the unemployment rate for the responding former aerospace workers was exceptionally high indicating that they are still encountering great difficulty in finding suitable employment.

TABLE 20.—*Labor force participation: Week of Jan. 23, 1972*

Characteristic:	Number of persons
A. Employed	316
B. Unemployed	50
Labor Force	366
C. Removed from Labor Force	30
D. No response	9
Total	405

Persons working during the survey week

Primary Job. The vast majority of the 316 persons who were working during the survey week held full-time jobs involving forty hour or more work weeks. With 87 respondents reporting over 40 hours worked, it appears that, in an effort to recoup lost income, many respondents have undertaken overtime work in their primary job. Working overtime and taking a second job or "moonlighting" are both ways of minimizing income loss following layoff.

TABLE 21.—*Worked during the week of Jan. 23, 1972*

Hours worked:	Number of persons
10–19	5
20–29	4
30–39	5
40	215
41–49	35
50–59	23
60–69	24
70 and up	5
Total persons working	316
Average hours worked	43.21

Second Job. Six percent of the respondents reported working at a second job (moonlighting) during the survey week. Somewhat unexpected, the percentage of persons holding a second job appears relatively low. However, given the very large unemployment rate among the respondents (13.7 percent), one would expect the competition for almost any type of job to be severe. Therefore, those successful in finding *two* jobs would definitely be in the minority.

TABLE 22.—WORKED A 2D JOB DURING THE WEEK OF JAN. 23, 1972

Hours worked	Number of persons	Hours normally worked	Number of persons
1 to 9	3	1 to 9	3
10 to 19	9	10 to 19	6
20 to 29	4	20 to 29	5
30 to 39	3	30 to 39	2
		40	2
Total	19	Total	18

Note: Average hours worked, 16.37; average hours normally worked, 19.17.

Also, from a supply of jobs standpoint, the lack of significant multiple-shift production facilities and the limited availability of part-time evening employment constrains the ability of workers to hold a second job or "moonlight."

Persons not working during the survey week

Reasons for not Working. Of the 80 persons not working during the survey week, 16 persons indicated they had a job from which they were temporarily absent or on layoff awaiting recall during the survey week. Of these 16, temporary layoffs accounted for 13 persons not working. The one person who gave "other" as his reason for not working indicated he had sold his business and was waiting to report shortly to a new job.

Listed as unemployed without expectation of shortly returning to a prior employment were 34 of the respondents. These individuals would be expected to be more actively seeking gainful employment than the temporarily unemployed. Not actively seeking employment at all were the 30 respondents found not to be in the labor force.

TABLE 23.—*Persons not working: Reasons for not working*

Reason for not working:	Number of persons
I. Unemployed: Considered Temporary:	
A. On vacation	1
B. Labor dispute	0
C. Bad weather	0
D. On layoff, awaiting recall	13
E. Personally ill	1
F. Illness in family	0
G. Other	1
	16
II. Unemployed: Not considered temporary	34
III. Not in labor force	30

Activity During Most of the Survey Week. The respondents who were not working were asked, "What were you doing most of the time during the week of January 23, 1972?" Thirty-nine persons not working indicated they had looked for work during most of the week. Apparently the 34 respondents not on temporary absence or layoff plus 5 respondents who were temporarily unemployed were actively looking for a new job.

Fifteen of the respondents were going to school and these individuals account for half of those persons counted as not in the labor force.

TABLE 24.—*Persons not working: Activities during most of the survey week*

Activities:	Number of persons
A. Looking for work	39
B. On layoff, awaiting recall	2
C. Waiting to report to a new job	2
D. Ill or disabled and unable to work	2
E. Keeping house	7
F. Going to school	15
G. Retired	7
H. Other	6
Total	80

Job Search. In order to ascertain the different methods used in seeking jobs, the following question was asked: "If you were looking for work during the four-week period ending with the specified week, what were you doing to find work?" Four methods of job search dominated the responses: (1) applying directly to employers, (2) asking friends or relatives, (3) checking newspapers, and (4) checking with the State Employment Service. These methods are relatively common in job search and, therefore, were expected to be heavily utilized by the respondents.

Private employment agencies were utilized in the job search by only 14 persons. Generally, these were persons that had utilized most of the above four methods also. Apparently, persons seeking work are much more interested in the "free type" referral services. However, if these services prove fruitless, then some persons will resort to the services of fee charging employment agencies.

TABLE 25.—*Persons not working: Methods of seeking jobs*

Methods:	Number of Persons
A. Applying directly to employer	44
B. Asking friends or relatives	34
C. Checking newspapers	40
D. Checking with private, fee charging, employment agencies	14
E. Checking with the State employment service	34
F. Registering with a union	3
G. Checking with organizations [1]	4

[1] Examples: Social groups, religious groups, urban league and welfare agencies.

H. Other	0

INCOME AND DEPENDENTS

Family size

It would be unusual if mass layoffs of employees had any significant impact on family size on a before-after comparison. For the last normal week prior to layoff, respondents reported average families of 3.55 members. For the survey week, the average was 3.45 members. Consequently, family size remained stable throughout the layoff period.

TABLE 26.—FAMILY SIZE: LAST NORMAL WEEK BEFORE 1ST LAYOFF AND SURVEY WEEK

Family size	Last normal week	Survey week
1	28	21
2	78	87
3	89	88
4	90	100
5	58	46
6	24	13
7	8	9
8	4	3
9 or more	2	2
Total	381	369
Average family size	3.55	3.45

Family income

On balance, it would be expected that family incomes would fall following mass layoffs such as that experienced over the last four years in Brevard County. The average family income reported for the last normal week before the first layoff was $251.49 while during the survey week family income averaged $186.08 weekly, a fall of $65.41 weekly in family income. This means the average respondent's family lost $3,401.32 annual income as a result of remaining in Brevard County after the initial layoff. With the constantly rising prices throughout the layoff period, the loss in real income was of greater magnitude than the loss in money income.

TABLE 27.—FAMILY INCOME: LAST NORMAL WEEK PRIOR TO THE FIRST LAYOFF AND SURVEY WEEK

Average gross weekly family incomes	Last normal week	Survey week
0 to $100	8	61
$101 to $200	130	181
$201 to $300	152	93
$301 to $400	67	32
$401 to $500	9	7
$501 and up	7	
Total	373	374
Average weekly income	251.49	186.08

Other family members in the labor force

Following layoffs, it would be expected that family members who had previously not been employed or seeking employment would enter into the labor force in order to supplement family income. When the primary income earner is unemployed, the need for supplementary income is critical. When the primary income earner becomes re-employed but at lower wages the need for supplemental income still exists, but in a smaller magnitude.

As a result of the layoffs, many primary income earners became unemployed or moved to lower paying jobs. In the last normal week prior to the first layoff, 150 respondents reported one or more other family members employed. For the survey week, 181 respondents reported other family members employed. Family members of those workers laid off did in fact respond to the need for supplemental family income.

TABLE 28.—NUMBER OF FAMILY MEMBERS EMPLOYED: LAST NORMAL WEEK PRIOR TO THE 1ST LAYOFF AND SURVEY WEEK

	Last normal week	Survey week
Number of family members employed exclusive of respondent:		
1	129	142
2	20	38
3	1	1
Total	150	181

Combining data on family employment with family members looking for work demonstrates that the total number of other family members employed increased from the last normal week to the survey week while other family members looking for work remained relatively constant. Therefore, the labor force participation of the respondents' families definitely increased from the last normal week prior to the initial layoff to the survey week.

TABLE 29.—NUMBER OF FAMILY MEMBERS NOT EMPLOYED BUT LOOKING FOR WORK: LAST NORMAL WEEK PRIOR TO THE 1ST LAYOFF AND SURVEY WEEK

	Last normal week	Survey week
Number of family members looking for work, exclusive of respondent:		
1	57	55
2	14	17
3	12	10
4	4	4
5		
6	1	
Total	88	86

MIGRATION POTENTIAL

Willingness to relocate

One hundred and forty-nine persons working during the survey week indicated a willingness to move outside their normal commuting area in order to find a suitable job. This represented 48 percent of the respondents that worked during the survey week. Forty-four percent (37 persons) of the respondents that did not work during the survey week indicated willingness to move to find a suitable job. Therefore, 47 percent of all respondents whether employed or not indicated a willingness to move.

TABLE 30.—MIGRATION POTENTIAL

Respondent characteristic	Willingness to relocate: Yes	Willingness to relocate: No	Require assistance to move	Require housing purchase assistance
Working during week of Jan. 23, 1972	149	160	108	46
Not working during week of Jan. 23, 1972	37	46	22	13
Total	186	206	130	59

Given the relatively high average age of persons in the sample, the relatively large percentage of persons willing to move is somewhat surprising. The large numbers of persons indicating a willingness to move also raises a substantial question; why have they not relocated? No definitive answer is provided. However, probable reasons for the failure of these persons to relocate include:

(1) A "real" lack of suitable jobs elsewhere. In the case of the aerospace industry, with cutbacks nationwide, an actual lack of suitable jobs did prevail.

(2) A "perceived" lack of suitable jobs elsewhere. Knowledge of the availability of specific jobs in diverse areas of the country is highly imperfect. Therefore, regardless of the actual availability of jobs, many people perceived that few job opportunities existed and did not relocate.

(3) A high cost of relocation, either in monetary, psychological, or social terms. Moving results in monetary costs: moving expenses, loss on sale of house or property, loss on disposition of non-movable household goods, and other similar monetary costs or losses. The psychological and social costs are more difficult to isolate but just as real. Community acceptance and involvement also discourage relocation.

Respondents indicating they were not willing to relocate even if suitable jobs were available represented fully 53 percent of the respondents. One reason cited frequently for the unwillingness to relocate was the exceptional climate and environment of Brevard County. Naturally, other factors also contributed toward the high rate of refusal to relocate.

Suitable jobs

The answer to what constitutes a "suitable job" is composed of two dimensions. One, the characteristics of the job, and two, the geographical area in which the job is located. The overwhelming number of respondents specified a suitable job as one whose characteristics were very similar to their old job in the aerospace industry. Salary requirements generally were about the same as the salaries received in their aerospace jobs.

The respondents indicating a willingness to relocate generally had no geographical preferences concerning the places they would be willing to move. Those that did specify geographical preferences were split with about 70 percent favoring the West Coast area and about 30 percent favoring the Southeast geographical area. Since aerospace employment has traditionally been concentrated in the Southeast and the West Coast areas, it would be expected that these areas would dominate a listing of preferred areas for relocation for former aerospace employees.

Financial assistance

Generally the respondents indicated that they would be willing to relocate only if someone funded part or all of their moving expenses. Of those expressing a willingness to move, 70 percent indicated they would require moving expenses be paid to relocate. In addition, 32 percent would require assistance in selling their home in Brevard County to precipitate a move.

A greater percentage of those working during the survey week would require moving expenses (72 percent) than those that were not working during the survey week (59 percent). This was expected since smaller assistance generally would be required to induce a person that was not working to relocate than would be required to bring about the relocation of a person currently employed. About the same percentages of those working during the survey week (31 percent) and those not working during the survey week (35 percent) indicated they would require assistance in selling their home in Brevard County. This assistance was the guarantee that no capital loss would be realized by the respondent from the sale of the residence. This result is somewhat inconsistent with the expectation that unemployed workers would sacrifice more to relocate than would workers already employed. A partial explanation lies in the fact that many of those counted as unemployed were in fact temporarily unemployed, expecting to return to work shortly. Their refusal to relocate would be consistent with the employed workers' refusal in roughly the same proportion.

REAL ESTATE TAX BURDEN HIGHEST FOR ELDERLY

Mr. PERCY. Mr. President, Senator MUSKIE and I introduced a proposal last March to induce the States to reform their property tax systems and to establish programs of relief for low-income homeowners and renters. In hearings held by the Subcommittee on Intergovernmental Relations both last spring and this spring on the problems with current property tax systems we have heard repeatedly from witnesses of the inequities suffered by low-income homeowners and renters—problems in large part created by maladministration of the tax. We have been made aware particularly of the excessive property tax burden placed on our elderly citizens who live on fixed retirement and social security payments.

Earlier this summer the Department of Commerce Bureau of the Census issued a report entitled, "Real Estate Tax Data for Homeowner Properties for the United States and Regions: 1971." The report documents that in 1970 Americans over 65 paid almost twice as high a percentage of their income for real estate taxes as did any other group. Once again we have clear demonstration of the need for reform of real property taxes, and I ask unanimous consent that this report be printed in the RECORD at this point so that my colleagues may have the benefit of its findings.

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

THE 1970 CENSUS OF HOUSING: SUPPLEMENTARY REPORT—REAL ESTATE TAX DATA FOR THE UNITED STATES AND REGIONS: 1971

Homeowners in the United States in 1970 paid an average of $21 in real estate taxes per

$1,000 of market value of their homes. There was some variation among the regions. The relationship of taxes to value in the North Central and West regions was about the same as the national average. The figure was higher than the national average in the Northeast region—$29, and lower in the South region—$14.

The same regional pattern is evident when real estate taxes are related to income. Nationwide, homeowners spent an average 5 percent of their incomes for real estate taxes. About this same percentage prevailed in the North Central and West regions. In the Northeast region, however, the figure was 7 percent, and in the South region, 3 percent.

There is also a relationship between level of income and the percentage of income paid for real estate taxes. For the United States, homeowners with incomes of less than $2,000 spent an average of 17 percent of their income for real estate taxes, while those in the $25,000 or more bracket spent an average of only 3 percent for taxes.

The proportion of income spent for real estate taxes varies to some extent with the age of the homeowner. Owners in the 65 years and over age group spent an average of 8 percent of their income, as compared with 5 percent for all age groups. This also reflects the fact that incomes of homeowners in the older age group tend to be somewhat lower.

Source of the data.—The statistics presented in this report are from a special tabulation of the results of the survey of Residential Finance published in Volume V of the *1970 Census of Housing, Residential Finance*. In general, the figures in this report are comparable with those in the Volume V report. However, there are differences with respect to the residual categories—"not reported" (which includes "not computed") and "acquired after 1969"—resulting from different processing procedures.

DEFINITIONS

Property.—In the 1970 Residential Finance Survey, a mortgaged property comprises all of the buildings and land covered by a single first mortgage. Usually all land and buildings covered by a single mortgage are adjacent to each other, but in some cases the buildings and land under a single mortgage are scattered.

If the property was not mortgaged, the property was defined by the owner.

Residential.—A property is considered residential if half or more of the floor space is used for residential purposes. If the owner indicated that the property consisted primarily of buildings or land which were essentially nonresidential in character, the property was considered nonresidential and out of the scope of this survey.

Housing Unit.—A housing unit is a house, an apartment, a group of rooms, or a single room occupied or intended for occupancy as separate living quarters. Separate living quarters are those in which the occupants do not live and eat with any other persons in the structure and which quarters have either (1) direct access from the outside of the building or through a common hall or (2) complete kitchen facilities for the exclusive use of the occupants. The definition of "housing unit" is the same as that used in the 1970 census.

Nonfarm.—For purposes of the 1970 Residential Finance Survey, a property is classified as nonfarm if it had 1 to 4 housing units and was on a place of less than 10 acres, or if it had 5 or more units. Properties which were essentially farms were not included.

Homeowner property.—In the 1970 Residential Finance Survey, residential properties were divided into two categories—"homeowner" properties and "rental and vacant" properties.

A homeowner property is one with 1 to 4 housing units, at least one of which was occupied by the owner. All housing units on the property were included in the count, regardless of the number of structures in which they are located. Persons buying property and still owing money were considered owners, whether or not they had legal title to the property.

Real estate taxes.—This is the amount of total real estate taxes and special assessments paid on the property in the 12-month period preceding the survey. It includes both State and local real estate taxes. The respondent was requested not to include payments for taxes in arrears from prior years.

The "not computed" category includes properties for which no taxes were paid.

Value.—This is the amount the owner estimated the property would sell for on the current 1971 market, under ordinary conditions and not at a forced sale. Owners who had difficulty estimating the value of their property were asked to specify the range in which they thought the value lay.

If the owner of the property did not own the land on which the building stood, the land value was to be excluded from market value. In cases where the property included more than one building, the value of the entire property was reported.

Age of principal owner.—The respondent was asked to designate the age category shown on the questionnaire which applied to the principal owner's age. For properties owned jointly by husband and wife, only the husband's age was reported.

Income.—This is the sum of money received from wages or salary, self-employment, and other sources by the owner, the spouse, and all of the owner's relatives who lived with him. The respondent was asked to report an annual figure for the past 12-month period. It is believed that in most cases income for calendar year 1970 was reported, inasmuch as respondents filed the schedules in early 1971. Properties whose owners reported no income (or a loss) are included in the "not computed" category.

The income data include in the lowest income group (less than $2,000) those that were classified as having no income as defined in this survey. Many owners who reported no or very low income were living on income "in kind," savings, or gifts; were newly created families; or were families in which the sole bread winner had recently died or left the household. However, many of the owners in this category probably had some money income which was not reported.

Symbols—a dash (—) signifies zero or less than 50. Three dots (. . .) means not applicable.

SAMPLE DESIGN

Estimates for the 1970 Residential Finance Survey were produced from a probability sample of residential homeowner and rental properties. The properties were obtained by selecting a sample of addresses enumerated in the 1970 Census and identifying the properties associated with the sample addresses. The sample was selected in 357 areas comprising 701 counties and independent cities with coverage in each of the 50 states and the District of Columbia.

The data for the survey was obtained from the questionnaires mailed to the property owners and to the firm or person to whom payments were made for mortgages on the property.

Approximately 64,800 properties were designated for the sample. Of this number, data were obtained for about 26,600 homeowner properties, 6,800 rental properties with 1–4 units, 4,300 rental properties with 5–49 units, and 11,400 rental properties with 50 or more units. The remaining 15,700 properties included those not within the scope of this survey (13,700) and those for which no data were obtained (2,000). A more complete description of the sample design and estimation procedures may be found in Volume V of the 1970 Census of Housing.

RELIABILITY OF THE ESTIMATES

Sampling variability.—The particular sample used for this survey is only one of a large number of possible samples of the same size that could have been selected using the same sample design, sample selection procedures, questionnaires, measurement procedures, and interviewers. Estimates derived from different samples would differ from each other. The standard error of a survey estimate is a measure of the variation among the estimates from all possible samples and is, therefore, a measure of the precision with which an estimate from a particular sample approximates the average result of all possible samples. The estimate and its associated standard error may be used to construct a confidence interval; that is, an interval having prescribed probability that it would include the average result of all possible samples. The chances are about 68 out of 100 that the survey stimate will differ from the average result of all possible samples by less than one standard error (plus or minus). Similarly, the chances are about 95 out of 100 that the difference would be less than twice the standard error and 99 out of 100 chances that it would be less than 2½ times the standard error.

In addition to sampling error, the survey estimates are subject to nonsampling errors. These errors can be attributed to many sources: incorrect or incomplete reporting by the owner and/or lender, substitution for missing data, and mistakes in transcription, coding, and processing of the data. Such errors also occur in complete censuses.

The accuracy of a survey estimate is determined by the joint effect of sampling and nonsampling errors.

The standard error tables provide an indication of the order of magnitude of the standard error rather than the precise standard error for a specific characteristic. In addition, the standard errors partially measure the effect of random response errors but do not reflect any systematic biases in the data.

Standard error of estimated number or percent of properties.—The figures shown in tables A through C are approximate standard errors for estimates of the number and percent of homeowner properties. For estimates not shown in these tables, linear interpolation will provide reasonably accurate estimates of the standard errors.

Standard error of a difference.—The standard errors shown in the tables are not directly applicable to differences between two sample estimates. The standard error of a difference is approximately the square root of the sum of the squares of each standard error considered separately. This formula will represent the actual standard error quite accurately for the difference between characteristics in two different areas or for the difference between separate and uncorrelated characteristics in the same area. If, however, there is a high positive correlation between the two characteristics, this formula will overestimate the true standard error. If the correlation is negative, the formula will underestimate the standard error.

Standard error of estimated mean.—The figures shown in tables B and C are approximate coefficients of variation for the estimated means provided in this report. The standard error is obtained by multiplying the mean by the appropriate coefficient of variation and dividing the result by 100. For example, table 1 shows the mean real estate tax per $1,000 value for 1-unit homeowner properties in the United States is $21. The coefficient of variation for this estimate obtained from Table B is one percent. The standard error of the mean is approximately $.21, i.e., ($21.00 x 1)/100.

TABLE A.—APPROXIMATE STANDARD ERROR OF ESTIMATED NUMBER OF HOMEOWNER PROPERTIES, FOR UNITED STATES AND REGIONS

[68 chances out of 100]

Estimated number of properties	United States	Northeast	North central	South	West
25,000	6,000	6,000	6,000	6,000	6,000
50,000	9,000	9,000	9,000	9,000	9,000
100,000	12,000	12,000	12,000	12,000	12,000
250,000	19,000	19,000	19,000	19,000	19,000
500,000	27,000	27,000	27,000	27,000	27,000
1,000,000	38,000	36,000	37,000	37,000	36,000
4,000,000	73,000	56,000	62,000	66,000	47,000
6,000,000	87,000	50,000	64,000	72,000	20,000
8,000,000	97,000	22,000	56,000	71,000	----
10,000,000	106,000	----	37,000	70,000	----
15,000,000	118,000	----	----	----	----
20,000,000	121,000	----	----	----	----
33,000,000	87,000	----	----	----	----

TABLE B.—APPROXIMATE COEFFICIENT OF VARIATION FOR ESTIMATED MEAN REAL ESTATE TAX PER $1,000 VALUE, FOR UNITED STATES AND REGIONS

[In percent]

Value of property	United States	Regions: Northeast and west	Regions: North central and south
Total	1	1	1
Less than $5,000	6	18	10
$5,000 to $9,999	4	15	7
$10,000 to $19,999	4	9	6
$20,000 to $49,999	3	6	6
$50,000 or more	5	8	9

TABLE C.—APPROXIMATE COEFFICIENT OF VARIATION OF ESTIMATED MEAN REAL ESTATE TAX AS PERCENT OF INCOME, FOR UNITED STATES AND REGIONS

[In percent]

	United States	Regions
Total	1	3
By income:		
Less than $7,000	6	12
$7,000 to $24,999	3	5
$25,000 or more	4	9
By age of principal owner:		
Under 25 years	12	30
25 years or older	3	6
65 years or older by income:		
Total	3	
Under $25,000	8	----
$25,000 or more	13	----

TABLE 1.—REAL ESTATE TAXES PER $1,000 VALUE BY VALUE OF 1-HOUSING-UNIT HOMEOWNER PROPERTIES: 1971

[Number of properties in thousands. Data based on sample, see text. For meaning of symbols, see text]

United States regions	Total	Real estate taxes per $1,000 value: Acquired before 1970	Less than $10	$10 to $14	$15 to $19	$20 to $24	$25 to $29	$30 to $39	$40 to $49	$50 to $59	$60 or more	Acquired after 1969	Not reported	Mean (dollars)
UNITED STATES														
Total	31,144.7	25,599.4	3,782.2	4,333.4	5,080.1	4,663.3	3,126.1	2,778.9	1,018.7	358.9	457.9	2,497.1	3,048.3	21.00
Less than $5,000	1,037.7	737.9	139.8	107.4	96.5	81.6	78.7	82.0	43.1	33.0	75.5	71.5	228.4	27.10
$5,000 to $7,499	1,842.2	1,414.5	342.9	248.4	193.0	159.7	162.2	158.2	63.5	30.2	57.4	148.9	278.8	21.10
$7,500 to $9,999	1,865.4	1,545.1	323.8	293.0	268.9	220.8	133.4	176.4	62.5	32.5	33.8	133.7	186.7	20.40
$10,000 to $12,499	3,059.8	2,648.8	557.4	481.6	468.2	366.0	268.0	251.7	135.1	58.0	62.9	191.0	219.9	20.40
$12,500 to $14,999	1,988.3	1,690.3	287.2	291.4	350.6	270.9	195.8	168.2	64.3	28.4	33.4	183.4	114.6	20.70
$15,000 to $17,499	3,482.5	3,034.0	976.1	568.8	587.8	501.5	311.8	290.5	106.2	34.5	56.7	278.3	170.2	19.80
$17,500 to $19,999	2,575.7	2,235.1	229.7	403.5	505.7	427.2	285.2	244.5	86.9	25.4	27.0	232.6	108.0	21.20
$20,000 to $24,999	4,461.3	3,940.3	423.9	641.9	839.0	805.8	553.6	438.6	141.9	45.5	50.2	382.5	138.5	21.30
$25,000 to $34,999	5,596.3	4,922.5	522.1	744.8	1,041.9	1,109.6	656.1	567.0	194.4	40.4	46.2	541.2	132.6	21.30
$35,000 to $49,999	2,625.6	2,361.0	252.3	371.8	513.0	510.9	343.3	261.3	74.3	21.8	12.4	197.8	66.8	20.80
$50,000 or more	1,210.7	1,069.9	127.8	180.8	215.6	209.2	138.0	140.4	46.5	9.3	2.3	104.9	36.0	20.80
Not reported	1,399.2	----	----	----	----	----	----	----	----	----	----	31.5	1,367.8	----
NORTHEAST														
Total	7,099.8	6,063.8	155.5	426.8	843.1	1,158.1	1,051.9	1,419.1	616.4	201.1	191.7	466.5	569.5	28.80
Less than $5,000	108.3	83.0	1.4	2.9	2.7	13.0	10.6	12.8	10.9	7.0	21.7	9.7	15.6	45.30
$5,000 to $7,499	273.6	227.2	4.1	21.0	31.2	43.4	29.8	40.5	25.0	11.4	20.6	19.0	27.4	31.40
$7,500 to $9,999	326.3	281.9	8.9	25.0	55.4	44.9	36.2	61.8	21.1	18.8	9.7	18.2	26.2	28.90
$10,000 to $12,499	556.7	502.1	15.3	40.7	70.3	94.3	69.9	99.3	57.0	27.9	27.4	26.7	27.9	29.90
$12,500 to $14,999	320.9	283.9	8.0	9.6	31.6	53.3	51.2	66.4	35.2	16.4	12.2	26.3	10.7	31.50
$15,000 to $17,499	724.1	647.8	17.8	43.6	88.6	124.7	116.0	153.1	62.0	14.3	27.7	43.1	33.1	28.70
$17,500 to $19,999	554.6	491.6	9.6	36.7	66.1	101.9	79.4	116.2	52.0	19.2	10.5	40.8	22.2	28.70
$20,000 to $24,999	1,065.3	981.0	29.3	59.2	122.1	188.6	186.6	231.8	101.5	34.4	27.5	69.2	15.1	28.90
$25,000 to $34,999	1,601.1	1,431.5	27.6	114.8	214.0	285.7	249.1	337.5	150.5	28.4	24.1	131.6	38.0	27.50
$35,000 to $49,999	827.6	754.3	22.4	48.0	102.8	139.7	157.3	193.5	64.5	17.9	8.2	52.6	20.7	27.50
$50,000 or more	417.2	379.5	11.1	25.2	58.2	68.6	65.8	106.2	36.7	5.4	2.3	27.9	9.7	27.20
Not reported	324.2	----	----	----	----	----	----	----	----	----	----	1.4	322.9	----
NORTH CENTRAL														
Total	9,369.5	7,945.6	530.1	1,313.4	1,912.1	1,703.4	1,150.7	874.6	249.9	80.9	130.6	691.7	732.3	21.90
Less than $5,000	289.0	229.5	16.4	25.3	32.2	31.1	42.8	35.1	18.7	10.5	17.4	15.6	43.8	29.10
$5,000 to $7,499	602.0	498.2	54.3	75.1	92.0	72.4	80.0	68.4	25.6	10.5	19.9	50.9	52.9	24.20
$7,500 to $9,999	632.0	533.6	49.5	106.6	102.1	98.2	53.8	74.7	18.8	9.7	20.2	47.3	51.1	23.00
$10,000 to $12,499	975.9	855.1	66.2	153.9	178.7	147.7	122.4	90.1	59.4	19.1	17.5	68.4	52.4	22.90
$12,500 to $14,999	643.8	560.8	38.8	74.2	157.9	102.0	83.7	67.1	16.5	6.9	13.7	53.4	29.6	22.70
$15,000 to $17,499	1,115.1	985.5	87.2	202.1	232.2	204.7	116.9	92.8	24.7	10.9	14.0	85.6	44.1	20.80
$17,500 to $19,999	825.4	725.9	21.4	120.2	186.1	156.4	117.7	90.2	25.6	1.3	7.0	69.4	30.1	22.20
$20,000 to $24,999	1,430.1	1,276.2	54.9	202.1	339.0	302.0	199.8	138.8	24.7	5.2	10.7	114.2	39.7	21.40
$25,000 to $34,999	1,545.1	1,391.7	76.9	218.0	337.2	375.2	201.6	149.3	22.1	4.2	7.2	123.7	29.7	21.00
$35,000 to $49,999	684.6	633.9	41.6	89.1	190.6	161.4	95.9	46.9	5.5	----	2.9	35.7	14.9	19.90
$50,000 or more	288.0	255.2	23.0	46.7	64.0	52.3	36.2	22.2	8.2	2.7	----	24.7	8.1	19.90
Not reported	338.6	----	----	----	----	----	----	----	----	----	----	2.7	335.9	----
SOUTH														
Total	9,334.0	7,149.9	2,794.2	1,903.1	1,194.0	598.5	273.1	186.9	84.6	38.7	76.8	819.6	1,364.5	13.50
Less than $5,000	556.4	366.7	113.7	76.6	52.9	28.9	17.2	26.8	12.4	9.9	28.4	43.7	146.0	20.80
$5,000 to $7,499	813.0	581.0	267.5	124.8	50.6	32.7	38.8	34.0	11.6	8.2	12.8	64.5	167.8	14.60
$7,500 to $9,999	735.0	588.6	243.4	132.0	81.6	57.1	25.5	23.6	20.1	4.0	1.3	53.2	93.2	14.00
$10,000 to $12,499	1,181.1	1,000.1	433.3	238.6	147.2	75.2	41.6	35.5	13.3	3.9	11.5	67.1	113.9	13.20
$12,500 to $14,999	700.0	577.1	217.8	157.7	98.7	50.3	20.0	20.4	7.0	2.7	2.6	66.7	56.1	13.40
$15,000 to $17,499	1,110.4	941.0	427.0	234.9	153.2	67.4	26.9	11.8	7.8	4.1	7.9	97.7	71.6	12.30
$17,500 to $19,999	659.7	553.0	184.4	165.2	127.5	38.4	19.1	11.6	2.6	1.2	3.1	68.6	38.0	13.50
$20,000 to $24,999	1,013.7	843.6	313.3	249.1	134.2	77.7	40.7	14.8	5.5	1.8	6.6	115.9	54.2	13.10
$25,000 to $34,999	1,172.3	973.5	354.8	272.6	206.6	101.0	28.8	2.7	4.4	1.3	1.3	147.4	51.4	12.50
$35,000 to $49,999	574.3	499.1	158.9	174.9	101.8	45.7	10.8	4.4	----	1.4	1.3	49.2	26.0	12.60
$50,000 or more	263.7	226.0	80.2	76.7	39.9	24.1	3.8	1.4	----	----	----	27.5	10.2	12.10
Not reported	554.2	----	----	----	----	----	----	----	----	----	----	18.2	536.1	----

U.S. regions	Total	Acquired before 1970	Real estate taxes per $1,000 value: Less than $10	$10 to $14	$15 to $19	$20 to $24	$25 to $29	$30 to $39	$40 to $49	$50 to $59	$60 or more	Acquired after 1969	Not reported	Mean (dollars)
WEST														
Total	5,341.4	4,440.1	302.3	690.1	1,130.9	1,203.4	650.3	298.2	67.8	38.3	58.8	519.3	382.0	20.90
Less than $5,000	84.0	58.6	8.4	2.6	8.7	8.6	8.2	7.3	1.2	5.6	8.0	2.5	23.0	32.80
$5,000 to $7,499	153.2	108.1	16.2	27.4	19.1	11.2	13.6	15.3	1.2	----	4.1	14.5	30.6	20.40
$7,500 to $9,999	172.1	141.0	22.0	29.3	29.7	20.6	17.8	16.4	2.5	----	2.6	15.0	16.1	19.70
$10,000 to $12,499	346.1	291.5	42.6	48.4	71.9	48.8	34.1	26.7	5.4	7.1	6.5	28.7	25.8	21.00
$12,500 to $14,999	323.7	268.5	22.6	49.8	62.5	65.2	41.0	14.4	5.6	2.4	5.0	36.9	18.2	20.90
$15,000 to $17,499	533.0	459.7	44.1	88.3	113.7	104.8	52.0	32.8	11.7	5.2	7.2	51.9	21.4	20.40
$17,500 to $19,999	536.1	464.6	14.3	81.4	126.0	130.5	69.0	26.6	6.7	3.7	6.5	53.8	17.7	21.00
$20,000 to $24,999	952.3	839.5	26.3	131.4	243.8	237.6	126.5	54.2	10.2	4.1	5.4	83.2	29.6	20.60
$25,000 to $34,999	1,277.7	1,125.7	62.8	139.4	284.2	347.8	176.6	77.5	17.4	6.5	13.6	138.4	13.5	21.40
$35,000 to $49,999	539.1	473.6	29.5	59.9	117.7	164.0	79.3	16.5	4.3	2.5	----	60.3	5.2	20.10
$50,000 or more	241.9	209.2	13.5	32.2	53.6	64.2	32.4	10.7	1.6	1.2	----	24.8	8.0	19.80
Not reported	182.2	----	----	----	----	----	----	----	----	----	----	9.3	172.9	----

TABLE 2.—REAL ESTATE TAXES AS PERCENT OF INCOME BY INCOME, 1-HOUSING-UNIT HOMEOWNER PROPERTIES: 1971

[Number of properties in thousands. Data based on sample, see text. For meaning of symbols, see text]

U.S. regions	Total	Acquired before 1970	Real estate taxes as percent of income: Less than 1 percent	1 to 1.9 percent	2 to 2.9 percent	3 to 3.9 percent	4 to 4.9 percent	5 to 7.4 percent	7.5 to 9.9 percent	10 percent or more	Acquired after 1969	Not reported	Mean (percent)
UNITED STATES													
Total	31,144.7	25,147.3	2,034.1	4,329.7	4,655.6	3,778.9	2,746.7	3,782.8	1,566.8	2,252.6	2,497.1	3,500.4	4.93
Less than $2,000	1,597.0	1,266.0	45.5	78.9	88.3	82.3	69.5	156.3	107.0	638.1	61.2	269.9	16.56
$2,000 to $2,999	1,197.4	979.4	61.3	64.6	79.3	82.2	74.9	156.0	126.7	334.6	45.7	172.2	9.65
$3,000 to $3,999	1,298.7	1,085.5	73.3	116.9	110.9	114.3	81.4	179.1	118.1	291.4	68.7	144.5	7.66
$4,000 to $4,999	1,247.6	1,056.0	79.2	105.6	121.4	133.8	90.6	197.3	122.0	206.1	80.7	110.8	6.44
$5,000 to $5,999	1,268.4	1,047.0	100.6	135.6	138.5	123.4	104.1	194.2	95.8	154.9	116.7	104.7	5.52
$6,000 to $6,999	1,421.7	1,199.0	122.3	220.1	182.7	142.4	94.5	228.0	96.3	112.6	127.3	95.4	4.71
$7,000 to $9,999	4,996.3	4,279.4	417.7	769.3	710.6	582.3	541.1	712.8	301.6	244.0	485.2	231.7	4.19
$10,000 to $14,999	8,278.9	7,341.8	560.5	1,356.4	1,554.7	1,214.6	925.5	1,142.8	397.6	189.6	724.0	213.1	3.68
$15,000 to $24,999	5,887.5	5,309.1	404.3	1,066.2	1,291.4	1,041.2	618.9	658.2	158.4	70.5	489.3	89.0	3.28
$25,000 or more	1,743.9	1,583.9	169.2	416.0	377.8	262.4	146.1	158.1	43.3	10.9	124.4	35.6	2.89
Not reported	2,207.3	----	----	----	----	----	----	----	----	----	173.7	2,033.6	----
NORTHEAST													
Total	7,099.8	5,951.2	92.6	472.0	775.5	834.2	797.3	1,366.0	674.3	939.3	465.5	682.1	6.88
Less than $2,000	212.2	181.2	----	----	2.9	----	1.3	6.8	8.2	162.0	5.4	25.5	30.84
$2,000 to $2,999	188.3	157.1	----	----	4.1	4.1	10.5	17.6	27.8	93.0	3.8	27.3	15.70
$3,000 to $3,999	225.4	202.9	1.4	2.7	5.3	14.0	10.7	25.1	22.0	121.7	14.3	8.2	13.13
$4,000 to $4,999	241.7	218.2	2.6	10.3	18.9	14.0	11.9	32.0	40.8	87.8	9.7	13.8	9.77
$5,000 to $5,999	242.6	208.1	1.4	8.0	13.6	23.0	14.9	38.9	24.9	83.4	16.1	18.4	9.30
$6,000 to $6,999	288.2	263.4	3.7	31.6	31.5	20.6	15.0	71.3	31.0	58.6	13.5	11.3	7.09
$7,000 to $9,999	1,158.8	1,019.9	10.8	87.5	96.7	115.9	156.6	259.5	152.0	140.9	104.3	34.5	6.24
$10,000 to $14,999	1,970.6	1,803.2	31.1	139.2	242.5	273.0	281.4	473.0	233.6	129.4	138.7	28.7	5.30
$15,000 to $24,999	1,520.5	1,399.5	18.1	130.5	255.6	268.3	222.9	342.8	106.7	54.4	107.1	14.0	4.59
$25,000 or more	534.0	497.8	23.6	62.4	104.3	101.3	72.0	98.8	27.2	8.2	32.2	4.1	3.90
Not reported	517.6	----	----	----	----	----	----	----	----	----	21.3	496.3	----
NORTH CENTRAL													
Total	9,369.5	7,775.6	284.0	1,214.6	1,667.4	1,374.9	904.2	1,169.1	459.7	701.6	691.7	902.2	5.06
Less than $2,000	518.8	447.9	6.4	12.8	11.9	20.6	26.3	43.5	43.3	282.9	18.0	52.9	17.96
$2,000 to $2,999	375.2	319.9	1.2	11.5	30.7	27.6	25.3	52.4	52.8	118.3	11.9	43.4	9.82
$3,000 to $3,999	356.0	301.1	5.5	17.3	36.9	37.3	19.5	61.9	41.4	81.2	13.5	41.3	7.67
$4,000 to $4,999	382.8	336.6	5.0	24.8	37.0	41.8	35.7	80.4	47.7	64.2	25.0	21.2	6.67
$5,000 to $5,999	372.7	314.1	11.7	31.6	41.9	41.6	40.2	70.5	38.4	38.2	37.5	21.1	5.69
$6,000 to $6,999	400.6	351.8	14.4	49.5	63.6	51.3	43.4	74.8	28.8	26.0	35.3	13.5	4.94
$7,000 to $9,999	1,426.9	1,249.9	59.0	200.2	266.5	204.1	180.5	213.7	71.2	54.7	129.2	47.8	4.16
$10,000 to $14,999	2,729.1	2,449.6	85.8	419.2	605.2	514.8	314.7	379.0	98.9	31.9	226.2	53.4	3.60
$15,000 to $24,999	1,729.6	1,580.5	61.5	324.3	458.3	361.3	182.8	160.7	28.9	2.7	125.8	23.4	3.09
$25,000 or more	454.2	424.3	33.6	123.4	115.4	74.4	35.6	32.3	8.2	1.5	24.7	5.1	2.74
Not reported	623.7	----	----	----	----	----	----	----	----	----	44.7	579.1	----
SOUTH													
Total	9,334.0	7,089.7	1,517.2	2,106.7	1,423.1	792.0	424.3	458.2	165.0	203.3	819.6	1,424.7	2.88
Less than $2,000	682.5	493.9	37.9	66.1	67.0	57.6	36.2	87.4	44.7	97.0	28.6	159.9	8.21
$2,000 to $2,999	436.2	335.6	58.5	50.5	41.7	40.5	32.6	50.4	26.0	35.4	21.2	79.5	5.22
$3,000 to $3,999	492.5	393.0	63.8	87.9	50.1	46.8	35.3	55.4	29.2	24.5	25.7	73.9	4.33
$4,000 to $4,999	429.5	343.5	69.1	57.4	58.7	64.4	29.4	35.1	17.4	11.9	28.4	57.7	3.39
$5,000 to $5,999	477.3	374.6	82.4	77.3	79.0	47.5	36.3	34.1	8.9	9.0	44.1	58.7	2.88
$6,000 to $6,999	510.0	411.1	97.3	129.7	66.8	49.9	17.2	35.5	8.1	6.6	42.7	56.2	2.50
$7,000 to $9,999	1,610.6	1,321.8	323.2	418.0	249.9	139.7	90.6	73.6	18.5	8.3	165.8	123.0	2.24
$10,000 to $14,999	2,108.6	1,796.2	410.2	635.5	422.5	172.5	94.9	46.0	8.1	6.6	205.5	106.8	1.98
$15,000 to $24,999	1,438.7	1,245.9	291.7	422.3	297.9	147.3	43.3	36.8	2.7	3.9	156.0	36.8	1.98
$25,000 or more	433.8	374.2	83.2	162.0	89.5	25.8	8.4	4.0	1.4	----	40.2	19.4	1.73
Not reported	714.3	----	----	----	----	----	----	----	----	----	61.5	652.8	----
WEST													
Total	5,341.4	4,330.8	140.2	536.4	789.6	777.7	621.0	789.6	267.9	408.4	519.3	491.3	5.37
Less than $2,000	183.6	143.0	1.2	----	6.5	4.0	5.6	18.6	10.8	96.2	9.1	31.5	22.93
$2,000 to $2,999	197.7	166.9	1.6	2.6	2.8	9.9	6.5	35.6	20.1	87.9	8.8	21.9	12.53
$3,000 to $3,999	224.8	188.4	2.7	8.9	18.5	16.3	15.9	36.7	25.4	64.0	15.2	21.2	8.67
$4,000 to $4,999	193.6	157.7	2.6	13.1	6.8	13.6	13.6	49.8	16.1	42.1	17.7	18.2	7.99
$5,000 to $5,999	175.9	150.3	5.2	18.7	4.0	11.2	12.7	50.7	23.5	24.3	19.1	6.6	6.52
$6,000 to $6,999	223.0	172.8	6.9	9.3	20.8	20.5	18.9	46.4	28.5	21.4	35.8	14.3	5.90
$7,000 to $9,999	800.0	687.8	24.7	63.7	97.5	122.5	113.4	166.0	59.8	40.1	85.8	26.4	4.97
$10,000 to $14,999	1,470.6	1,292.8	33.4	162.6	284.5	254.3	234.5	244.8	57.0	21.7	153.7	24.2	3.95
$15,000 to $24,999	1,198.7	1,083.4	33.0	189.2	279.6	264.2	169.9	117.9	20.1	9.5	100.5	14.8	3.36
$25,000 or more	321.9	287.6	28.9	68.2	68.6	60.9	30.1	23.1	6.6	1.2	27.5	7.0	2.88
Not reported	351.7	----	----	----	----	----	----	----	----	----	46.3	305.4	----

TABLE 3.—REAL ESTATE TAXES AS PERCENT OF INCOME BY AGE OF PRINCIPAL OWNER, 1-HOUSING-UNIT HOMEOWNER PROPERTIES: 1971

[Number of properties in thousands. Data based on sample, see text. For meaning of symbols, see text]

U.S. regions	Total	Real estate taxes as percent of income: Acquired before 1970	Less than 1 percent	1 to 1.9 percent	2 to 2.9 percent	3 to 3.9 percent	4 to 4.9 percent	5 to 7.4 percent	7.5 to 9.9 percent	10 percent or more	Acquired after 1969	Not reported	Mean (percent)
UNITED STATES													
Total	31,144.7	25,147.3	2,034.1	4,329.7	4,655.6	3,778.9	2,746.7	3,782.8	1,566.8	2,252.6	2,497.1	3,500.4	4.93
Less than 25 years	415.7	171.1	10.1	35.4	34.6	22.7	26.3	20.0	10 9	11.1	228.5	16.1	4.01
25 to 34 years	4,417.8	3,303.6	252.9	564.7	702.7	527.7	427.2	530.5	166.3	131.5	913.6	200.7	3.95
35 to 44 years	6,509.2	5,451.2	465.1	1,014.9	1,114.1	877.2	693.6	799.3	296.0	190.9	561.6	496.4	3.86
45 to 54 years	7,256.9	6,248.2	599.2	1,241.3	1,246.7	1,047.4	664.5	873.2	271.2	304.7	383.3	625.4	3.94
55 to 64 years	5,748.0	4,874.7	410.3	881.8	956.5	720.3	477.5	706.5	314.9	406.8	218.1	655.2	2.80
65 years or over	6,294.0	4,965.0	281.9	578.5	578.7	567.5	444.3	827.7	495.5	1,190.5	147.1	1,182.0	8.11
Not reported	503.1	133.5	14.6	13.1	22.3	16.1	13.2	25.7	11.5	17.1	44.9	324.7	6.95
NORTHEAST													
Total	7,099.8	5,951.2	92.6	472.0	775.5	834.2	797.3	1,366.0	674.3	939.3	466.5	682.1	6.88
Less than 25 years	60.8	27.1	----------	4.5	2.9	2.7	10.1	2.7	----------	4.2	32.3	1.4	5.09
25 to 34 years	952.9	738.8	9.3	34.5	99.2	102.0	112.1	222.9	83.6	75.1	176.9	37.1	5.91
35 to 44 years	1,516.8	1,316.5	9.8	105.7	160.2	180.3	228.2	350.7	174.6	107.0	98.2	102.0	5.62
45 to 54 years	1,789.8	1,574.2	35.1	149.7	263.2	264.9	220.7	356.8	129.0	154.9	89.2	126.4	5.45
55 to 64 years	1,365.1	1,193.7	21.8	116.7	177.4	177.1	143.6	257.7	127.6	171.8	39.0	132.5	6.70
65 years or over	1,293.0	1,068.8	16.6	58.3	71.0	104.3	78.9	166.0	153.0	420.7	21.4	202.8	11.42
Not reported	121.5	32.1	----------	2.7	1.5	2.9	3.7	9.3	6.4	5.6	9.5	79.9	7.83
NORTH CENTRAL													
Total	9,369.5	7,775.6	284.0	1,214.6	1,667.4	1,374.9	904.2	1,169.1	459.7	701.6	691.7	902.2	5.06
Less than 25 years	142.1	56.0	3.7	10.9	11.0	9.8	6.8	6.9	4.1	2.9	80.6	5.5	3.96
25 to 34 years	1,401.3	1,086.0	32.1	163.1	276.8	194.3	161.6	180.1	47.9	30.1	260.9	54.4	3.88
35 to 44 years	1,818.7	1,558.8	65.4	253.2	394.7	318.1	213.9	210.7	56.1	46.6	143.8	116.1	3.88
45 to 54 years	2,125.8	1,867.7	86.4	352.3	450.2	387.4	205.3	248.8	70.3	67.1	101.4	156.7	3.93
55 to 64 years	1,739.4	1,525.0	58.9	277.1	355.1	264.9	153.9	203.6	97.1	114.4	45.8	168.6	4.63
65 years or over	2,035.8	1,644.6	36.3	155.5	176.6	192.6	158.7	309.3	184.0	432.7	47.4	343.8	8.57
Not reported	106.3	37.5	1.2	2.7	4.2	7.8	4.1	9.7	----------	7.9	11.7	57.1	9.41
SOUTH													
Total	9,334.0	7,089.7	1,517.2	2,106.7	1,423.1	792.0	424.3	458.2	165.0	203.3	819.6	1,424.7	2.88
Less than 25 years	139.5	57.7	6.3	18.8	17.0	3.9	2.7	3.6	2.6	2.6	73.9	7.9	2.97
25 to 34 years	1,286.5	913.7	197.7	316.9	219.0	101.9	36.1	29.2	6.3	6.6	288.6	84.3	2.15
35 to 44 years	1,923.4	1,543.7	352.1	519.6	325.8	180.8	91.9	46.6	15.3	11.5	188.8	191.0	2.22
45 to 54 years	2,085.0	1,708.7	434.6	559.6	334.2	182.0	76.4	76.4	21.8	23.9	119.5	256.8	2.21
55 to 64 years	1,739.6	1,365.0	298.9	389.1	268.5	125.2	90.4	108.0	35.1	49.9	84.9	289.7	3.00
65 years or over	1,985.9	1,459.6	215.9	295.0	247.2	195.7	125.4	191.7	81.2	107.6	50.5	475.8.	4.65
Not reported	174.1	41.3	11.8	7.7	11.4	2.7	1.4	2.6	2.6	1.2	13.6	119.2	4.68
WEST													
Total	5,341.4	4,330.8	140.2	536.4	789.6	777.7	621.0	789.6	267.9	408.4	519.3	491.3	5.37
Less than 25 years	73.3	30.3	----------	1.3	3.8	6.3	6.7	6.8	4.1	1.4	41.7	1.2	5.15
25 to 34 years	777.1	565.0	13.8	50.2	107.7	129.4	117.4	98.4	28.4	19.7	187.2	25.0	4.45
35 to 44 years	1,250.3	1,032.3	37.8	136.5	233.3	197.9	159.6	191.3	50.0	25.8	130.7	87.3	4.02
45 to 54 years	1,256.4	1,097.6	43.2	179.8	199.2	213.1	162.2	191.2	50.2	58.9	73.3	85.4	4.46
55 to 64 years	903.8	791.0	30.8	99.0	155.6	153.2	89.7	137.2	55.0	70.6	48.4	64.4	5.36
65 years or over	979.3	792.0	13.2	69.7	84.9	75.0	81.4	160.7	77.7	229.5	27.8	159.5	9.07
Not reported	101.2	22.6	1.6	----------	5.2	2.7	4.1	4.1	2.5	2.5	10.2	68.4	5.75

TABLE 4.—REAL ESTATE TAXES AS PERCENT OF INCOME BY INCOME, 1-HOUSING-UNIT HOMEOWNER PROPERTIES WITH PRINCIPAL OWNER 65 YEARS OF AGE OR OVER: 1971

[Number of properties in thousands. Data based on sample, see text. For meaning of symbols, see text]

U.S. regions	Total	Real estate taxes as percent of income: Acquired before 1970	Less than 1 percent	1 to 1.9 percent	2 to 2.9 percent	3 to 3.9 percent	4 to 4.9 percent	5 to 7.4 percent	7.5 to 9.9 percent	10 percent or more	Acquired after 1969	Not reported	Mean (percent)
Total	6,294.0	4,965.0	281.9	578.5	578.7	567.5	444.3	827.7	495.9	1,190.5	147.1	1,182.0	8.11
Less than $2,000	1,161.7	932.2	33.4	54.3	69.2	63.6	46.5	124.7	83.9	456.6	21.7	207.8	15.78
$2,000 to $2,999	821.8	685.8	36.1	40.7	54.7	61.6	55.8	107.7	93.2	235.9	15.2	120.8	9.45
$3,000 to $3,999	749.1	639.4	27.0	57.6	52.4	71.5	51.6	117.3	69.6	192.5	16.8	92.9	8.01
$4,000 to $4,999	591.0	516.1	18.6	53.5	43.7	51.9	50.2	102.9	68.9	126.5	18.2	56.6	7.32
$5,000 to $5,999	396.8	358.7	11.9	46.7	42.2	38.8	36.5	74.6	47.4	60.5	2.4	35.7	6.20
$6,000 to $6,999	352.6	317.3	22.3	52.3	34.1	32.4	29.8	73.6	30.7	42.2	9.4	25.9	5.79
$7,000 to $9,999	648.2	584.8	43.0	71.1	106.4	78.8	83.0	98.0	56.7	47.7	18.7	44.7	4.81
$10,000 to $14,999	513.1	486.5	37.1	95.3	93.2	70.9	52.8	86.4	33.3	17.6	13.6	13.1	3.93
$15,000 to $24,999	307.9	288.1	27.1	64.5	58.2	59.2	27.3	32.8	10.8	8.1	2.7	17.1	3.32
$25,000 or more	166.3	156.0	25.3	42.5	24.6	38.8	10.9	9.7	1.4	2.9	6.6	3.8	2.71
Not reported	585.5	----------	----------	----------	----------	----------	----------	----------	----------	----------	21.8	563.7	----------

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. The time for morning business has expired.

UNANIMOUS-CONSENT AGREEMENT ON TREATIES

Mr. ROBERT C. BYRD. Mr. President, as in executive session, by direction of the majority leader and after having cleared the matter with the Republican leader, I ask unanimous consent that tomorrow, at the conclusion of routine morning business, the Senate go into executive session to consider Executive Calendar Order Nos. 8, 9, 10, and 11. I also ask unanimous consent that all of the four conventions be disposed of with one call of the yeas and nays, counting as four votes.

I further ask unanimous consent that it may be in order to order the yeas and nays on that vote at any time.

The ACTING PRESIDENT pro tempore (Mr. HATHAWAY). Without objection, it is so ordered.

FAIR LABOR STANDARDS AMENDMENTS OF 1973—CONFERENCE REPORT

Mr. WILLIAMS. Mr. President, I submit a report of the committee of con-

ference on H.R. 7935, and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore (Mr. HATHAWAY). 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 Senate to the bill (H.R. 7935) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rates under that act, to expand the coverage of that act, 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 a majority of the conferees.

The ACTING PRESIDENT pro tempore. 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 House proceedings of the CONGRESSIONAL RECORD of July 28, 1973, at pp. 26526–26535.)

The ACTING PRESIDENT pro tempore. Time for debate on this conference report has been limited by agreement to 80 minutes, to be equally divided between and under the control of the Senator from New York (Mr. JAVITS) and the Senator from New Jersey (Mr. WILLIAMS), with 20 minutes on any debatable motion or appeal.

Who yields time?

Mr. WILLIAMS. Mr. President, the House and Senate conferees have spent 3 days in deliberations on differences between the minimum wage bill passed by both Houses. The efforts of the conferees on both sides were directed at resolving the differences between the bills in a manner designed to achieve the protections of the Fair Labor Standards Act for as many employees as possible in accordance with the Senate-passed bill, while insuring a sufficient time period for the effectiveness of new coverage which would enable industry to accommodate itself to new coverage over a period of years.

Mr. President, I believe the conferees have achieved the objective, consistent with the basic goals of the Senate-passed bill. Inasmuch as both Senate- and House-passed bills provided for similar wage rates with slightly different effective dates the major areas of differences were on the repeal of a number of minimum wage and overtime exemptions. It was in this area that the guiding line was that of the Senate bill—protection of workers. In almost all instances, particularly with regard to maximum hours protection, the conferees phased out or phased down the unlimited overtime exemptions in the current law.

I ask unanimous consent to have printed in the RECORD a brief analysis of the provisions of the conference report.

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

COMMITTEE ON LABOR AND PUBLIC WELFARE, PROVISIONS OF FAIR LABOR STANDARDS AMENDMENTS OF 1973 (H.R. 7935), AS REPORTED BY THE CONFEREES, JULY 26, 1973

(Senator HARRISON A. WILLIAMS, JR., Chairman)

I. MINIMUM HOURLY WAGE

For non-agricultural workers:

Covered before 1966 amendments—$2.00 1st year, and $2.20 after June 30, 1974

Covered by the 1966 and 1973 amendments—$1.80 1st year, $2.00 beginning July 1, 1974, and $2.20 after June 30, 1975

For agricultural workers:

$1.60 1st year; $1.80 beginning July 1, 1974;

$2.00 beginning July 1, 1975; and $2.20 after June 30, 1976

II. OVERTIME PAY REQUIREMENTS

No change from present law—1½ times the regular rate for hours over 40 in any work week.

III. MINIMUM HOURLY WAGE FOR EMPLOYEES IN PUERTO RICO AND THE VIRGIN ISLANDS

Employees making less than $1.40 per hour under the most recent wage order be increased 12¢ an hour annually from the effective date until they reach $1.40. Thereafter their wages are increased by 15¢ per hour each year until parity is achieved with the mainland minimum.

Employees earning $1.40 or more an hour, be increased 15¢ per hour each year after enactment until parity is achieved.

Employees newly covered by the Fair Labor Standards Amendments of 1973 other than commonwealth or municipal employees will have minimums set (but not below either 60% of the mainland rate or $1.00 per hour) by newly-appointed special industry committees. Upon the setting of such minimums, the raises for previously-covered employees go into effect.

Wage rates for Commonwealth and municipal employees are to be set by special industry committee.

Certain hotel, motel, restaurant and food services employees brought up to mainland minimum on the effective date of the amendments.

Subsidized agricultural employees will have their increases applied to their wage rates as increased by the subsidy.

IV. EXTENSION OF COVERAGE

Coverage of all Federal, State, and local government employees, except persons serving in the Armed Services and certain persons not in the competitive service. With regard to overtime, a special provision for a mutually-agreed-to 28-day work period is made for averaging overtime hours for Federal, State, and local law enforcement (including security personnel in correctional institutions) and fire protection employees. Scales down the non-overtime work period during a 28-day work cycle from 192 hours to 160 hours over 5 years.

Civil Service Commission will enforce provisions relating to Federal employees. Individuals or Secretary of Labor will have right of action to recover back wages against State and local agencies.

Coverage of domestic service employees including live-ins, for minimum wage purposes, except persons providing casual babysitting or companionship services. Non-live-in household service workers will be covered for overtime purposes.

Coverage of retail and service establishment employees working in all stores in a large chain, by phasing out the establishment test from $225,000 (effective July 1, 1974), $200,000 (July 1, 1975), exemption repealed after July 1, 1976.

500 man-day test retained for purposes of determining which farms are covered, but includes local seasonal hand harvest laborers in calculating the number of man-days.

Parents, spouse, child or other member of employer's immediate family are not covered employees in agriculture.

V. EXEMPTIONS

Minimum wage exemptions repealed for: motion picture theater employees, certain telegraph agency employees, logging and sawmill employees, employees in shade grown tobacco, employees in certain retail service or agriculture operations which are owned by a conglomerate.

Overtime Exemptions Repealed/Phased Out:

Seafood Canning and Processing Employees: 48 hours 1st year; 44 hours 2nd year; repealed 3rd year.

Telegraph Agency Employees: 48 hours 1st year: 44 hours 2nd year; repealed third year.

Food Service Establishment Employees: 48 hours 1st year; 44 hours 2nd year; repealed 3rd year.

Bowling employees: 48 hours 1st year; 44 hours 2nd year; repealed 3rd year.

Seasonal Industry/Agricultural Processing Employees: Effective January 1, 1974—limited exceptions for over 10-hour day/48 hour workweek.

For up to 14 workweeks (10 workweeks under certain conditions).

Effective January 1, 1975—limited exception for over 10-hour day/48 hour workweek.

For up to 10 workweeks (6 workweeks under certain conditions).

Effective January 1, 1976—limited exception for over 10-hour day/48 hour workweek.

For up to 6 workweeks (5 workweeks under certain conditions).

Provision repealed after December 31, 1976:

Hotel, Motel, and Restaurant Employees and Tipped Employees: Hotel, motel, and restaurant employees other than maids and custodial employees.

1st year—48 hours, 2nd year and thereafter—46 hours.

Maids and Custodial services employees in hotels and motels—to receive overtime after 48 hours—1st year; 46 hours—2nd year; 44 hours—3rd year; 40 hours—4th year.

Local Transit Employees: 1st year—48 hours, 2nd year—44 hours, 3rd year repealed.

Except for work performed in non-regular charter activities covered by prior agreements.

Nursing Home Employees: Overtime required after 80 hours in a 14 day period and 8 hours per day.

Oil pipeline Employees: Overtime exemption repealed.

Partsmen and Mechanics: Overtime exemption for partsmen and mechanics in trailers and aircraft repealed.

Overtime Exemptions Phased Down:

Cotton and Sugar Employees: Certain cotton and sugar services employees—limited exception for over 10-hour day/48 hour workweek; for up to 14 workweeks.

Certain cotton ginning and sugar processing employees limited exception (up to 14 weeks) phased down in workweek steps over a three-year period beginning January 1, 1974.

Creates New Overtime Exemptions for:

"Live-in" domestic service employees.

House parents for orphans—any employee who is employed with his spouse by a nonprofit educational institution to serve as the parents of orphan children and are compensated on a cash basis, at an annual rate of not less than $10,000, and receive w/o cost board and lodging.

Certain tobacco processing employees—exemption limited for over 10-hour day/48 hour workweek for up to 14 workweeks.

Salesmen at boat dealerships.

VI. MISCELLANEOUS PROVISIONS

Tip credit to meet the minimum rate retained at 50 percent of the minimum rate. The employer must inform each of his tipped employees of the provisions of the law regarding tipping. All tips received must be retained by such tipped employees, except that nothing herein shall prohibit the pooling of tips among employees who customarily and regularly receive tips.

Child Labor—Provides that children under 12 may not work in agriculture, except on farms owned or operated by their parents, or when farm is not covered by FLSA jurisdiction. Children 12 and 13 may work on a farm only with the consent of their parents. Children between the ages of 12 and 16 may work in agriculture only during hours when school district where employee living while employed is not in session.

Provides for a civil penalty of $1,000 for any violation of the child labor provisions of the FLSA.

Authorizes the Secretary of Labor to issue regulations requiring employers to obtain proof of age from any employee.

Student Certificates—retains present provisions of the FLSA. Expands student certificate program to include students employed part-time by educational institutions and those employed full-time during school vacations by such institutions, and permits up to 4 students in certain instances in retail service without regular pre-certification procedure and in educational institutions without regular pre-certification procedure.

Liquidated Damages—allows Secretary to bring suit to recover unpaid minimum wages or overtime compensation and an equal amount of liquidated damages without requiring written request of employee and even though the suit might involve issues not finally settled by the courts.

Mr. WILLIAMS. Mr. President, another area of difference concerned the employment of students at wage rates of 85 percent of the minimum. In this regard the Senate conferees agreed to a provision of the House-passed bill which permits retail and service employers to hire full-time students at 85 percent of the minimum without undertaking the regular precertification process. Furthermore, the House-passed bill contained a provision which made the carefully drafted exemptions under section 13 of the act not applicable to establishments which are part of a conglomerate entity. No similar provision existed in the Senate bill.

The Senate conferees were steadfast in their opposition and were only willing to agree to coverage of chain stores which are part of conglomerates and large corporate farms which are part of conglomerates for minimum wage purposes.

The conferees believe that in these two instances the conglomerate provision will insure the major corporate entities will not have an unfair advantage over smaller integrated businesses and over smaller farms based on lower minimum wage rates.

Mr. President, I believe the conferees have brought back to the Senate the most reasonable bill possible and urge the adoption of the conference report.

I would say, Mr. President, that this conference proceeded in the best possible fashion in terms of an orderly effort to arrive at the resolution of our differences. Certainly, on the Senate side of the table, we worked at the conference as we work through the whole committee process, with the greatest degree of cooperation among all members. There were differences, of course, through the committee process, on the bill among individual views on the Senate Committee on Labor and Public Welfare, but I can say that these differences were expressed conscientiously, and in the best way, and never with any acrimony but always with a respect for the other member's views.

For myself, as chairman of that committee, I find it always a pleasure to work on our committee business. Our adjustment to differences is good. We do not always succeed or have a unanimous opinion when we report a bill, but the spirit is the best. Then we come to the conference and I believe that this spirit follows through completely. As we work in conference with the conferees from the House of Representatives, there is the same basic spirit of respect and earnest efforts at accommodation of views held in deep conscience. This whole attitude, in my judgment, has produced legislation that will be historic and will be considered historic because of the new coverage in the bill, because of the guiding line that will take us to parity over a period of years in many areas where we have had a difference in scales and a different minimum wage approach.

So, after a period of years, the working people pretty much will be in parity when they come to the floor of coverage on the wages that they will receive. That is why I believe, because of the broadened coverage, because of the goals of parity that we will be reaching down the road in a few years, this year's legislation dealing with the minimum wage under the Fair Labor Standards Act is truly a historic part of the evolution of the progress of the working individual covered by this law.

This is an historic measure. The Senator from New York (Mr. JAVITS), the ranking member on the Committee on Labor and Public Welfare, and I worked side by side on the bill. We certainly have the best possible personal and legislative relationship. It is a pleasure to share the management of this conference report with my good friend, the distinguished Senator from the State of New York.

Mr. President, inquiring as to the time situation, there is 40 minutes on each side of this, I believe. The Chair announced that the time would be divided in management between the Senator from New York and the Senator from New Jersey. I would therefore ask, what is the time situation at this point?

The PRESIDING OFFICER (Mr. NUNN). The Senator from New York has 40 minutes remaining and the Senator from New Jersey has 26 minutes remaining.

Mr. WILLIAMS. Mr. President, I reserve the remainder of my time at this point.

Mr. JAVITS. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from New York is recognized for 5 minutes.

Mr. JAVITS. Mr. President, if there is any opposition to this report, then I would wish to be sure that the opposition have the time and I will yield such of my time as would be required for that purpose. I wish to announce that to the Senate, so that the attachés may notify Senators accordingly; but it is the purpose of the Senator from New Jersey (Mr. WILLIAMS) and myself to make available half the time to any opposition to the conference report.

Mr. President, I believe that this is a well-balanced bill taking into account the progress of time and the exigencies of life and the general progress in the American standard of living. In all of those regards, if anything, it is 1 year past due.

We should have had this minimum wage bill last year, but because of the deadlock with respect to the so-called youth differential, we were unable to obtain it. So, for those who must consider whether it is time, generally speaking, to go to a $2 minimum, they should consider the fact that the $2 minimum was conditioned on a cost-of-living index, in round figures, which had increased by 20 percent or more—in the food sector, more than that, but over 20 percent more than it was since the minimum wage was last increased. So, in that regard, it is my profound conviction that the time has come to go to the $2 standard rate. This represents only a decent respect for the rights of man, this whole bill—a decent respect, I repeat, for the rights of man.

Under present conditions, to work 40 hours a week and to get $80, less income tax and social security tax deductions where they apply—simply reduces the individual receiving it to the poverty level and below. Indeed, many who will receive the minimum wage of $2 will still be fully eligible for welfare, food stamps, and so forth. Under those conditions, I say the basic rights of man demand this increase.

Second—and now I go to the question whether, as is widely stated everywhere, the President will veto this bill—I cannot conceive that the President of the United States would make that a decision before the Senate and the House act on the bill and before there was a very close and thorough examination of the bill in respect of its inflationary aspects.

Mr. President, whatever may be the dangers of inflation, they certainly are not going to be contributed to by establishing a basic and common decent wage for millions of Americans. Their purchasing power is not going to be increased to create major increased demand. It is simply going to be brought closer to a point where the government and welfare, and so forth, do not have to fill in for what the economic system should do.

In addition, the bill is internally extremely well balanced in terms of the phased increases for those who are covered following 1966, when there was a major revision, as against those covered before 1966, and in terms of the new extensions respecting those who are getting the minimum wage, who were heretofore in callings which were exempt from it, but where we have always pledged ourselves to progress in that regard, and we are making some progress.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. JAVITS. I yield myself 3 additional minutes.

Many of the difficulties relating to overtime, and so forth, have been resolved generally favorably to continuing a pattern which has heretofore been established, but with an eye—as we have always pledged ourselves—to phasing them out.

We have phased in coverage to those who work in retail establishments which are part of chain stores. We have even tried, in a definition which I worked out with Representative DENT in the other body, with the concurrence of all our colleagues, to introduce the element of the conglomerate—that is, the corporate conglomerate—where it economically showed a contribution to establishments which might otherwise be exempt and because of the edge in competition which the conglomerate unit might therefore have.

The one area of this bill, which I felt we might have gone further, yet I must in all conscience support the conference report—is the continued failure to completely prohibit child labor. We still have this illusion that the very young pick fruit or harvest crops and thus build up their character. This goes to the youngest kind of children, even those under 12. It is absolutely unbelievable to me that we still persist in this kind of illusion. We have done much, much better by the very young than we did before, but the fundamental principle is still embodied in this law—that for some reason or other, stoop labor, back-breaking labor, in 100-degree temperatures, is OK for kids under 12, provided their parents consent and they are not working on a farm which is covered by the minimum wage, and so forth.

I have waged this struggle for years. I shall continue the struggle to endeavor to make it a flat law, as it is in other callings, that in no calling—and agriculture is considered one of our most hazardous—children under 12 be in any way employed, with or without consent of their parents. We know, notwithstanding the universality of the love and care of parents for their children, that that is not true in every case; and that is why the State is around to protect these little bodies and minds against distortion and harm through being made to work when they really should not.

We have made, however, a major advance in respect of improving the child labor protection, by outlawing it on farms which meet the 500-man-day test under the law. That, at least, will stop the exploitation of children on a massive scale which has been permitted in agriculture up to now.

So I hope very much that the Senate, for the reasons I have stated, will approve the conference report, and that, in my judgment, for the most convincing humanitarian policy and economic reasons, the President, when he gets the bill, will not veto it.

Mr. President, I am prepared to yield time to the Senator from Ohio. I yield 10 minutes to the Senator.

Mr. TAFT. I thank the distinguished Senator from New York for yielding this time and for making any time that would be necessary available for the opponents of the conference report.

Mr. President, I oppose the approval of the conference report submitted by the Senator from New Jersey (Mr. WILLIAMS), distinguished chairman of the committee. As a member of the Senate conference committee, I have closely followed the deliberations of the committee regarding amendments to the Fair Labor Standards Act of 1938. But, along with all my Republican colleagues on the conference committee from the House, I could not sign the conference report, because I feel it is defective in a great number of ways.

I share the conviction that the conference committee expressed regarding the necessity of increasing the national minimum wage level. As I stated when the minimum wage legislation was before this body, substandard and exploitive wage practices should be eliminated.

At this time, however, I pointed out that there is a difference in philosophy involved here. As is pointed out in the minority views of the conference committee, submitted by Senator DOMINICK, Senator BEALL, and myself, we do not view the minimum wage law itself as being a proper or appropriate method of providing a level of family income. The Congress should get on various welfare reform proposals and other legislation suggestions regarding alleviation and reduction of poverty.

I believe that congressional efforts should be directed along those lines, rather than take the indirect and ineffective—as we have pointed out in the minority views—approach to the poverty problem by trying to solve it through the minimum wage law. It is more a matter, in the minimum wage laws, of considering the overall economic effect upon the country. Congress must consider the overall economic effect upon employment, and the very basic equity of the situation of those who are underpaid for the services they perform—who I believe are entitled to consideration.

I have, therefore, favored an increase in the minimum wage and submitted legislation with Senators DOMINICK and BEALL to provide an increase in the minimum wage to $2.30 over a 4-year period. Unfortunately, our proposal only received 40 votes, but I believe had many of my colleagues known of the action that the conference committee would take on the wage issue alone, they would have reconsidered their vote. The Senate conference committee members receded on the effective date that the minimum wage increments would take effect with the first two increments for the respective wage categories coming in 9 months, instead of 14 months, under the Senate-passed bill. This is completely unacceptable to the Nation's small business community and represents a total disregard of differing economic conditions throughout the country. Specifically, the conference report mandates a 60-cent increment for employees covered prior to 1966 over a 9-month period as the $2.20 rate will become effective on July 1, 1974.

Mr. President, let us take a look at the effect of this on the hypothetical case of a small business covered by the act. Suppose we have an employer, not within the $250,000 exemption, but one in a relatively small business. Let us assume he has five employees. The effect of this legislation would be as follows: Five employees is not a very big business at all. In many instances it is practically a family business. If the employees were covered prior to 1966 by FLSA they must receive by July 1, 1974, an added 60 cents an hour. That is an added $3 an hour to payroll cost. Let us assume they work 40 hours a week with no overtime at all, an assumption which is most favorable to the illustration I give. On the basis of the 40-hour week, with 5 employees we have 200 man-hours of work. Multiply the 200 man-hours by $3 an hour and an additional $600 is placed on the wage cost of that particular employer per week.

That $600 multiplied by 4 weeks would mean $2,400 or more in added payroll costs in a month. For a year, or 52 weeks, this comes to $31,200 of additional wage costs for this small employer.

Based on this example I think we can see here that this employer, and many other small businesses in this country, will have to do one of several things. Perhaps he will try to cut back on his space and try to squeeze the work of five employees out of four employees. Perhaps he will increase his costs, although he may be under the price freeze. Perhaps he will be forced to close. In any event, he has to make a very sizable, and perhaps adverse, adjustment.

I have not mentioned several other factors that will increase the effect on the smaller employers. One is added fringe benefits costs. The other I have not mentioned—the ripple effect. Let us review the ripple effect in the minority views. I quote from page 115 of the minority views:

> Senator Dominick asked the Labor Department for an estimate of the indirect "ripple effect" cost—the costs to employers of restoring existing wage differentials in industries affected by minimum wage increases. The response was that inadequate data exists to provide a reliable estimate. The Department did, however, provide estimates based on the assumption that all workers covered by the minimum wage provisions of the Fair Labor Standards Act would receive the same average wage increases as those received by employees actually affected by the increases proposed in S. 1861. The totals, as indicated in the chart below, were: 1973—$22.5 billion; 1974—$17.1 billion; 1975—$5.6 billion; 1976—$139 to $143 million.

Mr. President, at this time in the present state of our economy, the conference committee's action is going to add materially to the inflationary impact on the economy.

Mr. President, there are other factors in the bill.

For agricultural workers the wage structure reported by the conference report is also extremely unacceptable as it represents the largest percentage and dollars and cents increase in the minimum wage in the history of the FLSA for agricultural workers.

At a time when food costs are skyrocketing, it was inequitable for the conference committee to take the action it did in this area. I believe that the proponents of the conference committee's

position may have to answer to the housewives of the Nation for their action on this point.

The conference report is also deficient in a number of other areas.

First, the Senate receded to the House on the question of overtime coverage for domestic service employees. Many questions were raised by the Senator from Colorado (Mr. DOMINICK) as to the practicality and desirability of covering domestic service employees.

In yielding to the House on the overtime question, I think that the Senate has made it difficult, if not impossible, really, to enforce this law, and I think also that it imposes a burden on those who employ domestic service employees.

The Senate receded to the House to continue to permit the employment of children under the age of 12 on farms. The distinguished Senator from New York (Mr. JAVITS) has very correctly stated that this provision should have been eliminated entirely. Yet I think the entire spirit of the conference was one of trading back and forth to accomplish the objectives of the bill. Perhaps too much trading.

The PRESIDING OFFICER. The Senator's 10 minutes have expired.

Mr. TAFT. Mr. President, I ask for an additional 2 minutes.

Mr. JAVITS. I yield 2 minutes to the Senator from Ohio.

Mr. TAFT. I thank the Senator from New York for yielding.

I think that in giving in on this point we are continuing a situation that certainly is not acceptable to me. I am not proud to have the Senate go along with the House insofar as this provision is concerned. It is not adequately improved, under the circumstances and I am hopeful that when the Senate comes back to this issue after a veto a strong stand on prohibiting children under 12 from working in agriculture will be taken.

Third, the Senate receded to the House on the question of the coverage of conglomerates, with a combined volume of sales of $10 million or more. Although the Senate did not accept the House position totally on this point, the modification struck in conference is extremely confusing, and it is unclear as to exactly what the effects of this provision will be.

I listened to what the Senator from New York said on this point. I would certainly welcome hearing from the proponents of the conference position as to who is and who is not covered in this amendment. What is the meaning, rationale, and equity, in the covering of some companies in this situation?

Another point that I particularly feel strongly about is the youth differential provisions. The Conference Committee position is totally unacceptable because they do not include nonstudents at all, and they have very weak provisions as far as full-time students are concerned.

In summation, many important factors were overlooked by the conference committee, with particular disregard to the inflationary pressures present in the economy. I believe the conference committee's action is economically irresponsible, inflationary, and in direct opposition to the economic stabilization program.

The PRESIDING OFFICER. The 2 additional minutes yielded to the Senator from Ohio have expired.

Mr. JAVITS. Mr. President, I yield 2 more minutes to the Senator from Ohio.

Mr. TAFT. I thank the Senator from New York.

Further, the lack of due consideration for the high unemployment rate of youth in this country represents a callous disregard of this most distressing national problem. Unfortunately, the conference committee's action in this area will no doubt block any immediate increments to deserving workmen and women of the country, because the President will be presented with a totally unacceptable proposal if the conference report is approved.

I therefore urge the defeat of the conference report.

Mr. WILLIAMS. Mr. President, I suggest the absence of a quorum, with the time to be charged to me.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant 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 would like to ask a question or so, as long as the chairman of the committee, the distinguished Senator from New Jersey (Mr. WILLIAMS), and the ranking Republican member of the committee, the distinguished Senator from New York (Mr. JAVITS), are on the floor.

What is the position of the Secretary of Labor vis-a-vis this legislation in relation to the possibility of a presidential veto, or what will his recommendation be?

Mr. WILLIAMS. Mr. President, I think most of the conversations with the Secretary of Labor have been undertaken for the committee by the Senator from New York. I will say to the Senator from Montana, the majority leader, that at our hearings on this legislation the Secretary of Labor did testify, and I found him stating a position that was generally in support of the provisions that are in the minimum wage legislation contained in the conference report. We heard the suggestion of the possibility of a veto, and because of that the Senator from New York did undertake several discussions with the Secretary of Labor. So he can give it to the majority leader right from the Department itself.

Mr. JAVITS. Mr. President, I ask unanimous consent that I may call for a quorum and that the time be charged equally to both sides.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. TAFT. Mr. President, before the Senator does that, I wonder if I may have a minute or two just to comment on the question raised by the distinguished majority leader.

Mr. JAVITS. If the Senator will indulge me, I would like to answer it first, because I think that is important.

Mr. TAFT. The Senator wants to defer it. That is fine.

Mr. WILLIAMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. JAVITS. Mr. President, I yield myself 2 minutes.

The Senator from Ohio has properly raised the question of conglomerates, and I would suggest that Senators look at page 11 of the conference report, which sets out in text what we did.

What we did was to make the minimum wage, as it applies to retail establishments, et cetera, applicable to an establishment which would otherwise be exempt, but which is part of a conglomerate; and a conglomerate is defined as a group of establishments under common control whose annual gross volume of sales or business done is $10 million or more.

The point I made with respect to that—and that is the way it came over to us from the House—was that it should not be strictly applicable to any conglomerate, but it should be applicable where the establishment which is going to be under the law, which it would not were it not in a conglomerate, must have some interdependence with other units of that conglomerate which give it support.

Of course, the most evident type of support is financial support.

So all I wish to make clear for the record is that it is not every conglomerate which will thereby be covered. Only where the test is met—an interdependence of support as between the unit which is sought to be brought out from under the exemption because it is an element of a conglomerate and the other elements of that conglomerate.

From what we know, this whole provision will be very very limited in its application. Nevertheless, it opens the door to some coverage in the case of elements of conglomerates which would not otherwise be covered under the provisions of the law. And this particular provision applies only to minimum wage. I wish to make that very clear.

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

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. JAVITS. Mr. President, I yield myself 2 additional minutes.

Mr. TAFT. I wonder if the Senator has made any study or has any information available as to what particular conglomerates would be covered and which would not be covered.

Mr. JAVITS. We have not been able to do that, obviously, within the time afforded.

We believe the cases, as far as we can see from the criteria, are not likely to be appreciable in number.

Mr. TAFT. I thank the Senator.

Mr. JAVITS. Mr. President, if I may yield myself 1 additional minute, the other matter of which I think is of great interest is the youth differential and

how that was handled. There has been a lot of concern and discussion about that. We did make a fundamental change in the student differential. And that fundamental change, generally speaking, would make this differential available for retail and service employers for up to four students, under certain terms and conditions as stated in the report, free of any major paperwork, and so forth, which has been claimed to inhibit that kind of employment up to now.

I think that, considering the deadlock in which we were consumed all of last year, this change will be understood as a substantial concession by the Senate on this issue. I hope very much that within the context of the conference report, the Senate will proceed to approve the measure.

Mr. President, again, I ask unanimous consent that I might suggest the absence of a quorum without the time being charged to either side.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, the only thing I am concerned about is that I want to be sure that we do not crowd the 30-minute period for debate on the Presidential veto message, which vote will have to occur at 3:30 p.m. today.

Mr. JAVITS. Mr. President, I withdraw my request.

Mr. DOMINICK. Mr. President, will the Senator from New York yield to me?

Mr. JAVITS. Mr. President, I yield 10 minutes to the Senator from Colorado.

Mr. DOMINICK. Mr. President, I was opposed to the original bill as it came out of committee, and as it passed the Senate. I am strongly opposed to the conference report, and I hope that the Senate will vote against it.

It is essentially the same bill that passed the Senate. It provides for the same excessive wage increases, but puts them into effect over a shorter period of time. If this bill is signed by the President—and I hope it will not be—the rate for most covered employees will go from $1.60 to $2 on October 1, or November 1, depending on whether the bill is signed during or after the August recess. The second increase, to $2.20 an hour, would go into effect on July 1 next year—8 or 9 months later. The Senate bill would have given employers a full year to try to absorb these enormous increases in wage costs.

Like the Senate-passed bill, the conference report extends overtime coverage to Federal, State, and local employees. I think this is an issue which will be back to haunt us. The potential cost to State and local governments of overtime coverage alone could be as high as $305 million a year, according to Labor Department estimates. The brunt of these costs would be borne by the South and local governments in rural areas in the North.

The provision of the conference report extending coverage to domestic workers is actually broader than the one in the Senate-passed bill. The Senate bill extended minimum wage coverage only, and did not include babysitters. The conference report extends both minimum wage and overtime coverage, and includes babysitters, except those employed "on a casual basis"—whatever that means. As the Secretary of Labor has emphasized, this will put many domestic employees out of work and onto welfare. There is no way we can increase the minimum rate for domestic employees to $2.20 in less than 3 years without putting many of them out of work. About 70 percent of them are paid less than $2.20. By covering babysitters too, the conference report will extend this effect to many working mothers.

The conference report indicates we can take consolation in the fact that domestic workers who would earn less than $50 per quarter are not covered. I wonder how helpful that is. That means, as I pointed out during debate on the Senate bill, that if we pay a teenager $5 to mow our lawn every weekend, he is covered—because he earns $60 a quarter—and we have to file monthly reports with the Wage and Hour Division of the Labor Department.

Although the conference report phases out several of the exemptions which would have been repealed immediately by the Senate bill, the end result is the same. The fact remains that many exemptions which were established by Congress for good reasons would be wiped out without regard to whether those reasons still exist. This is, again, as I said during the debate on the Senate bill, the business of acting first and studying later. It would seem that Congress is less concerned about small businessmen now than it was then.

In addition to the ultimate repeal of many exemptions, the conference report contains a so-called conglomerate provision which denies minimum wage and overtime exemptions to small retail service establishments and farms which are part of a conglomerate grossing $10,000,000 annually. "Conglomerate" is defined as "an establishment which controls, is controlled by, or is under common control with another establishment." I wish I knew what this means, and wonder if anyone else does. One thing is clear—it has the potential for greatly expanded coverage. The bill sets no minimum amount of diversification that is necessary before a firm loses its exemptions. One small nonconforming operation would cost the largest firm all its exemptions, since the firm would now consist of establishments lacking a common business purpose. Arguably, even a subsidiary set up to hold a firm's real estate would cost the company all its exemptions if it ventured into some ordinary realty transactions. The potential for expanded coverage is enormous in this regard.

The Senate bill contained a provision authored by Senator BUCKLEY which authorized the Labor Department to contract for a study regarding the effects of the minimum wage increases in this bill on employment. The thought was that since the potential disemployment effect of minimum wage increases is a very important issue, Congress would benefit from having access to carefully and impartially developed information about it.

Since the conference report does not contain this provision—in other words, it got wiped out—I can only conclude that organized labor—and a majority of the conferees—are afraid of or at least do not want this kind of information.

The conference report, like the Senate bill, does not attempt to lessen the impact of these wage increases on youth unemployment. Although it would improve the existing student certification program by extending it to educational institutions, and by removing the precertification and "historical experience test" requirements for firms hiring less than five students, it would do nothing about the ones who really need jobs today—teenagers who are not in school. Again, the unemployment rate for these teenagers is very high—about 15 percent. For nonwhite teenagers it is 31 percent. I think it is unfortunate that the bill fails to deal with this very serious problem. All we were asking with the substitute bill Senator TAFT, Senator BEALL, and I sponsored was that the youth rate be extended to 16- and 17-year-olds during their first 6 months on a job in order to give employers some incentive to hire them.

On this issue, it is a little ironic to observe how those who view themselves as forward-thinking and progressive argue vehemently to preserve a very unsatisfactory status quo. All we are saying with the youth differential is, "Look, we have a problem—an alarmingly high teenage unemployment rate which has broad and harmful social implications. Let us try to do something about it. Here is our proposal." But we were voted down as we all know. As legislators to whom the people of this country look for solutions to difficult problems, I think we should feel compelled to give this proposed solution a fair chance to stand or fall on its own merits. It would not cause any sudden disaster. It is not as if we would be making a decision which would be irreversible for all time. If, after enough evidence were in, it appeared to be ineffective, we would modify it or simply repeal it and look for something better. We should not just turn our backs on the teenage unemployment problem, as the Committee bill would, because it is not likely to solve itself.

Mr. President, I oppose this conference report for the same reasons I opposed the Senate-passed bill. I expressed those objections in detail during the debate on S. 1861, but let me just summarize them quickly again here in broad terms.

First, it will contribute substantially to inflation. And it could not come at a worse time. No better plan than the radical minimum wage increases and sweeping extensions of coverage it proposes could be devised to blow the economic stabilization program right out of the water. A lot of dust has been raised by the conflicting arguments on the inflation issue during this debate. But I think the proponents of this bill clearly have the burden of overcoming the strong presumption that minimum wage increases of 37.5 percent within 9 months for most nonfarm employees, and 69.2 percent in less than 3 years for farm employees, are not inflationary.

I am confident that when the dust settles, everyone will recognize that burden has not been carried. If a majority of my colleagues do not see it, they will be reminded soon enough by their constituents, who will be complaining about even higher prices for virtually every consumer product. They will also be reminded by small businessmen and farmers, who will bear the brunt of the considerable increases in labor costs.

I am opposed to this bill because it clearly will not do what its supporters say it will. They pronounce that it will put an end to welfare for the working poor in this country. As I have said earlier, this is an undeliverable promise which amounts to nothing more than a cynical joke on the poor. The minimum wage would have to be increased immediately to $2.65 per hour to raise the income of a family of six with one wage earner to the poverty level. The figure for a family of seven is $3.20. Forty-six percent of the working poor are members of families of six or larger. To them, the realization that this promise was totally undeliverable from the start will not be a very funny joke.

Worse than not delivering on promises to the poor, this legislation will actually harm them. Marginal workers who find themselves unemployed will wonder whether welfare is really a better alternative. They will have difficulty seeing why their morale and dignity should be boosted, as the proponents of this bill suggest. The only workers whose morale will be boosted are those who least need help—well-paid skilled workers with secure jobs. Due to the ripple effect from these large increases in minimum wages, they will receive disproportionate windfalls when, through the collective bargaining process or otherwise, previous wage differentials are restored.

Mr. WILLIAMS. Mr. President, I yield myself 1 minute at this point.

Just to clarify a situation that developed during the debate with the Senator from Colorado, I thought I heard him saying that the proponents of this conference report on the minimum wage bill have said that this would do away with welfare.

No one that I know of who advocates this $2 minimum wage bill, with broader coverage, and $2.20 a year later, has said it is going to do away with welfare. What we have said, and said repeatedly, is that anyone with $1.60 an hour right now, which is the current law, who is fully employed at 40 hours a week, will be grossing $64. After social security, his net, of course, is less. That is below the poverty level. These people are eligible for other assistance. When we raise an individual to $2 an hour, 40 hours a week, $80, and take away the deduction for social security, that individual, that working person, is just keeping his nose above the poverty level.

Rather than doing away with welfare, we will certainly reduce the need for working people to have to go on welfare.

Mr. DOMINICK. If the Senator will yield at that point to clarify the record——

Mr. WILLIAMS. Yes, I am happy to yield, but I want to make sure that I have enough time here, in order to yield to the Senator from Texas (Mr. TOWER).

Mr. DOMINICK. I shall take exactly 30 seconds. I want to point out to the Senator from New Jersey that in the report on essentially this same bill of last year, it said,

> In approving the ultimate stage increase, the committee acted to make the sight of the full time worker on welfare a thing of the past.

Mr. WILLIAMS. Well, I would say, if that is still not the goal and the sight of those who work in Congress, then I misjudge my colleagues. Certainly that is our goal. But $80 a week is just bringing the working man who has a family up to the poverty level. Then that leads us to the next argument that is made by some, that this kind of wage is inflationary.

Two dollars an hour, $80 a week, is inflationary?

It is impossible to make that stand up in any kind of economic analysis. Certainly it is destroyed in terms of any human analysis.

Mr. President, I now yield 5 minutes to the Senator from Texas (Mr. TOWER).

The PRESIDING OFFICER. The Senator from Texas is recognized for 5 minutes.

Mr. TOWER. Mr. President, I thank my colleague from New Jersey.

Mr. President, I do not find it necessary to discuss at length the substantive arguments on this issue since they were advanced during the debate on the substitutes offered by Senator FANNIN and myself and Senators TAFT and DOMINICK. While I feel strongly that our arguments were superior to those advanced by the proponents of S. 1861 we were unsuccessful when the time came to vote.

The conference report is basically the Senate bill. It is true that some of the overtime exemptions that the Senate bill sought to remove from the Fair Labor Standards Act are retained. Nevertheless, in most instances the Senate prevailed and the exemptions will be eliminated—in some instances immediately and in others within a year or two.

Some of the strongest objections to S. 1861 were lodged against the provisions relating to coverage of domestics and State and local government workers. State and local government coverage was included in the House bill and the House receded with respect to coverage of domestics.

As I read the conference report, it seems to me that the proponents in both the House and the Senate sought to camouflage the entire argument for youth differential. The conference agreed upon a restricted youth differential wage in retail and service establishments provided that no more than four full-time students are employed. Let me stress that the report only covers full-time students although evidence has been convincingly presented that the major problem concerns teenagers who are not students.

The proponents of this legislation rejected all arguments that the minimum wage has a detrimental effect on youth unemployment. Instead they prefer to spend millions of taxpayer's dollars on temporary jobs through such programs as the Neighborhood Youth Corps. Even if such programs are given the benefit of the doubt as to their success they can only assist a small minority of the teenagers who need employment. Permanent entry into the private sector without the appropriations of Federal tax dollars is far more beneficial. If the proponents of the bill fail to see any relationship between youth unemployment and the minimum wage I cannot understand why they would support this restricted youth differential.

If they feel that this will allow the issue or the problem to disappear I fear that they are incorrect. The problem will not disappear but instead will become worse, if that is possible, because of the enormous statutory increase in the minimum wage.

Mr. President, this brings me to my final point as I review this conference report. The Senate bill called for a $2 minimum 60 days after enactment, and a $2.20 minimum a year later. Due to the language in the House bill, the conference report calls for the $2.20 wage on July 1, 1974. Consequently, instead of a 14-month period as called for in the Senate bill, the 37-percent increase in the minimum wage, the largest monetary increase in the history of the Fair Labor Standards Act, will become effective in 9 months. Enactment of this legislation will have the most disastrous effect on small business in this country. By enacting this legislation we will in effect be encouraging economic concentration and the elimination of many small businesses which I would like to remind my colleagues are the backbone of our economy. We have enacted other programs recently to stem the tide of unemployment and inflation and to give new opportunities to become entrepreneurs and, therefore, have an ownership stake in our Nation's future. This minimum wage bill contradicts these other worthy efforts.

While it may seem politically unpopular at this time, I am confident that the President will veto this bill. I do not think he has much choice. In negotiations with the administration, congressional proponents of this bill did not seek to meet the President halfway. Now they are imploring him not to veto the bill. I do not feel such a plea is legislatively responsible, and I would suggest that the proponents of this legislation not be surprised when the President does veto this measure.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum and ask unanimous consent that it not be charged to either side, unless the Senator from New Jersey (Mr. WILLIAMS) has other speakers.

Mr. WILLIAMS. Mr. President, I have no requests for speakers. The time will run out on the bill at 1:15, I believe.

The PRESIDING OFFICER. 1:13.

Mr. WILLIAMS. I join in the unanimous-consent request for a quorum call.

Mr. TAFT. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Ohio will state it.

Mr. TAFT. Mr. President, I thought the request was that the time be charged to neither side for the quorum call. There was no specific time for the vote, but 80 minutes was set for debate on the bill.

The PRESIDING OFFICER. The Senator is correct. Time would not be charged on the quorum call until it had been rescinded and then there will be time left for the Senator from New Jersey.

Is there objection to the request of the Senator from New York?

Mr. ROBERT C. BYRD. Mr. President, I would have to object, and I know that Senators will understand why, if I do object. The program today is so tight that if we are to allow the 30 minutes on both sides for debate on the Presidential veto, on which a vote will occur on 3:30 p.m. this afternoon, I am afraid we cannot, meanwhile, have any slippage in the time allotted for other matters.

Mr. JAVITS. Mr. President, I wish to assure the Senator from West Virginia that I did not intend to take more than 5 minutes. The question is, do we vote now or not at all, so that I would strongly urge that we be allowed——

Mr. ROBERT C. BYRD. I am sorry, but I would have to object to the time for the quorum call not coming out of either side.

Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from New Jersey has 7 minutes remaining.

Who yields time?

Mr. WILLIAMS. Mr. President, the remaining time, as I understand it, is under my control?

The PRESIDING OFFICER. The Senator is correct.

Mr. WILLIAMS. I yield to the distinguished Senator from New York.

Mr. JAVITS. Mr. President, I would suggest to the Senator that as we have completed debate, we yield back our time and then have a quorum call. That is a matter of right.

The PRESIDING OFFICER. The Senator from New York is correct.

Mr. JAVITS. So I would again ask the distinguished deputy majority leader whether he would again object to a quorum call without the time being charged to either side, as there may be another Member turn up who may want a little time on the conference report. We have a few minutes left.

Mr. ROBERT C. BYRD. I could not object if Senators first yielded back all their time, because any Senator is then entitled to a quorum call and I would, therefore, not be able to object in these circumstances.

The PRESIDING OFFICER. The Senator from West Virginia is correct. Does the Senator from New Jersey yield back his time?

Mr. WILLIAMS. No.

Mr. JAVITS. Mr. President, will the Senator from New Jersey yield to me momentarily?

Mr. WILLIAMS. Mr. President, as I understand it, we are waiting for a definitive statement from the Secretary of Labor on his attitude about this bill and what he will do in urging the President to sign it. We have heard that the Secretary of Labor will urge the President to sign the bill and I gather we are waiting for the final definitive statement to that effect.

Mr. JAVITS. That is correct. If we do not have time to make it, it will defeat the purpose for which we sought the quorum call.

Mr. DOMINICK. The Secretary of Labor is not going to have this bill before him anyway. It will go down to the White House.

Mr. JAVITS. The Senator asked the question and I am proposing to answer it and I need a few minutes in order to be able to answer him.

Mr. DOMINICK. I am ready to vote now.

Mr. TAFT. Mr. President, will the Senator from New Jersey yield me 1 minute?

Mr. WILLIAMS. I yield.

Mr. TAFT. Mr. President, I do not know what the definitive message of the Secretary of Labor will be, but I feel that I should point out to the Senate that in the transcript of the testimony by the Secretary of Labor, he made a number of statements; one, he favored the schedule of increases which was very close to the Taft-Dominick bill rather than the schedule in the conference bill. He was against coverage for domestics. Against coverage for State and local employees. He specifically made the point that a youth differential of some type for nonstudents which is not in the conference bill was necessary.

So from the testimony he gave on the basic points, the Secretary came out quite differently from the conference committee action.

Mr. WILLIAMS. While that was his testimony on direct in our committee, I asked him whether he would accept the attitude of the Senate bill going to $2, and he did accept that.

Mr. JAVITS. Mr. President, we do not have to speculate about this matter. All I have asked is that we be given a short opportunity to enable me to make a statement on the subject. The difficulty with Senator BYRD's position on that is that there will not be any time left to make the statement if we yield back our time.

I repeat my unanimous-consent request that I be permitted to call for a quorum without the time being charged to either side.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object——

Mr. DOMINICK. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MANSFIELD. Mr. President, the Senator is aware that we have a pretty tight schedule for today. If the Senator would be willing to state what he thinks the Secretary of Labor's position is to the best of his ability, that would give us something to go on; because the distinguished Senator from Ohio has given his interpretation. The distinguished manager of the bill has indicated what he thinks the Secretary of Labor's position would be, but he deferred to the distinguished Senator from New York, because the latter had had closer contact in this matter with the Secretary.

Mr. JAVITS. Mr. President, when the majority leader asks me a question, I intend to answer it as authoritatively as possible. Therefore, if we are put in a box on this thing, fine. I will not answer the question until I can answer it definitively. I do not think that is fair to the Secretary of Labor; I do not think that is fair to me.

Therefore, if there is objection, that is fine. The Senator from West Virginia may have his objection; and, so far as I am concerned, I cannot make a statement, which may prejudice this bill or may not; or they may take it down. I just do not think that is the fair way to proceed.

If the Senator will yield me the time, I will use it, but I can make no statement on this issue. I think it is most regrettable that I am forced into this very embarrassing corner about it, for which there is no real reason. Nonetheless, if that is the will of the Senate——

The PRESIDING OFFICER. All time on the conference report has expired.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to proceed for 1 minute.

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

Mr. MANSFIELD. All time has expired?

The PRESIDING OFFICER. Yes.

Mr. MANSFIELD. If the Senator would yield to me, I suggest that we set aside 5 minutes at a later time in the afternoon for the purpose of getting an answer to the question raised on the basis of the Senator's personal contact with the Secretary of Labor.

Mr. JAVITS. I thoroughly agree, and I thank the majority leader very much.

Mr. TAFT. Mr. President, reserving the right to object, I ask that at that time, so that the matter may be fully covered, I also be granted 5 minutes.

Mr. MANSFIELD. I would say the time would be divided between the two Senators.

Mr. JAVITS. That is fine.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, I just want to say this: Under the agreement previously entered, we will vote on the override of the Presidential veto at 3:30 today. Under the same agreement, a total of 30 minutes are to be allotted to the two sides.

It is perfectly all right with me to wait until a later hour today to vote on the pending matter. However, if that is the case, I think we would have to agree that that vote would have to come after the Presidential veto vote. Otherwise, if it comes before, we are going to run the risk of cutting into the 15 minutes which have been allowed to each side for debate on that issue.

Mr. MANSFIELD. If the Senator would make that unanimous-consent request——

Mr. DOMINICK. I would object. I see no point in this whole thing. Whether the Secretary urges the President to veto it or not has no bearing on what we are

going to do in the Senate. We should find out how the Senate is going to feel about it.

The PRESIDING OFFICER. The 1 minute has expired.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the distinguished Senator from New York be recognized for 1 minute, for the purpose of making a statement, with the understanding that he will share the time with the Senator from Ohio.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. JAVITS. Mr. President, the Secretary of Labor said to me yesterday, and confirmed by his office this morning—not with him personally but by his office, Mr. Rogers, the assistant—

I will recommend to the President that he sign the bill. I have no assurance or commitment he will do so.

Mr. TAFT. Mr. President, the Senator from Colorado (Mr. DOMINICK) and I have not received word from the Department of Labor on this point. We asked to be immediately informed of any change in the position taken by the Secretary, and we have not been so informed.

The PRESIDING OFFICER. The question is on agreeing to the conference report. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS (when his name was called). Mr. President, on this vote I have a pair with the Senator from Arizona (Mr. GOLDWATER). If he were present and voting, he would vote "nay." If I were permitted to vote, I would vote "yea." Therefore, I withhold my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Alaska (Mr. GRAVEL), and the Senator from Maine (Mr. MUSKIE) 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) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER) is absent because of illness in his family.

The Senator from Utah (Mr. BENNETT) the Senator from Oregon (Mr. PACKWOOD), and the Senator from Pennsylvania (Mr. SCOTT) are necessarily absent.

The Senator from Illinois (Mr. PERCY) is detained on official business and, if present and voting would vote "yea."

The pair of the Senator from Arizona (Mr. GOLDWATER) has been previously announced.

The result was announced—yeas 63, nays 28, as follows:

[No. 364 Leg.]

YEAS—63

Aiken	Gravel	McIntyre
Baker	Gurney	Metcalf
Bayh	Hart	Mondale
Bellmon	Hartke	Montoya
Bentsen	Haskell	Moss
Bible	Hatfield	Nelson
Biden	Hathaway	Pastore
Brooke	Huddleston	Pearson
Burdick	Hughes	Pell
Byrd, Robert C.	Humphrey	Proxmire
Cannon	Inouye	Randolph
Case	Jackson	Ribicoff
Chiles	Javits	Schweiker
Church	Johnston	Stafford
Clark	Kennedy	Stevenson
Cook	Long	Symington
Cranston	Magnuson	Talmadge
Domenici	Mansfield	Tunney
Eagleton	Mathias	Weicker
Fong	McGee	Williams
Fulbright	McGovern	Young

NAYS—28

Allen	Dominick	McClure
Bartlett	Eastland	Nunn
Beall	Ervin	Roth
Brock	Fannin	Saxbe
Buckley	Griffin	Scott, Va.
Byrd, Harry F., Jr.	Hansen	Sparkman
	Helms	Taft
Cotton	Hollings	Thurmond
Curtis	Hruska	Tower
Dole	McClellan	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Stevens for.

NOT VOTING—8

Abourezk	Muskie	Scott, Pa.
Bennett	Packwood	Stennis
Goldwater	Percy	

So the conference report was agreed to.

Mr. JAVITS. Mr. President, I move that the Senate reconsider the vote by which the conference report was agreed to.

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

The motion to lay on the table was agreed to.

REINVESTIGATION OF THE ITT TRUST CASE

Mr. TUNNEY. Mr. President, our political system has been victimized by a consistent and continuing conspiracy against the principles of decency and openness on which this Nation is founded.

This unrelenting pattern developed in the heated suspicions of the present administration; and, until the Watergate burglars were caught and the whole sordid story began to flood, it threatened to befoul our political system.

Now we have a 1972 White House memorandum that directly implicates the President in the arrangement of favorable antitrust settlements for the giant International Telephone & Telegraph Corp.

It suggests that perjury and coverup are a mainstay of White House policy.

This latest ITT memorandum involves the highest echelons of the White House and the administration in a fixup, coverup, lie-out-of-it scheme in which the public interest was traded away 2 years ago in discussions of a $400,000 contribution to bring the Republican Convention to San Diego.

The memorandum obliterates any legitimacy the settlements on behalf of ITT may have had.

In light of the memorandum and what it reveals about the inner, clandestine workings of the White House, I believe swift, uncompromising action is needed on two fronts:

First. I call on the Justice Department immediately to reinstitute its antitrust action against ITT and its subsidiaries, particularly the Hartford Fire Insurance Co.

Second. I call for a completion of the perjury referral I first demanded more than a year ago after all the inconsistencies and contradictions among witnesses during the confirmation hearings of Attorney General Richard Kleindienst. That referral should be made by Special Prosecutor Archibald Cox to the Senate Judiciary Committee no later than September 10.

The memorandum suggests that the ITT settlements were nothing more than a fraud on the public.

It indicates that ITT bargained with the understanding that $400,000 would be slipped under the table.

It makes clear that the fix was in.

The Watergate and Ellsberg burglaries, the buggings and the character assassinations, the plans to intercept mail and to firebomb the Brookings Institute put different threads in a single tapestry of deception and criminality.

Following the Kleindienst hearings a year ago, I won unanimous approval from the Judiciary Committee for a perjury referral that was to be completed in 1 month.

Well, it was not until the appointment of Mr. Cox early in this June that action finally got underway.

The Judiciary Committee called for the investigation, because of the conspicuous conflicts and contradictions among so many witnesses during the hearings.

I believe the evidence is now clear and that Mr. Cox can make a determination by the first of next month.

Unquestionably, blatant perjury has been committed.

This perjury, of course, is an affront to Congress and to orderly Government and to our laws.

The reopening of the antitrust case against ITT will frustrate any possible coverup of wrongdoing and will assure that the public interest, once again, is fully protected.

The Justice Department should undertake this immediately, and not drag its feet to the confining chains of possible White House interference.

By so doing, the Justice Department will reassert the independence and integrity that Americans expect of law enforcement.

By so doing, it will restore confidence and respect for our system of government.

Historically, the United States has been a nation of laws, and not lies.

Prosecutor Cox's and Senator ERVIN's meticulous and separate investigations will help restore that ageless standard.

The actions I set forth today, I believe, will further contribute to the restoration

of pride and honor throughout our Nation.

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

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

(For nominations received today, see the end of Senate proceedings.)

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had passed, without amendment, the following bill and joint resolution:

S. 1887. A act to provide for the appointment of alternates for the governors of the International Monetary Fund and of the International Bank for Reconstruction and Development; and

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.

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 amendment of the Senate to the bill (H.R. 8152) to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to improve law enforcement and criminal justice, and for other purposes.

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 (Mr. NUNN). Under the previous order, the Senate will now resume the consideration of H.R. 5777, which will be stated by title.

The 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. The pending question is on agreeing to the amendment by the Senator from Texas (Mr. TOWER), on which there is a limitation of 1 hour's debate.

Mr. TOWER. Mr. President, I ask unanimous consent that the Senator from North Carolina (Mr. HELMS), the Senator from Wyoming (Mr. HANSEN), and the Senator from Tennessee (Mr. BROCK) be added as cosponsors of the amendment.

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

Mr. DOMINICK. Mr. President, will the Senator from Texas add me as a cosponsor?

Mr. TOWER. Mr. President, I ask that the Senator from Colorado (Mr. DOMINICK) be added as a cosponsor also.

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

Mr. DOMINICK. Mr. President, I ask unanimous consent that I may suggest the absence of a quorum without the time being charged to either side.

Mr. ROBERT C. BYRD. Mr. President, will the Senator from Texas be willing to have the time charged equally to both sides?

Mr. TOWER. Mr. President, I ask unanimous consent that there be a quorum call, with the time to be charged equally to both sides.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. TOWER. Mr. President, my amendment is very simple. It simply says:

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.

The need for this is apparent. The day I offered this amendment, there was this headline on the front page of the Washington Star-News: "Slaughtering Off; Plant Closed; Beef Shortages Worse."

We see this scare in the newspapers almost daily. Mr. President, I have here a number of news articles that point out the political situation in the beef industry. I ask unanimous consent that they be printed at this point.

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

[From the Wall Street Journal, July 31, 1973]

GLOVER TO SHUT PACKING UNIT IN TEXAS DUE TO MEAT PRICES

ROSWELL, N. MEX.—Glover Inc. said it is closing its Amarillo, Texas, packing plant this week due to problems created by the price ceiling on beef.

The plant, which employs 230 persons, will be closed "until things change," an official said. The company said it's also curtailing slaughtering operations at its other plants in New Mexico, Tennessee and Mississippi. The plants, which normally run at roughly capacity, are currently operating slightly over half capacity, according to the company.

In a lengthy telegram to President Nixon, the company called the price freeze on beef "self-defeating" and said it's producing a "serious economic strain on the industry" and the large number of workers it employs.

[From the Wall Street Journal, Aug. 1, 1973]

CATTLE SLAUGHTER IS DOWN; 37 MEAT PLANTS ARE CLOSED

The American Meat Institute says it has confirmed the closing of 37 meat-packing plants and it has found operations cut back substantially in 27 others, the Associated Press reports.

The closings and cutbacks have affected 4,800 employes. The continued freeze on beef prices is "seriously hurting these small companies," a spokesman says, estimating that "hundreds of them, maybe thousands of them" are suffering. The companies range from firms with 15 employes to those with 400 or 500 workers.

He says government figures show 79,000 head of cattle were slaughtered in the country on Monday—a 32% drop from the July 30, 1972, figure and a 23% decline from a week earlier.

Yesterday, Iowa Beef Processors Inc. said it was closing one of two remaining beef slaughtering plants in operation. Five others had been closed recently.

In New York City, most meat wholesalers decided to close today because of a lack of beef. A decision on reopening will be made on a day-to-day basis.

[From the Dallas Times-Herald, July 29, 1973]

BEEF SHORTAGE CRITICAL FOR DALLAS

(By George Wysatta)

The choice beef supply in the Dallas area has become so short that at least one major restaurant owner may have to close down his operations.

"Two packers that supply me called and said they couldn't deliver choice corn-fed beef this week," said Jesse E. Roach, owner of the Cattlemen's Steak Houses in Dallas, Forth Worth and Arlington.

"One packer, an out of state firm, said he couldn't supply anything at all. Another here in Dallas said he could only deliver U.S. Good, which is grass-fed.

"I don't want to close, but I may have to," Roach said. "But I have only enough meat to last a week maybe."

And, the picture painted by meat suppliers is not encouraging.

"We have only 1,200 pounds on hand," said Steve Kamenoff, president of K & K Meat Co. "Our suppliers won't promise us anything. I spent $200 last week on long distance telephone calls and came up with only 200 pounds of meat."

Kamenoff said his company supplies approximately 100 customers, 25 of them choice beef users.

"I expect several restaurants to close," he said. "If they don't lift the ceiling price we are in bad shape."

He said if his company doesn't get meat this week several employes will be laid off.

David Wamstad, national sales manager for Twin City Meats, a firm supplying top grades to several area restaurants, said, "It doesn't look like I'll supply them this week."

He said there were no guaranteed orders.

In addition to the beef price freeze, Wamstad also blamed the exportation of cattle and high feed costs on the shortage.

"The Japanese are buying up our beef by the carload because of the devaluated dollar," he said. "They get $6 a pound for steaks there.

"Corn for feed has jumped from $1.50 to $3 a bushel and some producers are selling the cattle off feed lots before they are ready because of the cost of feed," he said.

Bill Beckel, head of Beckel Meat Co., said the shortage "will be more critical."

He said one of his suppliers in Amarillo has closed down and others are cutting down or ceasing slaughter operations.

He said many breaking operations have stopped and the carcasses are delivered direct to supermarkets for breaking there.

"All hotel suppliers are running out of meat," he said. "In the next week or two it won't be available."

He said he expected blackmarketing operations in meat to crop up.

"They already have them on the East coast," he said. "I expect it here in a week."

Joe B. Neuhoff, vice president of Neuhoff Brothers Packers said, "Pressure has got to be put on Washington to get these ceilings off or there won't be any beef at all."

He said their killings have been reduced and choice steaks are limited. He said he had indications several midwest suppliers would cease operations in the coming week.

One meat company official said most orders were being "shorted," and that U.S. choice beef has just about disappeared.

"When a producer knows he can make money in September, why not hang on?" he said.

Jack Park, part owner of Bavarian Steak House, said he had no indications of a shortage of choice meat from his suppliers.

"There's no problem this week, but there may be next week," he said. "Maybe we'll have to start serving only fish."

Jim Wade, manager of Arthur's, 3701 McKinney, said his restaurant's meat came from New York and he had no word of shipments being stopped.

[From the Dallas Morning News, July 26, 1973]

TEXANS, STUNG BY FREEZE, CLOSE BEEF PACKING PLANTS

Beef packing plants and slaughter houses which supply as much as half of the nation's red meat closed down and drastically curtailed production across Texas Wednesday because of Phase 4 economics which left them in a multi-million dollar squeeze.

"There will be huge beef shortages at the retail level beginning Monday," said Lamar Holley, executive director of the Texas and southwestern meatpackers association.

"It's an impossible economic situation and simple mathematics clearly show that you cannot stay in business paying more for a product than you can legally sell that product for."

Packing plants, both big and small, shut down and cut back as much as 90 per cent in Dallas, Houston, Brownwood, Amarillo, Alice, Hereford and San Antonio. Those who remained open said they were doing so on a day-to-day or week-to-week basis.

Kay Packing Co. of Houston closed Monday but is continuing to slaughter for private individuals. Mickleberry Meat Co., also of Houston, plans to close Friday.

"Our beef slaughter is definitely on a week-to-week basis," said Franklin Roth, vice-president of Blue Ribbon Packing Co., in Houston. "The more cattle we process, the more money we lose. Starting next week it will really show up in the supermarket. It is really going to be a critical situation."

Holley said the removal of the beef ceiling price scheduled Sept. 12 will result in drastic price increases.

"If beef ceilings had been removed last week there would have been a slight increase (in prices)," Holley said. "A large increase could have been expected after two more weeks, but there will be an explosion after September 12."

Cattle raisers, who are free to hike beef prices under Phase 4, are caught in a trap similar to that of farmers in the pre-phase 4 guidelines.

"The farmer has two alternatives," Holley said. "He can now sell at a price which the packer can pay, and that's very unlikely because he would be selling at a loss. Or, he can wait until September 12."

Beef producers who wait for the lifting of the restrictions, however, face the costs of continued feeding and fattening of their animals.

Pork prices skyrocketed this week with the lifting of controls and the beef outlook was even worse. Sirloin steak at up to $5 a pound was forecast by Holley with possible new protests from housewives.

If the closing of packing plants results in a beef shortage, housewives and other shoppers, he said, could picket for the availability of beef—the same product they boycotted because of "high" prices last year.

Holley said nearly half of the nation's beef is slaughtered within a 200 mile radius of Amarillo in the Texas Panhandle.

"These plants are drastically curtailing their activities and face imminent shutdowns because they just can't sustain losses," he said. "If you have a plant that kills 5,000 animals a day on three eight-hour shifts and they're losing $8 a head, that's $40,000 a day in losses in that plant."

[From the Dallas Times Herald, July 26, 1973]

TEXAS PACKERS "PHASED" OUT

(By Steven R. Reed)

The profit and loss mathematics of slaughtering cattle for market under Phase 4 economic controls has chased numerous Texas meatpacking and slaughter houses out of business and caused most others to cutback their production.

The multi-million dollar squeeze among the plants which produce one-fourth of the nation's red meat, according to the Texas and Southwestern Meatpackers Association (SMA), could produce beef shortages before restrictions are lifted Sept. 12.

"There will be huge beef shortages at the retail level beginning Monday," TAMA executive director Lamar Holley predicted flatly Wednesday. "It's an impossible economic situation."

Bob Stark, formerly general manager of the Kay Packing Co. of Houston which closed last week, provided the statistics, at least for his operation.

He said under Phase 3, which was left in effect for beef only under Phase 4 until Sept. 12, their company could not sell cattle for more than 74 cents per pound. However, he said the company's initial cost was 79–81 cents per pound and it would rise to about 82 cents per pound.

"So the ceiling price to the initial selling costs means a loss of about 8 cents a pound," he said. "We kill 450-pound animals and that 8 cents a pound is a $36 net loss to start with.

"The owners don't think they can open back up because they have taken such a loss in May, June and July—a $78,000 loss."

A UPI survey showed packing plants, both big and small, down and cut back by as much as 90 per cent in Dallas, Houston, Brownwood, Amarillo, Alice, Hereford and San Antonio. Those who remained open said they were doing so only daily, or weekly.

One of the largest plants to announce its closing Wednesday was Armour and Co. in Brownsville, which had processed 1,000 head of cattle per week for shipment to Texas, Louisiana, Mississippi and Alabama.

"Armour Food Co. will close its beef plant here this weekend for an indefinite period due to the price squeeze between price ceilings and the free market for live cattle, said manager Dave Terry. "The plant will be dark beginning Monday. We will resume work just as quick as the freeze ends."

The plant employs 60 persons and has been in operation 15 years. A larger Armour plant in Houston shut down four months ago.

Franklin Roth, vice president of the Bue Ribbon Packing Co. in Houston, said his plant's beef slaughter was on a week to week basis.

"The more cattle we process, the more money we lose," Roth said. "Starting next week, it will really show up in the supermarket. It is really going to be a critical situation.

Cattle raisers were left free to hike prices under Phase 4, but packing plants and slaughter houses were held under the price ceiling, leaving the industry in the squeeze.

"If beef ceilings had been removed last week, there would have been a slight increase in prices," Holley said. "A large increase could have been expected after two more weeks. But there will be an explosion after September 12."

"The farmer has two alternatives. He can now sell at a price which the packer can pay, and that's very unlikely because he would be selling at a loss, or he can wait until September 12."

Holley predicted a feeling of outrage among housewives much like the one which resulted in the beef boycott.

[From the Wall Street Journal, July 30, 1973]

AS BEEF SUPPLY SHRIVELS IN SUPERMARKETS, MANY CONSUMERS BUY UP WHAT'S AVAILABLE

"I got angry. Then I got frightened. Then I bought extra meat."

So a shopper in surburban Hastings-on-Hudson, N.Y., reacted this weekend to a cascading series of events that was shriveling up supplies of meat available for sale in U.S. retail stores.

The chain read something like this:

Under President Nixon's Phase 4 restraints, the price of beef remains frozen until Sept. 12. But many packers contend they can't process the meat at going prices without taking a loss, so some are temporarily closing their doors.

With less beef being processed, some supermarkets are unable to stock their meat coolers as they normally would. Some post signs of apology. So shoppers, fearing worse shortages, grab up what is available, further aggravating the tight supplies.

"It's unbelievable, it's sad, it's pathetic," observed Ziggy Gorson, owner of Ziggy Gorson's Beef Village USA in Wilmington, Del. His freezer, he said, can hold six carloads of beef, but by Friday afternoon it was just about bare.

BORROWED TO BUY MEAT

"Let me tell you, my friend, I know these people, and I've talked with them, and they tell me they've borrowed money and taken money out of their savings accounts just to buy meat," Mr. Gorson said.

But while some consumers are buying more, some packers are processing less.

Flavorland Industries Inc., formerly Needham Packing Co., suspended beef slaughtering in Sioux City, Iowa, last Tuesday and stopped similar activities at Omaha, Neb., and West Fargo, N.D., on Friday afternoon. James R. McDonald, president and chairman, blamed the government's price controls, and said the company wouldn't be able to resume production until the government allows the industry to pass on added costs.

Wilson & Co., 88% owned by LTV Corp., said in Oklahoma City it has reduced its beef production 30% because of the situation. "To date, we haven't had to resort to plant closings, and our layoffs have been limited," the company said. But it added that the packing house may have to take "more drastic action" if the present shortage continues.

According to the Associated Press, the Kansas Beef Industries packing plant in Wichita will close today, idling nearly 500 employes.

SOME GO TO COURT

In San Francisco, some beef companies went to federal district court to seek an end to the beef price freeze that was putting the industry in its economic bind.

The Pacific Coast Meat Jobbers Association, a group of more than 80 Northern California beef wholesalers, jobbers and packers, contended the government freeze on beef was "arbitrary and capricious" and will result in "gross inequities, hardships, serious market disruption and domestic shortage of raw material."

In a request for an injunction against the beef price freeze, the jobbers argued they were unable to obtain beef at prices that would permit them to process and sell it within the ceilings without taking a "substantial loss."

The court is expected to hear arguments this week for a preliminary injunction against the government move.

Another appeal for the government to reverse itself came from the American National Cattlemen's Association in Denver. "Unless controls on beef are loosened, artificial beef shortages will become more acute and black markets will intensify," the group averred.

Agriculture Secretary Earl L. Butz, in an AP interview, contended in Washington, however, that "there isn't any shortage of beef." He said "the animals are out there. They're going to be coming in."

"BLACK MARKETS" APPEAR

But he allowed that "some spotty black markets" were beginning to appear in the meat industry, in small slaughtering operations near the point of production that bypass normal distribution channels.

And he also conceded to the AP that "the word has gotten out about possible beef shortages" and this has "induced a lot of housewives to buy ahead so that they won't get caught short."

For some shoppers, though, it may already be too late to stock up on beef to last until the price freeze on beef runs out in another 6½ weeks.

By early Saturday afternoon, one large supermarket in Dobbs Ferry, N.Y., a New York City suburb, had only about one-third of its normal meat supply, and there wasn't any lamb or chicken in sight.

SUPPLIES ARE "AWFULLY TIGHT"

In Atlanta, a spokesman for Colonial Stores Inc. said supplies are "awfully tight." The chain "will have beef in the stores this week but we aren't sure we'll have all the cuts."

Borman's Inc. asserted in Detroit: "There's a very real possibility we won't have any beef" this week.

First National Stores, a Boston area chain, "could be dry by next weekend," its chief meat merchandiser said. Cuts likely to be hardest to get, he said, will be chuck roasts, rounds and rumps, but ground beef should be in good supply.

"We're going to have a hell of a time," said John A. Godfrey, president of Godfrey Co., a 78-store food chain based in Waukesha, Wis. "One of our better sources just called to say they'll be closed all this week and they gave us the names of at least 10 other suppliers who will be closed too," he said. Beef will be coming in "just in dribbles," he stated.

Mr. TOWER. Mr. President, what is happening at this point is that it has been contended by some in the administration that if we wait until September 12, then the cattle will be held off from the market until that time and they will then come back onto the market and that they will come back in vast numbers because of the cattle being held from the market at this time and that they will come on at a very stable price.

This is a very naive idea. The fact of the matter is that these ranchers are not going to keep these cattle in the lot. They are not going to pay for the feed. They are going to try to get rid of them and will do so by various means. Some are going to Japan now. Some are being bought in the Midwest, shipped to Canada, processed there, and then shipped into this country at import prices.

So, what will happen is that, at the end of this period that the administration has arbitrarily set, there will be, I think, a virtual explosion of the price of beef, and there will still be shortages.

What they are doing here is apparently trying to induce shortages in beef.

It is my contention that the housewife would rather pay for the beef at her supermarket, whatever the cost is, and have it on her table than have it completely under controlled prices and have to buy it in a black market or at import prices that are even higher than if beef were given the same pass-through treatment that other livestock products and other produce are.

There is absolutely no relief in sight from the administration. Therefore, we have to act in Congress.

Mr. President, this article came over the wire today:

In Washington, Cost of Living Council Director John Dunlop said today he has not changed his mind about ending the beef price freeze before Sept. 12.

Dunlop's statement came despite hints by Agriculture Secretary Earl Butz that he would like to end the freeze early.

"My mind is in no way changed," said Dunlop, whose Council is responsible for administering the economic controls. The June 13 freeze on most items comes off Aug. 12 but it was kept on beef until Sept. 12.

James McLane, the Council's Deputy director, said 45 to 47 beef slaughterhouses had closed down and there were production slow downs and employee layoffs at 46 other slaughterhouses.

In a separate report, the Agriculture Department said beef production slumped again Wednesday and was about 44 per cent below the level of a month earlier.

Herrell Degraff, a meat industry representative, said "Mrs. Housewife" may soon find that to buy a seven pound roast she must pay for 10 pounds, and her porterhouse steak will have a three-inch tail of fat.

Mr. President, this is a situation we cannot tolerate. If any economic planner thinks he is doing something to help the consumer by not applying the passthrough to beef, he is sadly mistaken.

Shortages are being precipitated. We have had reports from hospitals that they fear adequate beef supplies are in jeopardy. American Meat Institute confirms the closing of 37 plants and found 27 others that have substantially cut back; 4,800 employees have been affected by the cutback and closing.

Slaughter is off by some 32 percent from a year ago and even then adequate beef supplies were uncommon.

Nearly one-half of the Nation's beef is slaughtered within a 200-mile radius of Amarillo and these plants have drastically cut activities.

Restaurant operators have indicated that the shortage is so severe that many may have to cease operations.

We can think for a moment of the tremendous impact this could have on small business, small restaurants, or even the big restaurant chains, such as McDonald's, Hardee's, or some similar establishments that cannot get meat. These places will have to be closed. They operate for the public convenience. They employ a great number of people. We will thus precipitate unemployment if this situation is not rectified.

Not only is there a shortage of more expensive cuts of beef but hamburger is becoming scarce.

This is only August 2 and there will be 41 remaining days under control if present regulations are not changed.

Mr. President, this is an urgent matter. It is a matter that we should deal with here today and one that I think, if the amendment is agreed to, the House would accept. They are just as conscious over there as we are here as to the crisis that exists in this food product.

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

Mr. TOWER. I yield.

Mr. PASTORE. Mr. President, is the Senator from Texas actually saying that if the cattlemen were to release their beef now under the present prevailing system, under the controls of the administration, they would lose money?

I can understand that once the price control goes off, September 12, the prices will skyrocket. However, am I led to believe that in the meantime if beef is released, the cattlemen will be forced to sell at a loss?

Mr. TOWER. The Senator is correct.

Mr. PASTORE. Perhaps they will not make a profit. However, they will not lose money.

Mr. TOWER. No; this price increase cannot be passed through. They would release their cattle if they could make money out of it. However, when they get through with the cost of finishing a steer, then they would have to sell it or dispose of it at a loss.

Mr. PASTORE. Does not the administration know that?

Mr. TOWER. Apparently Mr. Dunlap does not know it.

Mr. PASTORE. Then he ought to be relieved of his job. He ought to be fired if he does not know that.

Mr. TOWER. Mr. President, I cannot comment on that. I do not do the hiring or the firing.

Mr. PASTORE. Mr. President, the administration has chosen to handle this matter in the public interest and in the interest of the consumers. Yet, we are saying today that the people who have been delegated to do this work do not know their jobs.

Mr. TOWER. Mr. President, I say that they are making an error in judgment. They are well-motivated men. However, I do not think they fully understand the beef industry.

Mr. President, I ask unanimous consent that the names of the Senator from Georgia (Mr. NUNN) and the Senator from Wyoming (Mr. MCGEE) be added as cosponsors of my amendment.

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

Mr. President, I yield 3 minutes to the Senator from Kansas.

Mr. DOLE. Mr. President, I think that the Senator from Texas has outlined the problem very well. I point out that in an earlier amendment that was agreed to, cosponsored by the Senator from South Dakota (Mr. MCGOVERN) and me, and which is now part of the farm bill, there is this authority and direction to permit a passthrough. If that measure should become effective, then I would hope that the administration would act.

Mr. President, American consumers, along with the producers and processors

of one of the most important foods in this country, face a critical situation today.

Slaughterhouses, packing plants, butcher counters, and family dinner tables across the country are being stripped of beef under a stupid, erroneously unfair and damaging price control policy.

The announcement of the phase IV economic policy on July 19 revealed that after the end of the current general price freeze beef prices and beef prices only—out of all the millions of other food and nonfood items—would remain frozen until September 12.

This announcement was greeted with shock, dismay, and disbelief by those who had been aware of the pressures which the phase 3½ freeze had placed on beef supplies and production. It was almost impossible to believe that the cattle and beef industry was to be discriminated against in this way.

First, this policy is clearly unfair. Why should one product and one food industry be singled out over all the others for a freeze on prices—especially in light of the tremendous cost increases it has been forced to absorb in recent months?

Second, to put it bluntly, this policy is stupid. It just does not make sense on any grounds. Its primary effect is to disrupt, dry up, and bulge beef supplies as September 12 approaches. Thus, the policy does not help consumers, for they gain nothing by a price freeze on the round steak or hamburger that the butcher does not have in his cooler to sell them.

Third, the continued beef price freeze is damaging to the entire country. It has already forced many packinghouses to close, thus costing thousands of workers' jobs and raising serious questions about these plants being able to rehire skilled workers when they go back into operation.

I heard the Senator from Texas explain how many packing plants had closed, and I know there have been a number that have closed in my State of Kansas. Many beef wholesalers are also shutting down, at least on a partial basis, and their employees are feeling the impact as it affects their jobs. And at the retail level butchers are finding that the availability of their largest selling meat is quickly declining. So the consumer is being forced to turn to meat substitutes or to other meats—some more expensive than beef and none of them under any price controls. I doubt very seriously that the average housewife thinks she is being done any favors—especially since the freeze and scarcity of beef have driven poultry prices from 41 cents to 71 cents per pound and pork from 76 cents to $1.08 per pound in just 2 weeks.

I do not often quote the New York Times, which is certainly not any great champion of the farmer or cattleman in most debates on public issues. In fact it was not long ago that the Times was crying for a 90-day freeze on everything. But the Times put the matter very well in an August 1 editorial. It said:

> It makes little sense to keep the freeze on one food product and let the others go, especially when the result is a disruption in normal supply, job cutbacks . . . and considerable inconvenience to shoppers. It is not exactly a tragedy to be without beef for a while; but since there is not really any public benefit to be derived from the present situation . . . the government would be well advised to take beef prices out of the deep freeze.

"Not really any public benefit"—that phrase clearly sums up the phase IV freeze on beef prices. It is not a matter of one special interest being favored over another one or over the public interest. Rather, it is a case of a policy doing nothing constructive for anybody.

I certainly claim no credentials as an economist, but it only takes a nugget of commonsense to recognize the futility and nonsense of this policy. And I believe it clearly points up the risk involved whenever a know-it-all Government starts meddling with the basic supply-and-demand structure of our free market economy.

I have been highly concerned that the various phases of wage and price policy would be harmful to American agriculture. The farmer is tied to the free market system, and he depends on it to determine what he will produce and the prices he will receive. He is in a very true sense a captive of the market system.

Some weeks ago, I joined the Senator from South Dakota (Mr. McGOVERN) in offering an amendment requiring the Secretary of Agriculture to assure adequate, steady supplies of all agricultural products for consumers by allowing price adjustments for agricultural commodities under price controls whenever such supplies were being threatened. I am pleased that this amendment is part of the new farm bill.

This bill is expected to receive final congressional approval tomorrow and be cleared for the President's signature.

The amendment of the Senator from Texas (Mr. TOWER) deals specifically with the beef supply situation. It will put beef on the same basis as any other meat or food product by allowing a dollar-for-dollar passthrough of increased costs. It would end the freeze before this policy inflicts lasting damage on the entire country.

I believe it is unfortunate that we in Congress must take such action on a single aspect of national economic policy. It would be far better if those who formulate these policies would consult with and heed those—if not in Congress, then at least in the Department of Agriculture or the private sector—who do understand and who do realize how our food production system works. It is not a system which can be tinkered with like a model train or turned on and off like a fire hydrant. Farmers know this, beef processors know this, and millions of other Americans are learning this as hamburger becomes an endangered species in the supermarket.

I urge the adoption of this amendment. It will relieve the current price freeze stranglehold on beef supplies. And it might act as some notice to the Nation that Congress, at least, can recognize a worthless policy and act to end it.

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

MODIFICATION OF AMENDMENT 451

Mr. JACKSON. I yield myself such time as I may require.

Mr. President, I ask unanimous consent that section 102 of amendment No. 451, as adopted by the Senate yesterday, be further amended to correct a possible ambiguity in the definition of "independent marketer or distributor." I send my amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> Amendment to Amendment 451.
>
> On page 2, line 22, strike all of subsection 102(1) and insert in lieu thereof the following:
>
> "(1) The term "independent marketer or distributor" means a person who is engaged in the marketing or distributing of branded or unbranded refined petroleum products."

The PRESIDING OFFICER. Is there objection? Without objection, the Senate will proceed to its consideration.

Mr. JACKSON. It has been called to my attention that the definition as agreed to, when read in the context of section 103, is subject to a possible interpretation that conceivably might construe the provisions of section 103 as not being applicable to "branded" dealers.

The modification I propose would correct this matter and make such an interpretation impossible.

Subsequent to the Senate's adoption yesterday of my amendment No. 451, the Emergency Petroleum Allocation Act of 1973, a question of interpretation of sections 102 and 103 has been raised which merits clarification.

Section 102(1) of amendment No. 451 defines the term "independent marketer or distributor." In essence, the definition is narrow and does not include so-called branded-name marketers or distributors.

Section 103(a) of amendment No. 451 requires the establishment of a mandatory program for the "allocation of crude oil and refined petroleum products in amounts based upon historic supply relationships." While it is very clear from the plain meaning of the language and from legislative history that section 103 and the mandatory allocation program it requires applies to all refiners distributors, and marketers—whether branded or unbranded, independent or affiliated—as well as to all classes of consumers, a question has been raised as to whether the definition of section 102 could be construed to exclude branded distributors and marketers from the benefit and operation of the mandatory program required by section 103.

The clear answer is that it does not. It was not intended to operate as an exclusion of any sector of the marketing and distributing section of the industry, whether branded or unbranded.

Achieving the objectives set forth in section 103 requires that all distributors and marketers be given equitable allocations of available fuels so that all classes of customers in all regions of the country may receive the petroleum products they require.

Subsection 103(a)(5) provides as follows:

> (5) equitable distribution of crude oil and refined petroleum products at equitable prices among all regions and areas of the United States and sectors of the petroleum industry including the petrochemical

industry, independent marketers, refiners, and distributors and among all classes of consumers; . . .

The reference in this section to "and sectors of the petroleum industry" means all marketers and distributors and not just "unbranded" marketers and distributors. The last part of the paragraph—"including the petrochemical industry, independent marketers, refiners, and distributors and among all classes of consumers;"—was added simply to make clear that the petrochemical industry and the unbranded independents were specifically included within the meaning of "sectors of the petroleum industry."

Mr. President, it is my view that the concerns expressed on this matter are based upon a very tenuous and strained interpretation of the amendment. This discussion and the amendment just adopted will, however, stand to fully clarify the intent and purpose of the amendment and its meaning as understood by the author of the amendment.

Amendment No. 451, as I have stated previously, is designed to serve and achieve the same objectives as S. 1570 as adopted on June 5, 1973. The objective is to insure an equitable allocation of crude oil and refined petroleum products to all sectors—branded and unbranded, independent and affiliated—of the petroleum marketing and distributing industry.

The PRESIDING OFFICER. Without objection, the amendment to the amendment is agreed to.

The Senate will resume its consideration of the amendment of the Senator from Texas (Mr. TOWER).

Who yields time?

Mr. TOWER. Mr. President, I yield 2 minutes to the Senator from Tennessee.

Mr. BROCK. Mr. President, I am a cosponsor of the amendment of the Senator from Texas (Mr. TOWER) for one very simple reason: It is the very least we can do to alleviate the effects of a misbegotten policy that is going to wreak economic havoc if we do not do something to stop it.

I do not charge malfeasance on the part of those who are advising the President, but I certainly charge them with a lack of understanding of the way the marketplace operates in this country.

We have been through the phases for almost 2 years now, and we have found to our chagrin that Government is not competent to control the free market of this Nation, and it never will be. No control the Government can devise or administer is as effective as the control of the housewife as she determines her own shopping list.

If there is anything that must be done to get us back on the right track—and there is a lot more than this amendment that needs to be done—we have to start by relieving this particular situation and doing it immediately. If we do not, the American consumer is going to find, only too soon, that beef is not available at any price. We will find all too soon that small businesses cannot survive when the Government operates to take property without due process of law. That is the way I view the effect of the current policy.

It is incredible to me that we do not recognize the damage that this situation is wreaking upon the businesses, the workers, and the people of this country. Of course, we are going to have to pay a short-term increase in price. But the long-term price increase will be far greater, unless we take action now to alleviate the situation and to go back on the track toward what has to be our ultimate goal, and that is phase zero, for now and from now on, because that is the way this country works best.

I deeply urge my colleagues to support the amendment of the Senator from Texas. That is the minimum we can do for this country.

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

Mr. BROCK. I yield.

Mr. JACKSON. I have never been able to get a satisfactory answer as to why the Economic Stabilization Authority people take the position that as far as beef is concerned, the lid is on until September 12, but as to all other commodities——

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. JACKSON. I yield myself such time as the Senator from Tennessee and I may require.

As to all other items, the passthrough authority has been granted. I cannot for the life of me, first of all, understand why beef was fixed upon, or second, why the magic date of September 12, 1973, was chosen. I do not know if it has something to do with the period of gestation connected with beef cattle or not, that everything is going to happen on that date.

Mr. BROCK. Perhaps they were consulting the stars. I cannot imagine why they chose that date at all. I think the fact that they chose a date created more problems than if they had not.

Mr. JACKSON. I agree with the Senator, because in the meantime everything comes to a standstill.

Mr. BROCK. That is what is happening.

Mr. JACKSON. I just wonder if we can get an explanation before we vote on this amendment of the reasoning behind the September 12 date, and the reasoning of the Department as it relates to beef and not to other products.

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

Mr. JACKSON. I yield.

Mr. McCLURE. I am not sure that I can shed any light as to the date, and I am not even sure that I am correct as to why beef, and beef alone, remains frozen, but the Senator will recall that there was quite a lot of publicity about poultry raisers drowning baby chicks because they could not afford to raise them, and a lot of comment about piggy sows being sent to slaughter.

To my knowledge, there was not a beef raiser anywhere who drove his herd over the cliff and set fire to the carcasses. Perhaps it was that kind of publicity, or lack of it, as to the beef industry of this country that led to the conclusion that perhaps we could respond to the concern of the consumers by holding down on the product that did not have the dramatic impact that poultry and pork had supplied in the public consciousness.

I have no other explanation of the reason why beef would be singled out.

Mr. JACKSON. I yield to the Senator from Rhode Island.

Mr. PASTORE. Mr. President, I have no fault to find with the motivation of those who are sponsoring this amendment or those who have cosponsored it. But the thing that mystifies me, representing a consumer State, is the fact that, after all, this Council was set up for the protection of the consumer, and in the process of protecting the consumer, of course, they have to make sure that the supply is adequate, too. Without any explanation at all, here today, we are saying, "Let us do away with the edict and hold down prices until September 12 only because this situation has arisen in my State." There may be justification for this position from a parochial point of view but, on the other hand, this agency is set up by the President of the United States in order to protect the consumer and industry and to stabilize prices in the country. Here we are, all standing up and saying that everyone is using the wrong judgment. That is a serious criticism to make of an institution or an agency that is out there to protect the public. We should know the answers.

I find no fault in what the Senator is trying to do, but the question is one of timing, timing it in such a way that we are placed in a position where we have to take a vote on this matter without knowing the facts, just knowing that some packinghouses have closed down. For all we know, it may be a squeeze. It may be to knock this thing off before September 12. It may be deliberate on someone's part. I do not know. But what I do know is that this agency was set up to protect the consumer and now the Senator is saying, "Well, the housewives of America would rather pay a big price and have meat than have a lesser price and not have meat."

That is logical, but the question is: How do we know that they are going to be without meat? Why is this Government so impotent that it cannot help the market to flow freely? That is what puzzles me. This is the reason why I cannot accept in my heart and conscience why this should be done, when what we should be doing is to admonish the administration to move forward, if it has to do what it has to do, in order to serve industry and the consumers of this country. But we are doing it in a lopsided way. That is the reason why I resisted the last time.

Mr. TOWER. Mr. President, I ask unanimous consent that Senators MANSFIELD and McCLURE be added as cosponsors of this amendment.

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

Mr. TOWER. Mr. President, it has been suggested by my friend from Rhode Island that we do not know anything about this. Well, the newspapers are full, daily, with articles about packing-

houses closing down, about cattle runs being dramatically decreased, about shortages turning up in New York, Providence, and any other place, about the fact that American cattle are being sold now in Canada and are being processed there and then they come back here and the housewives have to pay a higher price than she would have to pay if we made the marketplace more available for beef already in the United States.

I would call the Senator's attention to the fact that here is a big headline from the Washington Star-News of two nights ago and I do not know how anyone could have missed reading it, the fact that, indeed, we do have a shortage.

I respect the motivation of the people on the Council. I do not think they are deliberately trying to hurt anyone. They think they are trying to help the consumers. But they did not reckon with the economics of the cattle business. Therefore, we have a bad problem. I think it will be a sufficient admonition to those downtown if we pass this amendment. They will understand what our position is.

Mr. PASTORE. If we have these headlines in the newspapers, my goodness gracious, cannot the President read the same headlines? What is he doing? I repeat, what is he doing? If we are cheating the housewife out of beef because someone is using the wrong judgment in his organization, why does he not do something about it?

I submit that the two gentlemen standing up now in this Chamber are very welcome to the Oval Room at the White House, much more so than the Senator from Rhode Island. I think they could go down there and have a nice heart-to-heart talk, an eyeball-to-eyeball discussion with the President, to see if we cannot rectify this.

Mr. TOWER. It is a question of judgment. I think their judgment is wrong. I think that probably the majority judgment in the Senate is correct. I think we should exert that judgment now. This is not a parochial issue. It is not a parochial issue at all, because consumers everywhere are being affected. It is not just a matter of a packing plant going out of business and people being unemployed in specific areas. Many of those plants will never open again. It is a national economic situation that affects consumers wherever they happen to be in this country.

Mr. BROCK. Mr. President, I want to ask the Senator from Texas how we help the consumers by keeping them from buying beef. I do not see what kind of service we are rendering if we cannot buy at any price. It is not a matter of the Senator from Texas and I having access to the Oval Room at the White House. If we disagree with the policy of the President's Cost-of-Living Council, it is our obligation and responsibility to say so in the clearest possible terms. That is what I intend to do today, because I thoroughly disagree with the policy.

Mr. CURTIS. Mr. President, will the Senator from Texas yield me 2 minutes?

Mr. TOWER. I yield 5 minutes to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 5 minutes.

Mr. CURTIS. Mr. President, there are ample facts to justify the passage of this amendment. As a matter of fact, the entire case for the consumer would call for the passage of this amendment.

On last Monday, I met with a representative group of packers who represent 65 percent of the beef industry. There I learned that there are 110 packing plants closed at the present time. The greatest meatpacking center in the world is in Omaha, Nebr. In the last week before phase IV went into effect, they slaughtered 203,000 head of cattle. Last week, it had dropped to 122,000.

It is estimated that this week, the kill will drop to between 70,000 and 80,000 in one city alone.

I also receive telephonic communications several times a day on the situation. Last Monday, Canadian buyers appeared in the livestock markets in Omaha and Sioux City and outbid everyone else. They take the cattle to Canada. They are slaughtered. They are sent back into the United States—it is already sold in New York City—at a much higher price because it is a foreign product and not subject to our price controls.

Now, we might say, "Why do they not plug that loophole in the act?" All that would do would be to send the meat to Japan because it is worth three, four, or five times as much in Japan.

Mr. President, what sort of tomfoolery are we engaged in here?

Mr. TOWER. It is $6 a pound in Japan and they are willing to pay for it.

Mr. CURTIS. It is so easy to get up and cry crocodile tears for the consumer. The way to help the consumer is to have a lot of merchandise available, a choice of all kinds of meat, and the consumer will bring down the price, because she will play the lower price of meat against the higher price of meat.

Mr. PASTORE. Mr. President, will the Senator from Nebraska yield at that point?

Mr. CURTIS. As soon as I finish my statement.

Mr. PASTORE. Right.

Mr. CURTIS. Mr. President, this week there also appeared in the cattle markets in my State—and this is just one incident—a man who, I understand was not in the meat business, but he bought 200 steers. Then he immediately went out hunting for a custom slaughterer to kill and dress the steers.

What will happen? That meat will go into the black market, that is what will happen. They are small packing plants. They are closed.

I live in a small town of 2,600 people. We have a packing plant there that employs about 50 or 60 people. They kill something over a hundred thousand cattle a year. That plant closed on July 27. It closed tight, because the price they had to pay for steers, and the ceiling they had to sell under, caused a loss of several dollars per head, and they could not take it.

That packing plant will survive, but there are other small packing plants which cannot maintain a cash flow and prevent a takeover by creditors if the packing plant operations stop. We are forcing those individuals into the black market.

Who ever heard of someone buying something in the black market cheaper than he can buy it through the ordinary channels of trade? The opposition to this amendment is a vote for the black market. It is a vote for sending our cattle to Canada and elsewhere. It is a vote for further export of our meat.

I am not unmindful of the struggle the people on low incomes have in order to get along. But we do not hear their impassioned speeches, nor do we read articles in the newspapers, when prices of all other articles are going up, up, and up. Whom are we trying to fool, when we say that the price of food should be held down, because the people who are producing food are faced with the same inflationary forces as the rest of the economy? Our problem is an across-the-board inflationary problem. We have waited too long to deal with the causes of inflation.

Mr. PASTORE. Mr. President, first of all, I want to make it abundantly clear that I am not shedding crocodile tears. I am not in the habit of weeping so easily. All I am saying is that it is quite ironic that the September 12 date was set—by whom? By the President of the United States. Is he a Democrat? No; he is a Republican. Who is rising here this afternoon to say that there is bad judgment on the part of the President? The Senator from Texas (Mr. TOWER), the Senator from Nebraska (Mr. CURTIS), and the Republican Senator from Tennessee (Mr. BROCK). I did not see any Democrats get up. But I see Republicans, who have a very intimate relationship with the President, who could have gone down to the Oval Room to discuss this matter with the President. Nobody has said that he is not aware of it. If there is a problem, why not go down and get it straightened out?

Senators have come to the floor to speak on this subject without any justification at all. We have heard that packing plants are closing down. That has happened before. That is the way pressure is used. But the people who are most pressured in this country are the consumers. We realize that the price of meat is up. There is nothing in the marketplace to tell us that the price of meat today is the same as it was yesterday.

Prices have gone up, up, and up. Yet this administration has done very little or nothing about it. We are wasting our time here, while the administration is going all over the world, trying to find out what the problems are in China or Russia. But nobody in this administration seems to bother about what is happening to the consumers in America. That is the question we raise here today.

I am not saying that the proponents of the amendment are wrong. But I am saying, Have you taken this question up with the President? Why did the President set September 12 as the date? Why should not the matter be settled today? Why do not the Senators go to his office? They come to the floor of the Senate and say, "This is all poppycock. This is cockeyed.

This is wrong." Well, why do they not straighten it out? They seek to put it in a bill that in all probability might be vetoed by the President. Why do they do it that way? They have contacts. They can go to the Oval Room. Why do they not go down and get the matter straightened out?

Yes, meat is being kept off the counter. For what reason? Why? Why is it necessary? These are the reasons.

I can imagine, come September 12, what will happen in the country. As a matter of fact, Senators say it is better to have high prices than not to have any meat at all. Are they trying to tell me that only rich people can eat beef, and that the rest have to eat dogfood? There has got to be a limit on what people can be charged.

Look at the people on social security. They get a measly little check every month. I really do not know how they can live. Nobody seems to be worrying about them. Senators are worried about packing houses; worried about the rich ranchers; worried about everybody else but the poor. That is the question here. They say, "Yes, meat at a high price is better than no meat at all." But what they are actually saying is, "Let us give the meat to the White House."

I understand that a man refused to sell beef to the White House. The White House had ordered 15 pounds of filet mignon, but the fellow said, "No; if the poor can't eat it, the President can't eat it." That is good business. But please do not let us end up by saying that we can only feed meat to the rich. That is the reason why I am going to vote against this amendment. The Senator has not done it in the right way.

Mr. TOWER. Mr. President, I yield myself 1 minute.

The fact of the matter is that the more meat products are available, the more likelihood there is there will be price stabilization, so that the poor can have a better choice of what to buy

The Senator from Rhode Island is a very astute man. No one is more adept at reading the political implications in a situation that occurs on the floor of the Senate than he is. He says it is the Republicans who do not accept the administration policies. I think it is characteristic of Republicans that they are not easily regimented. I think it is quite proper for Republicans to take issue with the administration from time to time.

However, I would say one thing: We are loyal to our President, and I do not think that any of us would have a part of any movement to hound our President out of public office, as was the case with the Democratic Party.

Mr. President, I yield to the distinguished Senator from Nebraska.

Mr. CURTIS. Mr. President, if anyone is interested in providing for the poor people, he should vote for the amendment. How on earth can poor people buy in the black market? This is a proposal to stop the black market. It is a proposal to bring transactions out into the open, where beef will have a chance to compete.

Beef producers are highly competitive with one another. Our consumers are the best price controllers there are. They can look at pork, beef, and chicken, and see the prices. Beef had better be reasonable, or else the poor will purchase the other things. But to drive something into the black market, means that only the rich, the hotels, and the restaurants are protected.

Again I repeat that a vote against this amendment is a vote against the poor. It is a vote for the black market. It is a vote to drive our cattle and meat supplies out of this country because world prices are much higher.

In the month of April I represented the Secretary of Agriculture on a trip to Australia. The cost of operation over there is much, much less. The price of lamb is about one-fifth what it is here. The labor costs are about 85 percent of ours. Yet I brought back prices from the supermarkets with respect to the principal cuts of beef, I compared them with the cost of beef in Washington, D.C., on the same day, and in every instance the Australian prices were much higher. That was before we had a black market. Let us vote today to end the black market and to make the price of beef competitive. Let us permit the poor people and the people of modest income to have a little chance to buy something. They cannot do so on the black market.

Mr. TOWER. Mr. President, I yield 2 minutes to the Senator from Illinois.

Mr. PERCY. Mr. President, I am happy to join with the Senator from Texas in supporting the amendment, even if it is opposed by the administration. I have opposed the administration policies in the past. I think in this case there must be differences of opinion inside the administration. I listened for 15 minutes to testimony by George Shultz to find out how he feels about beef prices today and what should be done. He took the position we should unfreeze, and we have a lesson in adult education for everyone in this country in that when you try to play with the economy and force a lid on things, people are forced not to send their products to market. What good does it do to have a freeze on products if they cannot be bought? That is a meaningless system and it will be a disincentive to take products to the market.

There is only one way to bring stability and that is to match prices with demand. The system we now have must be abolished and abandoned as absolutely futile as a means to bring prices down.

I was very much interested in the statement of George Meany yesterday. He urged President Nixon to get rid of his economic advisers except George Shultz, who, I believe, opposes controls.

A vote for the Tower amendment would simply indicate that we have tried this approach; it has not worked; it has been disastrous.

In my city of Chicago 75 inspectors went out yesterday to make spot inspections to prevent sales of ungraded, black-market meat, and they are urging an allocation program for meat in January. This is going on all over the country.

Mr. President, I feel very strongly that the ceiling on beef prices should be lifted immediately as it has been on all other food items. What has actually happened as a result of the administration's singling out beef as the exception to the ceiling lift could have been—and indeed was—predicted.

Farmers simply are not sending their beef cattle to market. They have chosen to hold their cattle until the promised lift of the freeze, which will occur on September 12. They know that in 6 weeks they will receive much higher prices for their product, and they are savvy enough to hold out until that time.

The result of the freeze policy and the farmers' actions is that beef is disappearing from grocery stores and from the wholesale markets. Hospitals, restaurants, and even the U.S. Army are unable to get the supplies of beef they need to feed their patients, customers, and troops.

The National Association of Retail Food Chains predicted this week that the situation is going to get much worse before it gets better. The president of that association estimated that the total beef supply in food stores around the country will be 20 percent below normal this week and 40 percent below normal next week.

In my own State of Illinois, so several representatives of the beef industry have told me, a black market in beef has developed in the past few weeks. Far more serious than that is the fact that beef processors are being forced to close down their operations and lay off employees. Just this Monday three Chicago beef processors closed their doors and 400 workers were laid off.

Mr. President, we should know by now that no economic edict coming from Washington is going to be effective if it defies the law of supply and demand. What good does a freeze do on the retail price of beef when it is at an historically high level and the freeze itself causes severe cutbacks in production. The only way to insure that beef prices will eventually come down is to adopt a policy that will encourage, not discourage, adequate supplies. Nothing has proved this more clearly than the ramifications of the continuance of the freeze on beef prices. We need to be realistic and practical and this decision has been neither of those things. If we do not remove the ceiling prices on beef, I am afraid the American consumer will suffer more in increased prices in the long run than he is now. In the meantime, we cannot permit workers to be unemployed and we cannot permit Americans to be denied so valuable a food staple as beef.

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

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

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

Mr. TOWER. I yield.

Mr. MANSFIELD. Mr. President, I shall be very brief. As far as the slaughterhouses in Montana are concerned, they are just about on the way out of business. Some can last a few days and maybe some can last as long as a week, but the writing is on the wall.

With respect to the stockyard, the number is gradually decreasing as far as cattle are concerned. What is happening in the State of Montana can be

multiplied many times over. Hence, the need for an amendment of this sort, which I am delighted to cosponsor. I am happy to support the amendment.

Mr. TOWER. I thank the Senator.

Mr. President, I am prepared to yield back my time.

Mr. McGOVERN. Mr. President, I commend the Senator from Texas for his amendment.

As he has explained it, this amendment would have the same effect on the administration's beef ceiling that my amendments which the Senate has already adopted by overwhelming margins on three occasions would have for food shortages in general.

I urge my colleagues to give this amendment the same overwhelming support given to my food shortage amendments in the past so that we can once again make our views known to the White House.

I for one fail to understand how the administration can sit idly by day after day when even the White House has trouble purchasing beef. Some have suggested that the present ceiling is a sop to consumers who are rightfully concerned with rising food prices.

But such a policy flies in the face of commonsense. Betty Furness, the New York City Commissioner of Consumer Affairs, has criticized the beef ceiling as being against the best interests of the consumer. And so have many other representatives of the consumer's interest.

The way to bring down food prices is to increase food supplies. And the surest road to higher prices is to restrict food production—and this is what the beef ceiling does.

I am hopeful that my food shortage amendment now contained in the farm bill will soon become law. The House is expected to act on the bill tomorrow. And Secretary Butz has indicated the President will sign it when he receives it.

But I think Senator TOWER's amendment gives the Senate the opportunity to again make our views on food shortage clear. And so, I urge my colleagues to support the Tower amendment.

WHO BENEFITS FROM THE CURRENT MEAT FREEZE?

Mr. CRANSTON. Mr. President, for many months the Nation has been paying a high price—literally—for the follies of the administration's economic and agricultural policies. Each fumbling step designed to improve the situation has led to higher and higher prices. When it has not led to immediately high prices, it has led to shortages, firms cutting back or closing and employees out of work. The latest example of this tragic cycle is the continued freeze on meat. September 12 was announced as the date when the meat freeze would be lifted. With this new knowledge, cattle ranchers began to withhold live cattle from the marketplace. They know if they hold back until September 12 there will be bonanzas—the shortages will be so acute that live animals will bring extremely high prices. The prices which the rancher can charge are totally unregulated under the phase IV rules. Unlike many raw agricultural products which must be brought to market as soon as they are ripe and ready, beef can be delayed. Ranchers can continue to feed the cattle and they will get fatter and bring higher prices based on their weight.

So the cattlemen can wait—and they are waiting. Yesterday's Los Angeles Times reports that slaughtering of beef throughout the United States is down 50 percent from this time last year. And it is down 30 percent from last week.

Shortages of beef began developing last spring when ceiling prices were imposed. They worsened somewhat during the June freeze. Costs of production and feed were high, purchases by slaughterers and packers declined since their prices were frozen, and less beef made its way through the pipeline to the consumer.

But since the July 18 announcement that beef would remain frozen until September, the situation has worsened dramatically. The shortages are threatening to eliminate beef from the diets of hospital patients, schoolchildren and staff, inmates of public prisons and other institutions. Purchasing agents for these institutions in California are finding bids for beef going unanswered by packers. The packers, unable to purchase sufficient quantities of raw beef to supply their customers and maintain their businesses, are laying off employees and beginning to shut down. In some cases the packing companies are major sources of employment in small cities. The Durham Meat Co. in San Jose has layed off 41 of its 126 employees so far. The Portion Meat Co. in Orange employed 50 people at the beginning of the administration's phase I; they are now down to 19 and planning to lay off 5 more. The Vienna Sausage Co., large suppliers of corned beef, expect to have to close down next week, putting 125 workers out of jobs in Vernon, Calif.

Restaurant operators are also feeling the pinch. A representative of the Southern California Restaurant Association has told me that steak and hamburger houses are in the worst shape, but that restaurants of all types are being forced to purchase beef on a growing and thriving black market if they want to stay in business. Several of the restaurant suppliers have warned their customers there may be no beef at all by August 6.

It is only a question of days or weeks before the shortages reach the supermarkets. There are already reports that certain cuts of beef are not available in the stores.

Yet the administration has announced it will hold firm in its intention to continue the meat freeze until September 12. They seem unmindful of the warnings that if the shortages continue and worsen between now and September, prices when the freeze is lifted will rise far more than they would if the freeze were lifted today. Slaughtering and packing firms with their inventories of beef partially or totally depleted will pay virtually any price to obtain new supplies and keep from going out of business. The high prices will be passed along the pipeline all the way to restaurant operators, hospital administrators, and housewives. Those who can afford to pay the high prices will likely do so gladly in order to get their favorite meat dishes back into their daily menus.

So who will benefit from prolonging the freeze? Certainly not the much abused consumer in whose name a series of fumbling steps have been taken to relieve the suffering American economy.

Mr. President, I ask unanimous consent to include at this point two recent articles from the Los Angeles Times which give us a clear view of the current state of affairs. I urge my colleagues to join me in calling the urgency of the situation to the immediate attention of the administration.

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

PUBLIC INSTITUTIONS' BIDS FOR BEEF SUPPLIES UNANSWERED

(By Dorothy Townsend)

While the meat industry and the government locked horns over the threat of a nationwide beef shortage Thursday, patients and inmates in many public institutions faced some unprescribed changes in diet.

Purchasing agents for hospitals, jails and other public facilities in some areas—including those operated by Los Angeles County—were finding bids for beef going unanswered by meat packers.

But despite predictions that meat production would be curtailed 25% to 40% nationwide next week, followed by a "drastic" beef shortage, the government refused Thursday to lift its price ceiling on beef before the Phase 4 specified date, Sept. 12.

John T. Dunlop, director of the Cost of Living Council, told a group of congressmen under pressure for relaxation of the beef price restrictions that "no change in policy is contemplated."

Treasury Secretary George P. Shultz also said Thursday the Administration has "no plans" to lift the ceilings before Sept. 12.

Announcing that next week would see packing houses shut down across the nation, the Western States Meat Packers prepared black-bordered notices to mail to President Nixon and the Cost of Living Council to mark each closing.

"We don't have a snowball's chance in hell of getting anywhere before Sept. 12," said Norm Maffit, association executive.

"People in our business are grinding slowly to a standstill," said Los Angeles packing executive Joseph J. Russo. "When you have complete unavailability of product, you close down."

Russo said cattle growers are holding back their livestock from market on the premise that "when the ceilings are lifted there will be a greater demand, with greater remuneration" for them.

"It's so lopsided it's pathetic," he said. "We're (the meat processors) still operating under the fixed-price formula."

In San Francisco, Maffit said, thousands of head of cattle are not going to market. "If I had cattle on feed today, I'd be stupid to sell," he said.

"The biggest mistake was announcing the date of Sept. 12. Look at what happened to hogs. They went to 55 cents a pound, live, from 43 cents in less than two weeks."

Maffit said the packing industry is "very competitive. If they would take off the Sept. 12 date, we would see a bulge at first but we would see a drop by Sept. 12."

Other packing industry officials are saying that when the lid does come off there will be a price explosion.

Although the Cost of Living Council insisted that slaughter figures do not bear out the packers' prediction of a looming beef shortage, some agencies were finding it hard to fill their orders for beef.

NO OFFERS REPORTED

Purchasing agents for 25 Los Angeles County hospitals, jails and other public facilities disclosed that when their beef bids closed Monday for August, no packer had made an offer.

Later in the week, one vendor volunteered to bid for one week and others insisted they could sell only on a day-to-day basis.

"As a result, we're instructing the nine county hospitals to order direct from vendors and to get beef at whatever price the vendors make it available," a Purchasing Department spokesman said.

"We're planning conferences with sheriff's and probation officers on what to do at other facilities."

One possible outgrowth of the situation is that the county may have to buy better quality cuts of beef than it usually seeks and pay higher prices.

A buyer for the Los Angeles city employes cafeteria said his order for next Monday's beef was turned down Thursday by the suppliers he usually deals with.

"My salesman claims they are holding back until after the freeze," said Ben Olguin, who normally plans on 100 pounds of beef a day for the cafeteria.

California prisons and hospitals are supplied under quarterly contracts and, so far, have had no problem getting their orders filled, a spokesman for the state Health and Welfare Department said.

Slaughter figures for the week through Thursday were down, nationally, from last week (413,000 from 450,000 at the same time the previous week). Meat industry officials predicted "a drastic drop" next week.

Ken Hummels, economic analyst for the California Cattle Feeders Assn., said cattlemen who breed livestock generally are "doing nicely these days, certainly in relation to decades gone by, and I guess you could say feeders are asking a profit, too."

He said he does not believe the cattlemen will hold beef back from the packers and that they will sell if packers will pay the going prices.

U.S. BEEF SLAUGHTER 50 PERCENT BELOW 1972 LEVEL

(By Harry Bernstein)

The nation's beef supplies began to dwindle rapidly Monday as the government reported that cattle slaughter plummeted 50% below this time last year and 30% below last week.

The drop was greater than the sharp reductions caused by the nationwide meat boycott last April.

Slaughter in this area was running about normal Monday, but that was not much consolation for consumers in California because usually about 35% of the beef consumed here is brought in from out of state, and officials say out-of-state supplies have already halted almost entirely.

"And by later this week or early next week, slaughter here will be down just as it is across the rest of the country," an industry official said.

The cut in slaughter came as meat packers reported they have already laid off 5,500 workers across the country.

Some industry officials also report a rapidly expanding black market in meat as the industry tries to get around the price ceiling imposed on meat by the Nixon Administration.

The ceiling is not scheduled to be lifted until Sept. 12, but industry leaders are bombarding the White House and Congress with pleas for relief, contending they are losing money and that some are being forced out of business because production costs are above ceiling prices.

GOVERNMENT HOLDS FIRM

So far, the Administration has firmly resisted the pressures and some government sources claim that the slaughter cutback and resulting shortages are being at least partially created artificially to intensify pressure for lifting the ceiling on meat prices.

The Federal Market News Service, an agency of the Department of Agriculture, reported an estimated kill on Monday of 79,000 cattle, which was 38,000 below a year ago and 24,000 below the previous Monday.

Norman H. Maffit, head of the Meat Packers Assn., said the black market in beef "could be up to around 5% of the total, and don't forget, there is also some of what you might call legal black market going on, too.

"Cattle are being sold in large quantities to Canadian slaughterhouses by U.S. cattlemen, and then the processed beef is sent back to this country for sale above the ceiling besause foreign meat is not covered," Maffit said.

ILLEGAL MARKETING

Emerson Morgan, operations manager of the Vienna Sausage Mfg. Corp. in Vernon, said "I would estimate the black market is already 15% to 20% of the total—meaning that much is selling above the ceiling prices set by law.

"Many people in the industry are doing it because they see no other way to save their business.

"But whatever the reason, it is being done and it means they have complete contempt for the law," he said.

Moran said that his own operations here will be closed down next week, and the firm's even larger Chicago operations will close down the end of this week.

"We could continue to operate if we were willing to buy black market meat, but we're just not going to do it," he maintained.

USE OF EVASIONS

Various schemes have been devised to get around the law, he said, such as the wholesaler invoicing a purchaser of 40,000 pounds of meat at ceiling prices, and selling the same invoice figure, "but in reality, he buys only 35,000 pounds and sells only 35,000 pounds."

Another system is "just to leave on half the flank on a beef loin, which means that they get, say $1.10 a pound for the whole piece which actually contains a large part of flank which is going for 60 cents a pound," Moran said.

Much of the black market, he contended, is done through wholesalers who sell to processors and restaurants, "but that drains off normal supplies from the retail market."

In Chicago, the National Assn. of Retail Food Chains said it expects total beef supplies in the nation's major supermarkets will be 20% below normal this week and 40% or more below normal next week.

An industry official explained that "there are cattle now in the pipeline so that while the kill on Monday was about 50% below this time last year, there is, of course, more meat than that still on the shelves of the supermarkets."

But Moran and others maintain that even these already processed meat supplies may not get to the consumers because, as Moran put it, "much of it will be going into company freezers in the expectation that they can hold it until the price ceiling is lifted, and some people think the ceiling will be gone lone before Sept. 12."

The National Assn. of Meat Purveyors in Tucson, Ariz., filed a suit Monday against the Cost of Living Council to force removal of the price ceilings on beef.

Maffit, speaking for the Western States Meat Packers Assn., charged that "the Administration is using the beef issue to prove they're being firm in controlling prices, even if it means that meat will disappear from the table in our homes."

He contended that "there is an argument inside the Administration. Some of them now favor lifting the ceiling before Sept. 12, but want to do it suddenly, without advance notice, because if they were to say it will be lifted in two weeks, then absolutely nobody would sell beef at present prices. They'd just wait two weeks and get more money."

Meat packers say their cost of production is about $6 a head more than the ceiling prices, and that they stay in even partial operation only because it would cost more than that if they quit without moving out the supplies they now have on hand.

The Department of Agriculture says it has no exact figures on profits of cattlemen—those who sell cows and calves to feed lots. But a department expert said: "Our figures do show the stockmen are selling cattle for prices substantially higher than last year, and doing well because their range costs have not gone up significantly."

Mr. JAVITS. Mr. President, I think the time has come to put beef, which is currently the only type of food still under control, in line with other meats. I say this because, first, we are talking about a month to 6 weeks and not a system of controls. Second, and in view of the first, beef shortages are beginning to appear in all parts of the country, and the American consumer should be given the choice as to whether he or she wants to pay higher prices for eating beef, rather than having this choice dictated by the fact that there is no beef for the coming weeks.

If I believed that the current holdout of beef from the slaughterhouse by the feeders was simply an attempt to exploit the consumer, and that by holding out and temporarily switching his protein preference to other meats, or fish or cheese, that the consumer would ultimately benefit by forcing demand down enough to lower prices, I would say, "Hold out, Mr. and Mrs. Consumer." However, this is not the case. The reason that cattle are being held off the market until pricing conditions are eased is that the continued high cost of feed forces the breeder to wait to sell his cattle until he can get a price that will recoup the cost of feeding them. While we may see a temporary lull in prices on September 12 as supply deluges the market, there is every indication that beef prices will soon go the way of the postfreeze bulge, like those of poultry and pork when recently released from controls. The truth is that until the cost of feeding animals is reduced, the cost of eating meat will remain high.

In the meantime, those dependent on the sale of beef—the butchers, drivers, the independent producers and wholesalers—are suffering greatly, and if businesses fold during the beef freeze, the result of the reduced competition in the production and sale of beef will ultimately translate into higher prices for the consumer when the freeze is over.

Right now people are irate and inconvenienced about beef shortages, and they are concerned about the possibility of a black market springing up. Therefore, the regulations should be altered and the dollar-for-dollar passthroughs now permitted on other foodstuffs applied to beef.

And I reiterate my views of the need for this administration to take a long, hard look at the agricultural policies which brought us into this grim situation so that the same mistakes are not repeated and we are not again faced with

a shortage in the food supply of this country. The farmers of this country have the capacity and the means to feed Americans at a reasonable cost, and to respond to the ever-growing demand from abroad. The Department of Agriculture should be implementing policies designed to foster both of these goals—and in the order in which I have stated them.

Mr. HANSEN. Mr. President, as a cosponsor of Senator TOWER'S amendment to alter the present ceiling on beef prices, I am pleased by the Senate's action today to approve this measure by a vote of 84 to 5.

The meatpackers and processors across the country are sitting idle and there are spot shortages in some supermarkets as a result of the present ceiling. Continuation of the ceiling until September 12 will only aggravate already serious problems and add to the probability that a black market for beef will flourish.

The Tower amendment is actually a compromise between a total freeze on beef prices and the lifting of all controls. It would permit a pass-through on a dollar-for-dollar basis of higher costs to producers since June 8 of this year. A similar action was taken by the administration as a part of the phase IV economic program with respect to all other agricultural products except beef.

Mr. President, Secretary of Agriculture Earl Butz made a comment recently with which I agree completely. He said:

You can't get more by paying less.

This is the crux of the matter with respect to beef. The demand for beef continues to rise, while Government manipulation of the industry has discouraged expansion of the supply. If there is not enough beef to meet the demand, even a Government-sponsored price of 5-cents per pound would not insure more meat on the tables of the American consumer.

It is a simple and very understandable fact of life that cattlemen—and all producers of consumer goods, for that matter—will not expand their herds unless they are reasonably certain they can sell their animals for more than it cost to raise them. The ceiling is having the effect of permitting production costs to exceed what the producer can expect to get for his animals at market. The processor cannot pay the producer more for the animals to be slaughtered because he knows he cannot recover these increased costs at the wholesale or retail levels. This chain reaction from the beef price ceiling means the supply will not be expanded, and in the long run, the consumers will be hurt by the absence of an adequate supply.

Mr. President, I am pleased the Tower amendment has been approved, and I hope its intent will be translated into policy at the earliest possible date.

I ask unanimous consent that two articles from the August 1 "Star News" be printed at this point in the RECORD.

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

WELCOME TO THE CLUB, WHITE HOUSE IS TOLD

(By Bruce Howard)

The meat shortage has been brought home to President Nixon—literally.

Bernard Goldstein, president of District Hotel Supply, Inc., the largest hotel and restaurant meat supplier in the city, yesterday turned down a White House order for 15 pounds of filet mignon and New York strip steak.

"We've been supplying the White House with meat for 16 years," Goldstein said, "and this is the first time we've ever refused them."

"But if Mrs. Housewife feels the meat crunch, so should the White House. They started the shortage, and they should know about it. They don't deserve any better treatment than anyone else."

Goldstein said he offered the White House a lower quality meat instead—"I had no trouble filling their ground beef order," he said, with a smile—but they said no thanks.

"We're talking principle here," Goldstein said. "I realize I'm sticking my neck out—I may even lose the account—but I feel I have a chance to do something to help the (meat) industry.

"I had an order from the number one household in the world, and I had to say no. I told them to take filet mignon off the menu until the freeze is over."

SLAUGHTERING OFF, PLANTS CLOSE: BEEF SHORTAGE WORSE

(By William Delaney)

The nation's cattle-slaughter total has plummeted to its lowest daily level since the consumer meat boycott last spring, while shortage-plagued beef packers report at least 25 plants closed and more than 10,000 workers idle.

Even as beef-country Republicans on Capitol Hill discussed alternatives today to the administration's Sept. 12 deadline for lifting retail beef ceiling prices, more layoffs were reported here—at Safeway's Washington division meat-distribution center in Landover, Md.

Officials of both Safeway and Murry's Steaks Inc. here confirmed that Washington suburbanites, like many consumers elsewhere in the country, have begun stockpiling beef for fear of impending shortages and of almost-certain higher prices after mid-September.

Such major beef buyers as the D.C. government and the University of Maryland, for example, have been unable to contract through normal channels for September supplies.

One D.C. wholesaler, stocked with only half his normal beef supplies this week, says he is having to prorate allocations to his prized local customers, which include the Rive Gauche restaurant and the Washington Hilton.

Agriculture Secretary Earl L. Butz told reporters yesterday morning he believes President Nixon "will not cave in" to pressures to lift the beef price freeze at least partially, thereby encouraging ranchers to bring cattle to market before Sept. 12.

But later yesterday, after an hour-long private session at the Capitol with six major middle western slaughterers and Nebraska's two Republican senators, he told The Star-News:

"They (beef processors) are obviously hurting."

Asked if the administration would reconsider its thus-far-adamant adherence to its Sept. 12 price-freeze cut-off, he replied:

"We're half way there. . . . Well, I just don't know. This is not my decision."

Though area supermarket chains have predicted an ample supply of beef this week, a spokesman for Safeway's 170-store Washington division said yesterday that an unspecified number of workers had been laid off Friday at the division's "pre-fab" beef plant at Landover.

Jack Luber, vice president of the 16-store Murry's Steaks frozen beef chain in the Washington area, said sales were 30 percent above normal last week and would have been higher, had Murry's had enough steaks.

Agriculture Department analysts yesterday estimated the day's total slaughter at federally inspected beef plants at 79,000—23.4 percent below last Monday's USDA estimate and the lowest daily slaughter total since April 9, the Monday after the week-long national consumer meat boycott.

"We think even that's a big figure," said executive vice president John Mohay of the National Independent Meat Packers Association. "We think it's more like 50,000."

"There's not a beef packer in the U.S. that's operating at anywhere near capacity," Mohay said.

By yesterday, he calculated, 25 plants run by 17 major beef packers had closed down mainly because cattle were being withheld from market pending the lifting of the retail beef price ceiling Sept. 12, or because processors could not afford the $53.42 per hundredweight market price for cattle when their break-even point is around $48.

Mr. MONTOYA. Mr. President, I would like to add my support to the amendment offered by my colleague from Texas, Senator JOHN TOWER. His proposal would immediately lift the ceiling on beef, which is the only part of the food supply still under this kind of control.

The time for action is now, not in September when the normal production chain will have been further disturbed. It is true that beef prices will undoubtedly rise if we lift the ceiling now, just as they will in September if we wait until then. Estimates of the price rise if the ceiling is lifted now are from 5 to 10 percent. If we wait until September the rise will undoubtedly be greater because of increased shortages, the necessity of reopening packing houses, and other inflationary pressures.

The choice has been correctly stated as being between "no meat at all" and "meat at a higher price." Since the beginning of phase IV prices on all foods have risen, and they were expected to. It is unreasonable to believe that beef producers alone should not share in the price rise resulting from passthrough production cost rises.

The reports which have come to my office from New Mexico are similar to those which have come to every Senator and Congressman in the last few weeks. The Glover Packing Co. of New Mexico is closing their Amarillo, Tex., packing plant and cutting down operations in their plants in Roswell, N. Mex., and Hernandez, Miss. Two hundred jobs have been lost. Beef shortages are showing up at Kirtland Air Force Base, just as they are in other military bases around the Nation. Hospitals cannot buy their normal beef supplies. Schools are unable to contract for school lunch supplies. Restaurants are unable to find supplies of meat in order to stay open. The pressure from the shortage of beef is resulting in shortages and higher prices for other kinds of meat and protein foods.

The supply of beef in American markets is simply drying up.

Quite simply this is a direct result of the administration's decision to leave the ceiling on beef while lifting the ceiling on other foods at the beginning of phase IV. In setting a time limit—September 12—the administration predictably invited the hoarding and the holding back of beef which has been the result.

Cattlemen were caught by rising feed grain prices. They are waiting to sell their beef at a more profitable—and they feel more equitable—price when ceilings are removed. In the meantime slaughterhouses report a 30-percent drop in the number of cattle slaughtered daily in comparison with this same period last year. Predictions are that the numbers will be even lower in the next few weeks.

Packinghouses, the next step in the food line, are closing all over the Nation and 37 have closed in the last 2 weeks. Those which stay open are cutting back their operations. It is estimated that 5,000 workers will be affected.

Not only is beef being held off the American market, but there are reports of a large increase in the export of cattle to Canadian markets, where the beef are slaughtered and reportedly being returned to the United States as "imported Canadian beef" at uncontrolled prices. This is the "Canadian connection" which journalists have mentioned: illegal, but difficult to trace. The cost to the American housewife for this grey-market beef is 25-percent higher than other beef.

To compound the problem for the consumer, beef shortages are causing pressures on other meats and protein foods. We are already hearing about shortages of pork and poultry and dairy foods. Anything which limits the price of one item of food while allowing rises in the prices of other items is bound to produce an explosive situation and to disrupt the normal production forces. In this case the explosion may be followed by many months of shortages while the normal supply chain is restructured.

Everyone has lost in this economic situation. The housewife, who is already caught in an inflationary food spiral, is now faced with shortages which make it impossible for her to feed her family. The farmer and beef producer is suspicious and wary of Government promises, and is holding back from the expanded production which must take place if we are going to supply both American food baskets and the growing foreign markets which compete for our agricultural products. The meat processing workers are out wages and the small packers and markets are forced to close.

It will not help to point the finger of blame at any one group. But it is essential that we move quickly to restore the normal food supply and demand balance before the beef crisis is compounded into a further food crisis affecting every American home.

It is time for commonsense. It is time for a clear statement of purpose from the administration, so that both producers and consumers understand the rules and feel that they are being fairly treated.

I urge my colleagues to support this amendment.

Mr. ROBERT C. BYRD. Mr. President, I support amendment 450, offered by the senior Senator from Texas (Mr. TOWER) which would, if enacted into law, with respect to the price levels of beef, allow the passthrough to the consumer, at the retail level, of increases in the 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.

Recent retail market conditions have proved the fallacy of the course of action pursued by administration economists in lifting phase II price controls prematurely last January. I believe it was, likewise, a mistake to go into phase IV, with a singling out of beef only for continued price control. As a result, beef is fast disappearing from the market; processing plants are closing down; and people are being thrown out of work. The shrinking beef supplies in the supermarkets illustrate that farmers and ranchers are following the course of action that any other prudent businessman would follow—that of waiting to market their cattle until after the price controls are lifted so as to avoid financial losses to themselves.

I am informed by the U.S. Department of Agriculture that during the period from July 1972 until August 1, 1973, feed prices have doubled and in many cases tripled. Hence, the upward pressures on the price of beef, and its fast disappearance from the meat counter. By adopting this amendment, I think that we will, in the long run, be making a good attempt to normalize the market conditions of supply and demand, and taking a first step toward restoring beef supplies in the supermarkets to normal levels.

Mr. President, I think the way to keep our beef prices as near normal as possible, under current conditions, is to restore an ample selection and supply of beef to the market shelves, so that the American housewife will at least have the opportunity and the option either to buy or not to buy beef to feed her family. If the prices are too high, many people will not buy it, and this in itself will have a dampening effect on beef consumption and thus tend to bring beef prices into line with other beef substitutes and alternatives to high-priced beef.

Threfore, Mr. President, I shall vote for the amendment by the Senator from Texas.

Mr. PASTORE. Mr. President, I am prepared to yield back my time. It is said that a vote against this amendment is a vote for the black market or skyrocketing prices, and that deprives the poor of meat. All I am saying is that a vote for this amendment is a discredit to this administration.

I yield back my time.

Mr. TOWER. Mr. President, I am ready to yield back but I do want to say that I think we have the votes on this side, so I am delighted for the Senator from Rhode Island to have the last word.

Mr. PASTORE. Oh, oh, even if I am alone, I will vote "nay" with a clear conscience and I can go home and face any housewife in my State.

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 assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. HARTKE), the Senator from Louisiana (Mr. JOHNSTON), and the Senator from Maine (Mr. MUSKIE) 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. HARTKE) would vote "yea."

Mr. COTTON. I announce that the Senator from Arizona (Mr. GOLDWATER) is absent because of illness in his family.

The Senator from Utah (Mr. BENNETT), the Senator from Oregon (Mr. PACKWOOD), and the Senator from Pennsylvania (Mr. SCOTT) are necessarily absent.

The Senator from Michigan (Mr. GRIFFIN) and the Senator from Alaska (Mr. STEVENS) are detained on official business.

If present and voting, the Senator from Alaska (Mr. STEVENS) would vote "yea."

The result was announced—yeas 84, nays 5, as follows:

[No. 365 Leg.]

YEAS—84

Aiken	Eastland	McGovern
Allen	Ervin	Metcalf
Baker	Fannin	Mondale
Bartlett	Fong	Montoya
Bayh	Fulbright	Moss
Beall	Gravel	Nelson
Bellmon	Gurney	Nunn
Bentsen	Hansen	Pearson
Bible	Hart	Percy
Brock	Haskell	Proxmire
Brooke	Hatfield	Randolph
Buckley	Hathaway	Roth
Burdick	Helms	Saxbe
Byrd, Harry F., Jr.	Hollings	Schweiker
	Hruska	Scott, Va.
Byrd, Robert C.	Huddleston	Sparkman
Cannon	Hughes	Stafford
Case	Humphrey	Stevenson
Chiles	Inouye	Symington
Church	Jackson	Taft
Clark	Javits	Talmadge
Cook	Kennedy	Thurmond
Cotton	Long	Tower
Cranston	Magnuson	Tunney
Curtis	Mansfield	Weicker
Dole	Mathias	Williams
Domenici	McClellan	Young
Dominick	McClure	
Eagleton	McGee	

NAYS—5

Biden	Pastore	Ribicoff
McIntyre	Pell	

NOT VOTING—11

Abourezk	Hartke	Scott, Pa.
Bennett	Johnston	Stennis
Goldwater	Muskie	Stevens
Griffin	Packwood	

So Mr. TOWER'S amendment (No. 450) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

ACUTE FUEL PROBLEMS

Mr. SYMINGTON. Mr. President, I take this opportunity to comment on my vote yesterday for the Jackson amend-

ment and with regard to fuel problems which are particularly acute in Missouri.

During the last several months most areas of Missouri have been adversely affected by gasoline, fuel oil, and propane shortages. These shortages have hit both major oil companies as well as independent fuel distributors, although the independents have borne the brunt of the short supply.

My office has worked with many Missourians in attempts to locate additional fuel supplies. We have also urged the administration to take action to provide more products and to distribute these products equitably among all segments of the petroleum industry.

In early January, those Senators representing nine Midwest States joined together to recommend and support a suspension of restrictions on all oil imports to help meet the critical need for fuel throughout the Midwest.

In April, once again I urged the President to encourage the importation of petroleum products. It was not until later that month, however, that the administration acted decisively to start building up fuel oil stocks for next winter and gasoline supplies for this summer. This action came some 5 months after Missouri had first experienced severe fuel shortages.

It was for this reason that I supported Senator EAGLETON'S amendment to the Economic Stabilization Act that asked for a voluntary fuel allocation program and authorized a mandatory allocation program.

In late May I met with Deputy Secretary of the Treasury William E. Simon, Chairman of the Administration's Oil Policy Board, and other administration representatives to discuss bringing additional fuel into Missouri. Secretary Simon assured Members of the Missouri Congressional delegation that the administration would make every effort to bring additional fuel into Missouri, give farmers, food producers, police, fire, health facilities, and other emergency services the highest priority to obtain fuel, and institute mandatory controls if necessary.

Because of the failure to bring additional fuel into Missouri, however, I urged the President in early July to implement the mandatory fuel allocation program.

Thus far the administration has not acted in this regard, and therefore, with a need to allocate equitably the continuing shortages, the Senate advocated once again a mandatory fuel allocation program when the Jackson amendment was adopted by a vote of 20 to 70.

In fact, the amendment goes even farther and would institute a mandatory allocation of gasoline, fuel oil, and other petroleum products within 15 days after enactment. The purpose is to provide a needed equitable program of distribution in order to protect the public health and safety and to maintain essential public services and agricultural operations. The amendment is needed also, if we are to seek to preserve an independent fuel distribution chain.

MANDATORY FUEL ALLOCATION PROGRAM

Mr. HUMPHREY. Mr. President, I have strongly supported the Jackson amendment to H.R. 5777. It requires the President to implement, within 25 days of date of enactment, an emergency mandatory allocation program for gasoline, heating oil, and other fuels which are in short supply. The Senate acted wisely in supporting this amendment yesterday by a vote of 80 to 9.

This amendment is patterned after S. 1570, the "Emergency Petroleum Allocation Act of 1973," which the Senate passed June 5 by a wide margin. Companion legislation to S. 1570 is pending before the House Interstate and Foreign Commerce Committee, but no action has been taken. The reason: On July 10 Deputy Treasury Secretary William Simon told the committee that a decision whether to go to mandatory controls would be made "within the week" by the administration. That "week" has now stretched into 23 days.

Mr. President, the only way I can interpret the administration's delay is either that it is suffering from paralysis of the decisionmaking process or it is indifferent to the seriousness of the fuel supply situation.

Distasteful as the thought of mandatory controls may seem to be, the risks of disaster to our Nation are too great not to move forward at this time with this most necessary step. Daily I receive phone calls, telegrams and letters from my constituents telling me that the voluntary allocation program is a failure. They say if action is not taken immediately they will go out of business, their crops will not be harvested this fall their schools and hospitals will be closed this winter for lack of adequate fuel.

Let me just quote from statements made recently by two officials in Minnesota in regard to the current fuel shortage. The State Director of Civil Defense, Mr. James Erchul:

Aside from listening to complaints there isn't much state government can do about the fuel shortage. Our hands are tied at the state level. We're taking complaints but there's no policy. We're waiting for the federal government.

Minnesota's Commissioner of Agriculture, Mr. Jon Wefald:

Last year's fuel allocations simply aren't enough, and the situation is becoming serious. The farmer isn't even sure he will get the amount allocated last year. Given the fantastic production that is out there in the fields, mandatory fuel allotments are necessary to assure harvesting.

Mr. President, officials in my State of Minnesota are not alone in their concern and complaints regarding the voluntary allocation program. Just 2 days ago, on July 31, The Oil Daily, the daily newspaper of the energy industries, headlined a story indicating that the outlook for heating oil this coming winter is "precarious." I ask unanimous consent that the article be printed at this point in the RECORD.

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

PRECARIOUS DISTILLATE SITUATION FORECAST

(By Jim Collins)

WASHINGTON.—A new analysis of the outlook for heating oil next winter by John Lichtblau, Petroleum Industry Research Foundation Inc., warns that the situation is "precarious." It notes that stocks (including secondary stocks on the East Coast) will be only slightly higher than last year as the heating season gets underway. Demand is expected to rise by more than 6% from last winter, it relates.

"Since last year's comparable stock level would have been clearly insufficient for a normal winter," Lichtblau reports, "the distillate heating oil supply outlook for next winter is quite precarious, notwithstanding the apparent high level of current primary stock accumulation."

Lichtblau sees that if (1) next winter is slightly colder than normal, (2) if the use of distillate oil for curtailed natural gas supplies is significantly larger than last year, (3) if refinery runs cannot be sustained at an average rate of 92% of capacity over the next nine months, or (4) if the level of imports falls ¾% below a projected average volume of 500,000 b/d during the heating season—"a shortage could be expected to develop."

Lichtblau feels that to prevent, or at least contain, the shortage "The government must take several steps in advance of the heating season."

These would include imposing mandatory allocations evenly distributed throughout markets, maximum imports by permitting pass-throughs of higher costs for this oil, and raising the permissible sulfur level of all distillate imports to 0.5% to 0.7% because foreign supplies with a lower sulfur content are simply not available to meet projected U.S. import needs.

These prime points in Lichtblau's analysis were unveiled by Senator Jackson, D-Wash., chairman of the Senate Interior Committee last week, at a hearing then.

Jackson, tipping the recommendations in Litchtblau's report before it was officially released, said he agreed with Litchtblau that the sulfur restrictions should be relaxed and he urged administration officials to consider such a move. Former Colorado Governor John Love, now President Nixon's top energy advisor, told Jackson that this was already under study at the White House.

Lichtblau in his analysis pointed out that in the past two years distillate demand has risen at an average annual rate of 7%—more than three times its average growth during the period 1964–69—reflecting the sharp rise in the requirements of peripheral distillate markets—power plants and gas customers with alternate fuel facilities.

He reported that utility distillate demand in 1972 was 144,000 b/d, compared with 66,000 b/d in 1970 and 92,000 b/d in 1971—for an average annual increase of 48%. Other distillate demand averaged 2,242,000 b/d in 1970, 2,305,000 b/d in 1971 and 2,497,000 b/d in 1972—for an average annual increase of 5.5%.

He estimated 1973 annual distillate demand at 2,730,000 b/d, with supply averaging 2,797,000 b/d, and stocks at the end of 1973 closing at 166.9 million barrels. He expects first quarter 1974 distillate demand to average 3,900,000 b/d, with supply in that quarter averaging 3,133,000, b/d, and closing stocks on March 31 at 97.8 million barrels.

Lichtblau projects an increase in distillate demand of 6.2% over the comparable period of the year before—with distillate demand over the entire heating season averaging 3,571,000 b/d. That would be about in line with the increase in the last heating season, after adjustment for degree day differential.

The 97.9 million barrels of stocks he estimated at the end of the heating season next spring would be equal to about 25 days of

first quarter demand—the lowest ratio in more than a decade.

Thus, the stock levels he estimates do not assure adequate supplies in the first quarter. But he pointed out these levels would probably be sufficient to "minimize" a shortage.

SUPPLY-DEMAND BALANCES

Lichtblau warned, however, that the supply-demanded balances he computed might now be attained and in the absense of specific government actions "may even be considered unlikely."

He pointed out refineries have been operating at 95% of capacity to meet gasoline demands. But it is not known how long they can maintain this rate. Several plants that should have come down for normal maintenance were not shut down this summer and last year the industry had several breakdowns.

He also pointed out that he assumes the 1973–74 winter will be normal. But if it turns out to be only 3% colder, demand would increase by more than 75,000 b/d and stocks at the end of the first quarter would be drawn down by an additional 14 million barrels. To make this up, refineries would have to operate at a sustained crude through-put rate of 95%. This would be unlikely, creating a shortage of heating oil.

Even if the weather is normal, however, Lichtblau warned that there is an uncertainty over the extent of the natural gas shortage next winter and the effect it will have on distillate demand.

He also pointed out that secondary stocks are currently very low—a situation not generally encountered in the past. They will likely remain so into the heating season, he added.

He said a survey of expected stock levels of most East Coast independent terminal operators indicates they expect to go into the heating season with inventories about 9 million barrels below what they consider normal—70% of physical storage capacity.

As of Sept. 30, 1972, the combined stock level of the independent terminal operators was 8 million barrels—compared with a capacity of 17.5 million barrels.

This short-fall, Lichtblau warned, "is serious since the independent terminal operators account for approximately 25% of distillate fuel oil sales (and 40% of distillate fuel oil sales (and 40% of New England's sales)."

As for air pollution controls, Lichtblau pointed out that in a growing number of markets in the Northeast controls require a maximum sulfur level of 0.3 or 0.2% for distillate heating oil and next October sulfur levels may be cut in Philadelphia and both counties of Long Island.

U.S. supplies can generally meet the lower sulfur levels without difficulty, he said, but foreign distillate—particularly from Europe—cannot.

He said a temporary relaxation of statutory sulfur levels for residual fuel oil would also release distillate imports.

Mr. HUMPHREY. Mr. President, the main point of the Petroleum Industry Research Foundation report is that demand for heating fuel will rise by six percent over last winter, while supply will be roughly equivalent to what was available last year. If ever a figure was calculated to scare us into action, this is it. Let me remind my colleagues that last winter was an unusually warm one. Even so, for the first time in memory, fuel-oil supplies ran ominously low in many parts of the Nation. From Denver to Des Moines schools were closed for lack of heat, and production in fuel-short factories came to a halt. Only the compassionate hand of the Lord saved us from full-scale disaster. Had the winter not been mild, we would not have pulled through. Now we are faced with an even worse possibility this winter; yet the administration has taken no constructive steps to avert real tragedy.

Mr. President, this is not a situation we can afford to ignore any longer. This is a situation that needs an answer now. The voluntary program for allocation of petroleum has not been successful. The problems accompanying the inability or unwillingness of oil companies to supply independent distributors are growing more critical each day. Even Mr. John Love, the new White House energy czar, admits to this. In testimony Monday before a House Banking Subcommittee, he stated that oil company compliance with the voluntary allocation program has deteriorated noticeably in the past 3 weeks. He even went as far as to say that some companies have given formal notice that they do not intend to comply further with the voluntary program.

Yet, at the same time he said this: he admitted that the administration has made no decision on whether the voluntary program will be replaced with a mandatory one. Now, I ask you, how much longer must we wait for this much heralded decision? What does it take to get the administration to move on this critical subject, a subject which is at the heart of our Nation's security and prosperity.

If the administration will not act, it is up to us in Congress to force it to do so. For this reason, I am heartened that the Senate yesterday, August 1, again passed, by a vote of 80 to 9, the Emergency Petroleum Act of 1973, as an amendment to H.R. 5777, the so-called hobbyist bill. I hope and pray the House will act on this measure prior to the August recess.

The PRESIDING OFFICER (Mr. SCOTT of Virginia). The bill having been read the third time, the question is, Shall it pass?

Mr. BROOKE. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Indiana (Mr. HARTKE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Washington (Mr. MAGNUSON), and the Senator from Maine (Mr. MUSKIE) 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 South Dakota (Mr. ABOUREZK), the Senator from Indiana (Mr. HARTKE), and the Senator from Washington (Mr. MAGNUSON) 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 Utah (Mr. BENNETT), the Senator from Oregon (Mr. PACKWOOD), and the Senator from Pennsylvania (Mr. SCOTT) are necessarily absent.

The Senator from Ohio (Mr. SAXBE) is detained on official business.

The result was announced—yeas 88, nays 0, as follows:

[No. 366 Leg.]

YEAS—88

Aiken	Ervin	Metcalf
Allen	Fannin	Mondale
Baker	Fong	Montoya
Bartlett	Fulbright	Moss
Bayh	Gravel	Nelson
Beall	Griffin	Nunn
Bellmon	Gurney	Pastore
Bentsen	Hansen	Pearson
Bible	Hart	Pell
Brock	Haskell	Percy
Brooke	Hatfield	Proxmire
Buckley	Hathaway	Randolph
Burdick	Helms	Ribicoff
Byrd, Harry F., Jr.	Hollings	Roth
Byrd, Robert C.	Hruska	Schweiker
Cannon	Huddleston	Scott, Va.
Case	Hughes	Sparkman
Chiles	Humphrey	Stafford
Church	Inouye	Stevens
Clark	Jackson	Stevenson
Cook	Javits	Symington
Cotton	Kennedy	Taft
Cranston	Long	Talmadge
Curtis	McClellan	Thurmond
Dole	McClure	Tower
Domenici	McGee	Tunney
Dominick	McGovern	Weicker
Eagleton	McIntyre	Williams
Eastland	Mansfield	Young
	Mathias	

NAYS—0

NOT VOTING—12

Abourezk	Hartke	Packwood
Bennett	Johnston	Saxbe
Biden	Magnuson	Scott, Pa.
Goldwater	Muskie	Stennis

So the bill (H.R. 5777) was passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical, clerical, and conforming corrections in the engrossment of the Senate amendment to H.R. 5777.

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

Mr. MANSFIELD. I also ask unanimous consent that the bill be printed as it passed the Senate.

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

Mr. MANSFIELD. I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that Calendar No. 328, S. 1880, be indefinitely postponed.

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

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, under the unanimous-consent agreement of yesterday, at 3 o'clock today we shall turn to the consideration of the veto message of the President of the United States; is that correct?

The PRESIDING OFFICER. The Senator is correct.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate pro-

ceed to the consideration of calendar Nos. 346, 350, 351, 352, and 353, in order.

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

ADDITIONAL EXPENDITURES BY THE COMMITTEE ON FINANCE

The resolution (S. Res. 148), authorizing additional expenditures by the Committee on Finance for routine purposes was considered and agreed to, as follows:

Resolved, That the Committee on Finance is authorized to expend from the contingent fund of the Senate, during the Ninety-third Congress, $20,000 in addition to the amount, and for the same purposes, specified in section 134(a) of the Legislative Reorganization Act of 1946.

REGULATION OF INSURANCE IN THE DISTRICT OF COLUMBIA

The bill (H.R. 4083) to improve the laws relating to the regulation of insurance in the District of Columbia, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

AMENDMENT OF THE DISTRICT OF COLUMBIA ELECTION ACT

The bill (H.R. 6713) 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, was considered, ordered to a third reading, read the third time, and passed.

AUTHORIZATION OF CERTAIN PROGRAMS IN THE DISTRICT OF COLUMBIA

The Senate proceeded to consider the bill (H.R. 8250) to authorize certain programs and activities of the Government of the District of Columbia and for other purposes, which had been reported from the Committee on the District of Columbia with amendments on page 12, line 8, after the word "ceremonial", to strike out "representational,"; in line 17, after the word "Council", to strike out the period and "Competitive proposals shall be invited by the Commissioner of the District of Columbia from the various daily newspapers published in the District for publishing such delinquent tax list."." and insert "in not less than two major daily newspapers published in the District."."; and, on page 14, line 9, after the word "for", to strike out "such purposes" and insert "appropriate purposed related to their official capacity".

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

INCREASE IN DISABILITY AND DEATH PENSIONS

The Senate proceeded to consider the bill (S. 275) 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, which had been reported from the Committee on Veterans' Affairs with an amendment to strike out all after the enacting clause and insert in lieu thereof the following:

That (a) subsection (b) of section 521 of title 38, United States Code, is amended to read as follows:

"(b) If the veteran is unmarried (or married but not living with and not reasonably contributing to the support of his spouse) and has no child, pension shall be paid according to the following formula: If annual income is $300 or less, the monthly rate of pension shall be $143. For each $1 of annual income in excess of $300 up to and including $800, the monthly rate shall be reduced 3 cents; for each $1 of annual income in excess of $800 up to and including $1,200, the monthly rate shall be reduced 4 cents; for each $1 of annual income in excess of $1,200 up to and including $1,600, the monthly rate shall be reduced 5 cents; for each $1 of annual income in excess of $1,600 up to and including $2,000, the monthly rate shall be reduced 6 cents; for each $1 of annual income in excess of $2,000 up to and including $2,400, the monthly rate shall be reduced 7 cents; and for each $1 of annual income in excess of $2,400 up to and including $2,800, the monthly rate shall be reduced 8 cents. For annual income of $2,800 through $3,000, the rate shall be $8. No pension shall be paid if annual income exceeds $3,000.".

(b) Subsection (c) of such section 521 is amended to read as follows:

"(c) If the veteran is married and living with or reasonably contributing to the support of his spouse, or has a child or children, pension shall be paid according to the following formula: If annual income is $500 or less, the monthly rate of pension shall be $154 for a veteran and one dependent, $159 for a veteran and two dependents, and $164 for three or more dependents. For each $1 of annual income in excess of $500 up to and including $800, the monthly rate shall be reduced 2 cents; for each $1 of annual income in excess of $800 up to and including $2,200, the monthly rate shall be reduced 3 cents; for each $1 of annual income in excess of $2,200 up to and including $3,200, the monthly rate shall be reduced 4 cents; for each $1 of annual income in excess of $3,200 up to and including $3,800, the monthly rate shall be reduced 5 cents; and for each $1 of annual income in excess of $3,800 up to and including $4,200, the monthly rate shall be reduced 6 cents. No pension shall be paid if annual income exceeds $4,200.".

(c) Subsection (b) of section 541 of title 38, United States Code, is amended to read as follows:

"(b) If there is no child, pension shall be paid according to the following formula: If annual income is $300 or less, the monthly rate of pension shall be $96. For each $1 of annual income in excess of $300 up to and including $500, the monthly rate shall be reduced 1 cent; for each $1 of annual income in excess of $500 up to and including $1,500, the monthly rate shall be reduced 3 cents; for each $1 of annual income in excess of $1,500 up to and including $2,500, the monthly rate shall be reduced 4 cents; and for each $1 of annual income in excess of $2,500 up and and including $2,900, the monthly rate shall be reduced 5 cents. For annual income of $2,900 through $3,000, the rate shall be $4. No pension shall be paid if annual income exceeds $3,000.".

(d) Subsection (c) of such section 541 is amended to read as follows:

"(c) If there is a widow and one child, pension shall be paid according to the following formula: If annual income is $700 or less, the monthly rate of pension shall be $114. For each $1 of annual income in excess of $700 up to and including $1,100, the monthly rates shall be reduced 1 cent; for each $1 of annual income in excess of $1,100 up to and including $2,500, the monthly rate shall be reduced 2 cents; for each $1 of annual income in excess of $2,500 up to and including $3,400, the monthly rate shall be reduced 3 cents; and for each $1 of annual income in excess of $3,400 up to and including $4,200, the monthly rate shall be reduced 4 cents. Whenever the monthly rate payable to the widow under the foregoing formula is less than the amount which would be payable to the child under section 542 of this title if the widow were not entitled, the widow will be paid at the child's rate. No pension shall be paid if the annual income exceeds $4,200.".

SEC. 2. Section 514(d) of title 38, United States Code, is amended by striking "17" and substituting in lieu thereof "18".

SEC. 3. (a) Section 542(a) of title 38, United States Code, is amended by striking the figures "42" and "17" respectively, and substituting in lieu thereof the figures "44" and "18", respectively.

(b) Section 542(c) of such title is amended by striking out "$2,000" and inserting in lieu thereof "$2,400".

SEC. 4. Section 4 of Public Law 90–275 (82 Stat. 68) is amended to read as follows:

"SEC. 4. The annual income limitations governing payment of pension under the first sentence of section 9(b) of the Veterans' Pension Act of 1959 hereafter shall be $2,600 and $3,900, instead of $2,200 and $3,500, respectively.".

SEC. 5. (a) Subsection (b) of section 415 of title 38, United States Code, is amended to read as follows:

"(b) (1) Except as provided in paragraph (2) of this subsection, if there is only one parent, dependency and indemnity compensation shall be paid to him according to the following formula: If annual income is $800 or less, the monthly rate of dependency and indemnity compensation shall be $110. For each $1 of annual income in excess of $800 up to and including $1,100, the monthly rate shall be reduced 3 cents; for each $1 of annual income in excess of $1,100 up to and including $1,500, the monthly rate shall be reduced 4 cents; for each $1 of annual income in excess of $1,500 up to and including $1,700, the monthly rate shall be reduced 5 cents; for each $1 of annual income in excess of $1,700 up to and including $2,000, the monthly rate shall be reduced 6 cents; for each $1 of annual income in excess of $2,000 up to and including $2,300, the monthly rate shall be reduced 7 cents; and for each $1 annual income in excess of $2,300 up to and including $2,700, the monthly rate shall be reduced 8 cents. For annual income of $2,700 through $3,000, the rate shall be $4. No dependency and indemnity compensation shall be paid if annual income exceeds $3,000.

"(2) If there is only one parent and he has remarried and is living with his spouse, dependency and indemnity compensation shall be paid to him under either the formula of paragraph (1) of this subsection or under the formula in subsection (d), whichever is the greater. In such a case of remarriage the total combined annual income of the parent and his spouse shall be counted in determining the monthly rate of dependency and indemnity compensation under the appropriate formula.".

(b) Subsection (c) of such section 115 is amended to read as follows:

"(c) Except as provided in subsection (d), if there are two parents, but they are not living together, dependency and indemnity compensation shall be paid to each according to the following formula: If the annual income of each parent is $800 or less, the monthly rate of dependency and indemnity payable to each shall be $77. For each $1 of annual income in excess of $800 up to and including $1,100, the monthly rate shall be reduced 2 cents; for each $1 of annual income in excess of $1,100 up to and including $1,400, the monthly rate shall be reduced 3 cents; for

each $1 of annual income in excess of $1,400 up to and including $2,300, the monthly rate shall be reduced 4 cents; and for each $1 of annual income in excess of $2,300 up to and including $2,700, the monthly rate shall be reduced 5 cents. For annual income of $2,700 through $3,000, the rate shall be $6. No dependency and indemnity compensation shall be paid to a parent whose annual income exceeds $3,000.".

(c) Subsection (d) of such section 415 is amended to read as follows:

"(d) If there are two parents who are living together, or if a parent has remarried and is living with his spouse, dependency and indemnity compensation shall be paid to each such parent according to the following formula: If the total combined annual income is $1,000 or less, the monthly rate of dependency and indemnity compensation payable to each parent shall be $74. For each $1 of annual income in excess of $1,000 up to and including $1,200, the monthly rate shall be reduced 1 cent; for each $1 of annual income in excess of $1,200 up to and including $2,000, the monthly rate shall be reduced 2 cents; and for each $1 of annual income in excess of $2,900 up to and including $4,000, the monthly rate shall be reduced 3 cents. For annual income of $4,000 through $4,200 the rate shall be $5. No dependency and indemnity compensation shall be paid to either parent if the total combined annual income exceeds $4,200.".

SEC. 6. Section 3203(a)(1) of title 38, United States Code, is amended by striking out "30" and inserting in lieu thereof "50".

SEC. 7. (a) Subsection (b) of section 3010 of title 38, United States Code, is amended by inserting "(1)" immediately after "(b)", and by adding at the end of said subsection the following new paragraph:

"(2) The effective date of an award of disability pension to a veteran shall be the date of application or the date on which the veteran became permanently and totally disabled, if an application therefor is received within one year from such date; whichever is to the advantage of the veteran.".

(b) Subsection (a) of this section shall apply to applications filed after its effective date, but in no event shall an award made thereunder be effective prior to such effective date.

SEC. 8. (a) Any veteran who was dishonorably discharged from the United States Army as the result of an incident that occurred in Brownsville, Texas, on August 13, 1906, and who was not subsequently ruled eligible for reenlistment in the Army by a special Army tribunal decision dated April 6, 1910, shall upon application made to the Administrator of Veterans' Affairs together with such evidence as the Administrator may require, be paid the sum of $25,000.

(b) Any unremarried widow of any veteran described in subsection (a) of this section shall, upon application made to the Administrator of Veterans' Affairs together with such evidence as the Administrator may require, be paid the sum of $10,000 if such veteran died prior to the date of enactment of this Act or if such veteran failed to make application for payment under subsection (a) after such date of enactment and prior to his death.

(c) Payment authorized to be made under this section in the case of any veteran or widow shall be made by the Secretary of the Army, out of funds available for the payment of retired pay to Army personnel, upon certification by the Administrator of Veterans' Affairs of the entitlement of such veteran or widow to receive such payment. In no case may any payment be made to any veteran or widow under this section unless application for such payment is made within five years after the date of enactment of this Act.

SEC. 9. This Act shall take effect on the first day of the second calendar month which begins after the date of enactment.

Mr. HARTKE. Mr. President, I rise in support of the passage of S. 275 as reported by the Committee on Veterans' Affairs which I am privileged to chair. As my colleagues will remember, last fall this body unanimously passed S. 4006 in the closing days of the session. That bill would have provided for an 8-percent program increase in the rates of pension together with an increase in the maximum annual income limitations of $400 to adjust for the effect of last year's social security increase on veterans pensions.

Unfortunately, the House was unable to act on S. 4006 and no final action was taken on the bill. Since the beginning of the 93d Congress, the committee has been involved in investigating overall reform of the VA pension system. On June 18 in testimony before the Subcommittee on Compensation and Pensions chaired by Senator TALMADGE, the Veterans' Administration proposed a revision of the system, but was unable to submit any draft at that time. Finally about 2 weeks ago a preliminary tentative draft was submitted. While the committee believes that the pension system is in need of review and that there is merit to some of the proposed revisions it is obvious that the Veterans' Administration is currently unable to supply the committee with all the necessary information required to evaluate any reform proposals.

Mr. President, we have thus reached the conclusion that all such proposals were in need of further study before we can present any recommendations to the Senate. Although we will continue to examine the pension system, the committee believes an interim measure which takes last year's social security increase and the continuing inflationary spiral into account is immediately necessary. The committee notes that since Congress last acted on veterans pensions the cost of living has increased 7.6 percent as of the end of June with the Consumer Price Index rising approximately 1 point a month.

This past Monday, July 30, the House passed a similar measure H.R. 9474. I am most hopeful that we will be able to come to an agreement on the differences that do exist during the August recess so that we may act immediately upon our return a month from now.

The committee substitute to S. 275 before you today would increase and protect pensions by providing for a 10-percent increase in rates and a $400 increase in the maximum annual income limitations. The committee substitute would:

First, increase the maximum annual income limitations for eligible veterans and their survivors receiving pensions by $400 and provide a 10-percent increase in the rates of pensions;

Second, increase the maximum annual income limitations of "old law" pensioners by $400;

Third, increase the maximum income limitations by $400 for parents receiving dependency and indemnity compensation—DIC—and provide an average 10-percent increase in the rates of DIC;

Fourth, increase the amount of pension paid to a veteran with neither wife nor child who is receiving hospital treatment from $30 to $50 a month;

Fifth, amend the law with respect to effective dates for pension awards to provide that the effective date shall be the date of application or the date on which the veteran became totally and permanently disabled, whichever is to the advantage of the veteran;

Sixth, provide for a compensatory payment of $25,000 to any veteran—or $10,000 to an unremarried widow—of the Brownsville incident of 1906; and

Seventh, the law would become effective on the first day of the second calendar month following enactment.

The bill would provide an increase in non-service-connected pension rates for approximately 2.3 million veterans and their survivors at a fiscal 1974 cost of $171.9 million increasing to $255.4 million at the end of 5 years.

Mr. President, I would like to take this opportunity to express my appreciation to my distinguished colleague Mr. TALMADGE, chairman of the Subcommittee on Compensation and Pensions, for the hearings he has conducted and for his well considered recommendations and invaluable support in the committee's deliberations concerning pension legislation. Similarly, I would like to express my gratitude to the distinguished ranking minority member of the subcommittee, Mr. THURMOND, and to the ranking minority member of the full committee, Mr. HANSEN, for the spirit of cooperation and agreement they have fostered in the committee's discussion and consideration of S. 275.

Mr. President, I believe the urgency to act on this matter is clearly apparent from a telegram I have received from Patrick Carr, national commander of the Veterans of Foreign Wars and also a communication from the American Legion which I received today urging passage of S. 275 as reported by the committee. I ask unanimous consent that they be inserted in the RECORD at this point.

There being no objection, the telegram and letter were ordered printed as follows:

WASHINGTON, D.C.,
July 31, 1973.

Hon. VANCE HARTKE,
Chairman, Veterans' Affairs Committee,
Capitol Hill, D.C.:

Imperative your committee and the Senate take up and pass meaningful remedial pension legislation prior to recess. House Bill, H.R. 9474, passed yesterday would grant overdue and needed relief to those presently in receipt of pension but does not restore the more than 20,000 dropped from the rolls last January. A $400 increase in income limitations would restore most of those terminated.

PATRICK E. CARR,
National Commander in Chief, Veterans of Foreign Wars of the United States.

THE AMERICAN LEGION,
Washington, D.C., August 2, 1973.

Hon. VANCE HARTKE,
Chairman, Senate Committee on Veterans' Affairs, Russell Senate Office Building, Washington, D.C.

DEAR CHAIRMAN HARTKE: The American Legion is grateful for the efforts of the Senate and House Committees on Veterans Af-

fairs to enact a pension bill prior to the forthcoming recess.

We find little that is objectionable and much to recommend in the approach taken by the House in H.R. 9474. However, the Senate version of this legislation, S. 275, as amended and favorably reported yesterday by your Committee, more nearly meets the objectives of The American Legion on this subject as adopted by our National Convention and National Executive Committee.

S. 275, as reported, provides a ten percent across the board increase in monthly benefits to all pensioners and recipients of DIC. The Legion believes this is the minimum amount of increase that should be approved. Our mandate calls for a fifteen percent increase. The Senate bill also provides a $400 increase in income limitations. The American Legion believes this amount is required to place these limitations on a level with the loss in purchasing power of the dollar and reinstate those pensioners to the position they occupied when the existing income limitations were established in January of 1972. In addition, the $400 increase in limitations would have the effect of restoring to the rolls some 20,000 pensioners who lost their benefits January 1 of this year because of previous increases in social security.

The proposed change in commencement dates for pension benefits, as contained in both the Senate and House bills, will also satisfy one of our resolutions.

The House bill provides that all earned income of a spouse above $3,600 shall be counted as income of the veteran. This could have a severely adverse affect on some pensioners, particularly those younger veterans who are totally disabled, with small children or other dependents, and the spouse is required to work to support the family. We hope that consideration of this proposal can be delayed until a study is made of the existing pension program with the view of improving its over-all structure. This would eliminate the need for the Congress having to take time frequently from its busy schedule to readjust the benefit rates because of continuing inflation.

The American Legion supports S. 275, as reported by your Committee, and urges its enactment as soon as possible.

Sincerely yours,

HERALD E. STRINGER,
Director, National Legislative Commission.

Mr. HARTKE. Mr. President, I would also like to briefly comment about the 5.9-percent increase in social security benefits enacted by Congress in Public Law 93–66 earlier this summer. As you know, the veterans' pension system is so constituted that veterans will be entitled to the greatest portion of any social security increase with only minor reductions in their veterans pensions. Nevertheless, Congress has long been concerned about any reduction in pensions which are occasioned by social security increases. No man has been more concerned that veterans receive equitable pension benefits than my distinguished colleague from Connecticut (Mr. RIBICOFF). Senator RIBICOFF has most recently exhibited his continuing concern for veterans and their survivors through his sponsorship and strong support of a "passthrough" of social security benefits to veterans and their survivors at the time the Senate considered and passed the recent increase. This passthrough provision was dropped at the insistence of the House of Representatives, because of jurisdictional questions, administrative problems, and concern over the exact operation of such a provision. Since that time both the Senate and the House Veterans' Affairs Committees have been directing themselves to any prospective problems that may be faced by veterans because of the 5.9-percent increase. The senior Senator from Connecticut has continued to express his concern to me personally that we act expeditiously in this matter. In this connection, I want to inform my colleagues that under existing provisions of title 38, United States Code, regarding the reporting of annual income, the major impact of the social security increases which are scheduled to go into effect July 1, 1974, will not be experienced by pensioners prior to January 1975, some 15 months from now. I want to assure my good friend from Connecticut as well as all Members of the Senate that we fully anticipate taking such corrective action as is equitable and necessary long before that date.

Mr. President, I would also ask unanimous consent that appropriate excerpts of the committee's report to S. 275 be inserted in the RECORD at this point.

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

BACKGROUND AND DISCUSSION

DEVELOPMENT OF THE NON-SERVICE-CONNECTED PENSION SYSTEM PRIOR TO THE 92D CONGRESS

Pensions based on non-service-connected disability for death of a veteran date back to the Revolutionary War era. Prior to 1960, pensions were provided on the basis of a flat award if the veteran's income did not exceed a specified figure. Public Law 86–211 established a three-level system of pension payments based on need as principally determined by the veteran's income. The largest pensions are paid to those with the least income from other sources and as outside income increases the amount of pension is reduced. Under Public Law 86–211, most veterans then receiving pensions were entitled to higher benefits. Those who had been receiving pensions prior to the change were allowed to continue receiving benefits under the "old law" if they so desired. Presently, some 273,949 or about 14.8 percent of all pensioners continue to receive pension under the "old law".

In 1964, faced with a prospective increase in Social Security benefits, Congress amended the revised pension law by excluding 10 percent of all payments to an individual under public or private retirement, annuity, endowment, or similar plans or programs in determining the "annual income" of the veteran. Thus, in addition to a general rate increase, the 10 percent exclusion provided for in Public Law 88–664 assured that no individual pensioner would be adversely affected because of the contemplated Social Security increase. At that time Congress also created another exclusion, and provided that a wife's earned income would not be counted for determining a veteran's outside income and a wife's unearned income would only be counted in excess of $1,200. This was done in order to provide that funds which went for the maintenance of the spouse were not counted as available to the veteran as annual income.

In 1967, Congress provided an average overall-cost-of-living increase of 5.4 percent in Public Law 90–77. The following year in 1968, Congress in Public Law 90–275 again increased pension rates and also provided for a $200 increase in the income limitations which assured that there would be no pension loss because of the 13 percent increase in Social Security benefits that year. The same act also replaced the three-level system of pension rates with a multi-level increment system. Under the previous three-level system, a slight increase in outside income could result in a disproportionate decrease in a veteran's pension. The enactment of a twenty-plus increment system of $100 graduations permitted a more orderly and gradual reduction in monthly benefits because of a slight increase in outside income.

In 1970, in enacting Public Law 91–588, Congress provided that there would be no loss of reduction of pension because of a 15 percent increase in Social Security benefits. It raised the current maximum annual income limitations $300 and increased virtually all current law pension through a raise in the rates payable.

DEVELOPMENTS IN THE NON-SERVICE-CONNECTED PENSION PROGRAM IN THE 92D CONGRESS

Under earlier pension laws, despite increasing refinements, the structure of the pension system was such that small increases in outside annual income could result in a sharp drop in pension or being dropped from the rolls completely. The problem became particularly acute whenever there were increases in Social Security or other retirement benefits. Whatever Social Security increases Congress enacted on the one hand, resulted in the taking away of veterans pension benefits on the other. More importantly, the reduction in a veteran's pension was often greater than the increase in Social Security benefits which resulted in a loss of aggregate income for the veteran or his survivor. Congressional response to these problems over the years has generally been to adjust pensions, and increase the maximum annual income limitations to accomplish a "pass along" of Social Security increases.

In 1971, in response to Social Security increases that year Congress enacted Public Law 92–198 which not only increased the pension rates and the maximum annual income limitations but also adopted a new formula approach to the payment of pensions. Designed to prevent the net loss of *aggregate* income for any pensioner who remains on the rolls who received an increase in outside income, the formula specified a maximum monthly rate for each group within designated income categories. Under the formula, each individual's monthly benefit is computed by reducing the maximum rate by a specified number of cents for each dollar by which the maximum income level for that group is exceeded.

For example, currently for a single veteran receiving a pension under section 521 of title 38, United States Code, the maximum monthly pension is $130 based on an annual income of $300 or less. This monthly amount is reduced by 3 cents for each dollar of annual income which exceeds $300 up to and including $1,000; by 4 cents for each dollar of income in excess of $1,000 up to and including $1,500; by 5 cents for each dollar of income exceeding $1,500 up to and including $1,800; by 6 cents for each dollar of income exceeding $1,800 up to and including $2,200; and by 7 cents for each dollar of income exceeding $2,200 up to and including $2,600. The minimum monthly rate is $22. No pension for a single veteran is paid if annual income exceeds $2,600.

In July 1972, Congress enacted Public Law 92–336 providing for a 20-percent increase in Social Security benefits. Approximately 830,000 veterans or 77 percent of all veterans receiving pensions also receive Old Age or Survivors benefits (OASI). The average benefits prior to the Social Security increase were approximately $1,625. In addition, approximately 960,000 or 75.7 percent of survivors received Social Security benefits averaging $1,263 prior to the Social Security increase. Non-service-connected pensioners receiving OASI broken down by age and average benefits is shown in the following table:

TABLE 1.—NON-SERVICE-CONNECTED PENSIONS WITH OLD AGE SURVIVORS INSURANCE

Veterans	Number with OASI[1]	Total caseload[2]	Percent with OASI	Average OASI
Less than 65	256,687	390,309	65.8	$1,588
65 to 69	67,666	74,602	90.7	1,474
70 to 74	135,934	151,318	89.8	1,603
75 to 79	278,505	346,573	80.4	1,763
80 and over	93,806	118,742	79.0	1,453
Total veterans	832,598	1,081,533	77.0	1,625
Survivors	958,386	1,266,800	75.7	1,263

[1] Source: 1 percent sample of the 1972 AIQ's.
[2] Source: May 1972 caseload.

Note: No age breakout is available for survivors.

Under the new pension formula devised earlier in the 92d Congress, no pensioner who remained on the pension rolls who received a Social Security increase suffered an aggregate loss in income. Pension reductions were less than the Social Security increase so that veterans and their survivors had a net increase in total income approximating two-thirds of the Social Security increase. However, approximately 20,000 pensioners consisting of 14,200 veterans and 5,800 survivors were scheduled to be dropped from the pension rolls on January 1, 1973, the effective date of annual revision of entitlement to pension income. Concerned about the effect of Social Security amendments on pensioners, the Committee held hearings on September 12, 1972 to consider legislation which would ameliorate the adverse impact of Social Security increases on pensioners and to adjust for continuing inflation. Subsequently, the Committee unanimously ordered reported S. 4006 which would have increased maximum annual income limitations by $400 (the approximate amount of the average Social Security increase) and would have increased the base pension rates by about 8 percent.

The measure unanimously passed the Senate in the closing days of the session on October 11, 1972 but the House was unable to consider pension legislation prior to adjournment sine die.

CURRENT PENSION BENEFITS AND CHARACTERISTICS OF PENSIONERS

Under current law, a veteran may be eligible for pension benefits if:

(*a*) He served in the Armed Forces at least 90 days, including at least 1 day of service during wartime;

(*b*) His income does not exceed the limits specified in the law (currently, $2,600 if the veteran is single and $3,800 if he has a dependent);

(*c*) He is permanently and totally disabled (for the purposes of the pension law, veterans age 65 or older are defined as totally disabled); and

(*d*) His net worth is not excessive as determined by the Veterans' Administration.

Widows and children of deceased wartime veterans are also eligible for pension benefits if they are needed.

Currently, for a veteran without dependents the monthly pension rates range from $22 to $130 with a maximum limitation of $2,600 respecting countable annual income. Rates of $33 to $150 are provided for veterans with dependents where annual income does not exceed $3,800. Widows with children are subject to the same income limitations as veterans alone but the pension rates vary from $17 to $87. The $3,800 annual income limitation for veterans with dependents also applies to widows with children. The rates for widows with one child range from $42 to $104. The applicable rate is increased by $17 per month for each child in excess of one.

Currently, there are 2.2 million pensions of whom 1.1 million are veterans and the remainder are their survivors. The present cost of the non-service-connected pension program is approximately $2.7 billion a year. A significant number of pensioners have little or no other source of income other than their pension. The annual income of pensioners (other than their pensions and excludable income) is shown in the following table:

TABLE 2.—PENSIONERS UNDER CURRENT LAW BY INCOME OTHER THAN PENSIONS

Income range	Veteran alone		Veteran with dependents		Widow alone		Widow with children	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Less than $100	76,187	24.1	59,465	10.2	98,661	15.1	9,223	6.0
$100 to $500	13,092	4.1	12,914	2.2	31,649	4.9	10,791	7.1
$500 to $1,000	64,928	20.5	57,179	9.8	153,901	23.6	28,128	18.4
$1,000 to $1,500	76,685	24.3	109,027	18.7	195,585	30.0	40,630	26.6
$1,500 to $2,000	60,575	19.2	150,194	25.7	140,276	21.5	28,392	18.6
$2,000 to $2,500	22,784	7.2	92,714	15.9	30,096	5.4	13,497	8.9
$2,500 to $3,000	1,948	.6	54,525	9.3	2,265	.4	10,446	6.8
$3,000 to $3,500			39,138	6.7			8,390	5.5
$3,500 to $3,800			8,999	1.5			3,234	2.1
Total	316,199	110.0	584,045	100.0	652,388	100.0	152,731	100.0

The following table shows the distribution of all active compensation, dependency and indemnity compensation, pension and retirement cases for all wars and regular establishments as of June 1973.

TABLE 3.—ACTIVE COMPENSATION, DEPENDENCY AND INDEMNITY COMPENSATION, PENSION AND RETIREMENT CASES, ALL WARS AND REGULAR ESTABLISHMENT, MONTH OF JUNE 1973

Entitlement	Disability total cases	Death total cases	Death beneficiaries			
			Total	Widows	Children	Parents
Total	3,256,746	1,654,287	2,367,713	1,162,103	1,008,580	197,030
Service-connected	2,203,041	373,643	516,088	197,739	121,319	197,030
Compensation	2,203,041	107,379	123,061	1,454	246	121,361
Dependency and indemnity compensation		260,516	380,671	191,103	120,543	69,025
Dependency and indemnity compensation and compensation		5,748	12,356	5,182	530	6,644
Nonservice-connected	1,053,179	1,280,605	1,851,585	964,343	887,242	
Public Law 86-211	906,375	1,164,070	1,733,055	849,243	883,812	
Prior law	146,804	116,535	118,530	115,100	3,430	
Special acts	63	39	40	21	19	
Retired emergency officers	460					
Retired reserve officers	3					
World War II	1,860,092	735,654	1,168,152	386,193	650,074	131,885
Service-connected	1,351,425	200,639	241,144	88,335	20,924	131,885
Compensation	1,351,425	85,937	97,267	782	57	96,428
Dependency and indemnity compensation		110,431	134,893	83,566	20,714	30,613
Dependency and indemnity compensation and compensation		4,271	8,984	3,987	153	4,844
Nonservice-connected	508,664	535,014	927,008	297,858	629,150	
Public Law 86-211	497,016	531,203	922,533	294,108	628,425	
Prior law	11,648	3,812	4,475	3,750	725	
Retired reserve officers	3					
World War I	[1] 561,980	653,307	673,288	640,499	32,141	648
Service-connected	65,163	36,553	37,280	35,446	1,186	648
Compensation	65,163	854	873	347	12	514
Dependency and indemnity compensation		35,688	36,385	35,088	1,174	123
Dependency and indemnity compensation and compensation		11	22	11		11
Nonservice-connected	496,356	616,754	636,008	605,053	30,955	
Public Law 86-211	363,697	529,158	547,417	517,531	29,886	
Prior law	132,659	87,596	88,591	87,522	1,069	
Retired emergency officers	460					

Footnotes at end of table.

Entitlement	Disability total cases	Death total cases	Death beneficiaries			
			Total	Widows	Children	Parents
Korean conflict	281,867	125,487	286,544	43,123	216,580	26,841
Service-connected	240,756	39,401	54,342	16,794	10,707	26,841
Compensation	240,756	16,486	20,024	181	29	19,814
Dependency and indemnity compensation		21,880	32,054	15,723	10,577	5,754
Dependency and indemnity compensation and compensation		1,035	2,264	890	101	1,273
Nonservice-connected	41,111	86,086	232,202	26,329	205,873	
Public Law 86-211	39,901	85,986	232,040	26,234	205,806	
Prior law	1,210	100	162	95	67	
Vietnam era	358,822	58,626	129,740	31,142	77,286	21,312
Service-connected	354,062	47,528	105,439	26,393	57,734	21,312
Compensation	354,062	33	74	17	40	17
Dependency and indemnity compensation		47,466	105,265	26,361	57,639	21,265
Dependency and indemnity compensation and compensation		29	100	15	55	30
Nonservice-connected	4,760	11,098	24,301	4,749	19,552	
Public Law 86-211	4,760	11,098	24,301	4,749	19,552	
Regular establishment	191,671	49,216	77,572	30,490	30,738	16,344
Service-connected	191,609	49,201	77,557	30,475	30,738	16,344
Compensation	191,609	4,066	4,820	124	108	4,588
Dependency and indemnity conpensation		44,733	71,751	30,072	30,409	11,270
Dependency and indemnity compensation and compensation		402	986	279	221	486
Special acts	62	15	15	15		
Spanish-American War	1,850	30,854	31,247	29,783	1,464	
Service-connected	13	305	310	288	22	
Compensation	13	3	3	3		
Dependency and indemnity compensation		302	307	285	22	
Nonservice-connected	1,837	30,538	30,926	29,490	1,436	
Public Law 86-211	551	6,141	6,266	6,141	125	
Prior law	1,286	24,397	24,660	23,349	1,311	
Special acts		11	11	5	6	
Mexican Border Service	463	486	500	482	18	
Service-connected	13	2	2	2		
Compensation	13					
Dependency and indemnity compensation		2	2	2		
Dependency and indemnity compensation and compensation						
Nonservice-connected	450	484	498	480	18	
Public Law 86-211	450	484	498	480	18	
Indian Wars	1	120	122	102	20	
Service-connected		1	1		1	
Dependency and indemnity compensation		1	1		1	
Non-service-connected	1	118	120	101	19	
Prior law	1	118	120	101	19	
Special acts		1	1	1		
Civil War		537	548	289	259	
Service-connected		13	13	6	7	
Dependency and indeminity compensation		13	13	6	7	
Non-service-connected		512	522	283	239	
Prior law		512	522	283	239	
Special acts		12	13		13	

[1] Includes one special act veteran.

ACTION IN THE 93D CONGRESS, 1ST SESSION

To date, during the 93d Congress, 1st session, the Committee has examined a number of approaches for adjusting the pension system. The Administration has formally asked Congress to delay any action on pensions pending a thorough examination or revision of the system which they argued contained a number of "inconsistencies, inequities, and anomalies in the present pension system." In testimony before the Subcommittee on Compensation and Pensions on June 18, 1973, representative of the Administration testified that:

"S. 275 represents an understandable effort to increase financial assistance to pensioners at a time when the cost-of-living is increasing. We share your concern as to the needs of the Nation's war veterans and dependents who now are subsisting on pension benefits and must live on fixed incomes. We too feel that something must be done in the very near future. At the same time, however, we believe that this is an appropriate time for an examination of the entire pension program with a view toward a basic reform such as was last achieved in 1960. Developments since that time, both in the pension program and in other Government programs available to needy veterans, indicate some glaring inequities which should be corrected."

Without submitting an actual draft, the Administration advanced a general proposal as follows:

"We think a program can be developed quickly which would (1) fill the gap between the resources available to a veteran and his dependents and a national minimum standard of need; (2) treat veterans and widows equally with regard to income and benefit amount; (3) eliminate the inequities arising from exclusions of unearned income and unequal treatment of earned income—consideration of family income as a whole; (4) contain an automatic cost-of-living adjustment working simultaneously with that applicable to social security and eliminate the lag in adjusting pension for increases in income; (5) provide benefits which guarantee a minimum income of $150 per month for a single person and $225 per month for a person with one dependent; (6) provide a hold harmless provision to permit present recipients of pension to continue receiving benefits under the present provisions of law with automatic cost-of-living increases."

Subsequent to the hearings on June 18th, Senate and House Committee staff members met with representatives of the Administration in an attempt to reduce the general principles mentioned in that hearing to a more concrete form. At the meeting, it was obvious that there was a lack of pertinent data which was required by Congress before it could make any rational determination of the proposal. As a consequence, written requests for necessary information to be supplied to both Committees were made of the Veterans' Administration. These initial requests for information and data have, for the most part, not been furnished to the Committee. Although the Committee has no reason to doubt the earnest attempt by the Veterans' Administration to gather and transmit the requested information, the fact remains that the major portion of that material is still forthcoming and there are no firm assurances as to what date it will be supplied. It must also be acknowledged that once the information is finally in the hands of the Committee, a reasonable period of time will be required for Congress to evaluate this important and far reaching measure. Preliminary indications, for example, reveal that if the Administration proposal were applied to the present group of pensioners (which is not the intention of the Administration) approximately 75 percent of this group would be ineligible for a pension. Changes of this magnitude which are contemplated for all prospective veteran pensioners, obviously require thorough public discussion.

At the same time, the Committee wishes to acknowledge that the existing pension system would benefit from revisions which more nearly accomplish the basic principles of equity that have been previously mentioned. The Subcommittee thus will continue to examine such materials and data as are provided it with a view to enacting justified revisions at the earliest possible date. In the meantime, in order to halt the continuing ravages of inflation on pensioners, and provide veterans with a fuller measure of last year's Social Security increase, the Committee recommends the enactment of S. 275. The Committee believes such action is consistent with the Veterans' Administration's own proposal and public testimony which favors continuing cost-of-living increases for all those current pensioners who choose to exercise their option to remain under the present system rather than move to any new system. The Veterans' Administration further supported such cost-of-living increases in advance of any congressional action on the VA's more comprehensive proposal if Congress lacked the necessary information to evaluate it as is the present case.

In this connection, the following exchange

occurred between the Subcommittee Chairman (Mr. Talmadge)) and the Administration spokesman, Odell Vaughn, Chief Benefits Director of the Veterans' Administration concerning such cost-of-living increases, during the hearings of June 18th:

"Senator TALMADGE. If you are unable to promptly supply all the necessary information Congress will need to evaluate proposed changes in the pension program, are you prepared to support an interim measure providing needed cost-of-living adjustments for our veterans who are living on fixed incomes?

"Mr. VAUGHN. Based on the current 6 percent, we would be; yes, sir."

Of course, the cost of living continues to spiral upward and has increased to 7.6 percent (as of the end of June 1973) since Congress last acted on pensions. Since January the Consumer Price Index has increased approximately one point each month and unfortunately can be expected to reach the 10-percent level contemplated in the Committee substitute before the end of the year.

PURPOSE OF BILL

LIBERALIZATION OF DISABILITY AND DEATH PENSIONS

Given the foregoing, the Committee believes that an interim measure is immediately warranted while it continues to consider overall pension revision. The Committee substitute provides for a $400 increase in the maximum annual income limitations and a 10-percent increase in pension rates. Approximately, 1.9 million veterans and widows would be affected with a Fiscal Year 1974 cost of $152.7 million. Adjusting the formula to reflect these increases, the Committee also wishes to point out the increased refinements in the formula which will produce a smaller impact for the veterans and widows who exceed the maximum annual income limitations. Currently, the *minimum* pension payment for veterans or widows ranges from $17 to $33 a month. Exceeding the maximum annual income limitations can thus mean a substantial reduction of pension income of up to $400 a year for a veteran or his widow. Under the Committee substitute, minimum payments would now reduce gradually to a figure of as low as $4 a month which should greatly reduce the impact for those who ultimately do drop from the pension rolls in the future.

The following tables illustrate the current rates payable to veterans and their survivors with typical examples of pensions payable under the committee substitute which incorporates increases both in the rates and the maximum annual income limitations:

TABLE 4.—VETERAN ALONE

Income not over—	Current rate	S. 275 rate
$300	$130	$143
$400	127	140
$500	124	137
$600	121	134
$700	118	131
$800	115	128
$900	112	124
$1,000	109	120
$1,100	105	116
$1,200	101	112
$1,300	97	107
$1,400	93	102
$1,500	89	97
$1,600	84	92
$1,700	79	86
$1,800	74	80
$1,900	68	74
$2,000	62	68
$2,100	56	61
$2,200	50	54
$2,300	43	47
$2,400	36	40
$2,500	29	32
$2,600	22	24
$2,700		18
$2,800		8
$2,900		8
$3,000		8

TABLE 5.—VETERAN WITH DEPENDENT

Income not over—	Current rate	S. 275 rate
$300	$140	$154
$400	140	154
$500	140	154
$600	138	152
$700	136	150
$800	134	148
$900	132	145
$1,000	129	142
$1,100	126	139
$1,200	123	136
$1,300	120	133
$1,400	117	130
$1,500	114	127
$1,600	111	124
$1,700	108	121
$1,800	105	118
$1,900	102	115
$2,000	99	112
$2,100	96	109
$2,200	93	106
$2,300	90	102
$2,400	87	98
$2,500	84	94
$2,600	81	90
$2,700	78	86
$2,800	75	82
$2,900	72	78
$3,000	69	74
$3,100	66	70
$3,200	63	66
$3,300	58	61
$3,400	53	56
$3,500	48	51
$3,600	43	46
$3,700	38	41
$3,800	33	36
$3,900		30
$4,000		24
$4,100		18
$4,200		12

TABLE 6.—WIDOW ALONE

Income not over—	Current rate	S. 275 rate
$300	$87	$96
$400	86	95
$500	85	94
$600	84	91
$700	81	88
$800	78	85
$900	75	82
$1,000	72	79
$1,100	69	76
$1,200	66	73
$1,300	63	70
$1,400	60	67
$1,500	57	64
$1,600	54	60
$1,700	51	56
$1,800	48	52
$1,900	45	48
$2,000	41	44
$2,100	37	40
$2,200	33	36
$2,300	29	82
$2,400	25	28
$2,500	21	24
$2,600	17	19
$2,700		14
$2,800		9
$2,900		4
$3,000		4

TABLE 7.—WIDOW WITH 1 DEPENDENT

Income not over—	Current rate	S. 275 rate
$300	$104	$114
$400	104	114
$500	104	114
$600	104	114
$700	103	113
$800	102	112
$900	101	111
$1,000	100	110
$1,100	99	108
$1,200	98	106
$1,300	97	104
$1,400	96	102
$1,500	94	100
$1,600	92	98
$1,700	90	96
$1,800	88	94
$1,900	86	92
$2,000	84	90
$2,100	82	88
$2,200	80	86
$2,300	78	84
$2,400	76	82
$2,500	74	79
$2,600	72	76
$2,700	70	73
$2,800	67	70
$2,900	64	67
$3,000	61	64
$3,100	58	61
$3,200	55	58
$3,300	52	55
$3,400	49	51
$3,500	46	47
$3,600	43	44
$3,700	42	44
$3,800	42	44
$3,900		44
$4,000		44
$4,100		44
$4,200		

"OLD LAW" PENSIONS

Veterans and survivors receiving "old law" pensions under section 9(b) of the Veterans' Pension Act of 1959 who also receive Social Security benefits suffered pension reductions in January 1973. To counter these reductions, the annual income limitations have been increased to $2,600 and $3,900 from the respective current levels of $2,200 and $3,500. The Veterans' Administration estimates that 6,508 "old law" pensioners will be affected by the proposed amendment in this bill at a first year cost of $5.1 million.

DEPENDENCY AND INDEMNITY COMPENSATION

Dependency and indemnity compensation (DIC) is paid to needy parents of veterans who died of service-connected disabilities. The Committee substitute also provides for a 10-percent increase in the DIC rates and a $400 increase in the annual income limitations which will affect 71,665 parents at a first year cost of $3.8 million.

The following tables illustrate the current rates payable to dependent parents with typical examples of dependency and indemnity compensation payable under the Committee substitute which incorporates the increases both in the rates and the maximum annual income limitations:

TABLE 8.—1 PARENT

Income not over—	Current rate	S. 275 rate
$800	$100	$110
$900	97	107
$1,000	94	104
$1,100	91	101
$1,200	88	97
$1,300	84	93
$1,400	80	89
$1,500	76	85
$1,600	72	80
$1,700	67	75
$1,800	62	69
$1,900	57	63
$2,000	51	57
$2,100	45	50
$2,200	38	43
$2,300	31	36
$2,240	24	28
$2,500	17	20
$2,600	10	12
$2,700		4
$2,800		4
$2,900		4
$3,000		4

TABLE 9.—2 PARENTS NOT TOGETHER

Income not over—	Current rate	S. 275 rate
$800	$70	$77
$900	68	75
$1,000	66	73
$1,100	64	71
$1,200	61	68
$1,300	58	65
$1,400	55	62
$1,500	52	58
$1,600	49	54
$1,700	46	50
$1,800	42	46
$1,900	38	42
$2,000	34	38
$2,100	30	34

TABLE 9.—2 PARENTS NOT TOGETHER—Continued

Income not over—	Current rate	S. 275 rate
$2,200	$26	$30
$2,300	22	26
$2,400	18	21
$2,500	14	16
$2,600	10	11
$2,700		6
$2,800		6
$2,900		6
$3,000		6

TABLE 10.—2 PARENTS TOGETHER

Income not over—	Current rate	S. 275 rate
$800	$67	$74
$900	67	74
$1,000	67	74
$1,100	66	73
$1,200	65	72
$1,300	64	70
$1,400	62	68
$1,500	60	66
$1,600	58	64
$1,700	56	62
$1,800	54	60
$1,900	52	58
$2,000	50	56
$2,100	48	54
$2,200	47	52
$2,300	44	50
$2,400	42	48
$2,500	40	46
$2,600	38	44
$2,700	36	42
$2,800	34	40
$2,900	32	38
$3,000	30	35
$3,100	28	32
$3,200	26	29
$3,300	24	26
$3,400	22	23
$3,500	19	20
$3,600	16	17
$3,700	13	14
$3,800	10	11
$3,900		8
$4,000		5
$4,100		5
$4,200		5

BROWNSVILLE INCIDENT OF 1906

The Committee also received testimony concerning the Brownsville Incident of 1906 which recently received renewed public attention following the publication of "The Brownsville Raid: The Story of America's Black Dreyfus Affair" by John D. Weaver. This book documents a gross miscarriage of military justice 67 years ago, summarized as follows in the *New York Times*, October 3, 1972:

The episode was a 10-minute shooting in Brownsville, Tex., the night of Aug. 13, 1906, supposedly involving three companies of black soldiers newly stationed at nearby Fort Brown.

"The trouble developed 24 hours after a white woman screamed that a Negro had tried to rape her. When the riot was over, one white man lay dead and another injured, and the dusty border town was pocked with bullet scars.

"Under instructions from President Theodore Roosevelt, the War Department, assuming the soldiers were guilty, hustled the units—Companies B, C, and D of the First Battalion, 25th Regiment—out of the state to Fort Reno, Okla. There, after prolonged questioning that produced not a single admission of complicity in 'the Brownsville raid,' 167 men were cashiered out of the Army by executive order without trial, through administrative 'discharges without honor.'"

On April 6, 1910, 14 of the 167 veterans, apparently selected at random, were exonerated by a special Army tribunal and permitted to re-enlist. Following publication of Mr. Weaver's book in 1971, the Secretary of the Army cleared the records of all 167 Brownsville veterans on September 22, 1972 and issued them honorable discharges. In an effort to create equity consistent with this action, the Committee sought to determine a compensatory scheme for Brownsville veterans and their survivors who suffered deprivation because of the injustice which continued without correction for over 67 years.

The Committee is particularly indebted to Representative Augustus F. Hawkins for his persistent efforts in bringing this injustice to the attention of Members of Congress and for his tireless work in attempting to secure compensation for the Brownsville veterans and their widows.

The Committee's investigation included the testimony of Mr. Dorsie W. Willis of Minneapolis, one of the two Brownsville veterans known to be alive, who appeared before the Veterans' Affairs Subcommittee on Compensation and Pensions on June 18, 1973. Following the issuance of a "discharge without honor", Mr. Willis was employed as a porter and shoeshine man in the Northwestern Bank Building barber shop, Minneapolis for 67 years until he retired in September 1972 at the age of 86. Mr. Willis' feelings about the Brownsville Incident and its effect on his life are perhaps best summed up in the following comment:

"Some people feel the world owes them a living. I never thought that and I never took a dime in welfare.

"I did figure the world owed me an opportunity to earn a living myself, but they took that away from me. That dishonorable discharge kept me from improving my station. Only God knows what it did to the others."

In addition to Mr. Willis, the other known surviving Brownsville veteran is Mr. Edward Warfield of Los Angeles. Mr. Warfield, one of the 14 men exonerated in 1910, served in France during World War I and was honorably discharged in 1919. In addition, there are 10 widows of the veterans of the Brownsville Incident who are currently known to the Veterans' Administration. It is anticipated that in the coming months, additional widows may become known to the Veterans' Administration which has been diligently searching its records to locate such individuals.

On July 10, 1973 in connection with S. 1999, a bill to compensate Brownsville veterans and their families, which was introduced by Senator Hubert Humphrey, the Committee requested the Department of Army to recommend an appropriate compensatory schedule based on the comprehensive history of past awards and additional factors unique to the Brownsville Incident. In requesting such recommendations by the Department of Army the Committee was aware of the Secretary's report to the Chairman of the House Committee on Veterans' Affairs, dated June 13, 1973 concerning H.R. 4382, a bill similar to S. 1999. In its report to Congressman Hawkins' bill the Secretary of the Army stated:

"The Department of the Army believes that some compensation to surviving members of the Brownsville Incident or their widows is a fair objective through legislation. A lump sum payment should be considered through legislative enactment to those men involved who are still living and who were not ruled eligible for reenlistment by the special Army tribunal decision of April 6, 1910, or to their unremarried widows. Such legislation should provide for payment from appropriations currently available to the Department of Defense for military retired pay."

In view of the Department of the Army's response to the House Committee on Veterans' Affairs, the Committee requested that the Army consider recommendations for compensation for living Brownsville veterans in the amount of $25,000 and $10,000 for their unremarried widows. While a written report was not received in time to be included in its report to S. 275, the Committee has been notified informally that the Department of the Army has no objection to this proposal.

SECTION-BY-SECTION ANALYSIS OF S. 275, COMMITTEE SUBSTITUTE

SECTION 1

Subsection (*a*) would increase the rates of pension and the annual income limitation for unmarried veterans under subsection 521(b). Currently, a veteran with no dependents receives a maximum monthly pension of $130 if his annual income is $300 or less, decreasing on a graduated basis to $22 with an annual income of $2,600. As amended, this subsection would provide a maximum monthly rate of $143 with an annual income of $300 or less, down to $8 for an annual income of $3,000.

Subsection (*b*) would increase the rates of pension and the annual income limitation for a married veteran under subsection 521(c). Currently, the maximum monthly pension payable to a veteran with one dependent is $140, with two dependents $145, and with three or more dependents $150, based on an annual income of $500 or less. This decreases on a graduated basis down to $33, $38, or $43, respectively, with an annual income of $3,800. As amended, this subsection would provide a veteran with one dependent $154, with two dependents $159, and with three or more dependents $164, based on an anual income of $500 or less, ranging down to $12, $17, or $22, respectively, with an annual income of $4,200.

Subsection (*c*) would increase the rates of pension and the annual income limitation for the widow without child under subsection 541(b). Currently, a widow without child receives a maximum monthly pension of $87 if her annual income is $300 or less, decreasing on a graduated basis to $17 with an annual income of $2,600. As amended, this subsection would provide a maximum monthly rate of $96 with an annual income of $300 or less, down to $4 with an annual income of $3,000.

Subsection (*d*) would increase the rates of pension and the annual income limitation for a widow with one child under subsection 541(c). Currently, a widow with one child receives a maximum monthly pension of $104 if her annual income is $600 or less, decreasing on a graduated basis to $42 with an annual income of $3,800. As amended, this subsection would provide a maximum monthly rate of $114 with an annual income of $700 or less, down to $44 with an annual income of $4,200.

SECTION 2

This section would increase the rates of pension payable to a widow with more than one child under subsection 541(d). Currently, a widow receives $17 per month for each additional child. As amended, this subsection would provide a monthly rate of $18.

SECTION 3

Subsection (*a*) would increase the rates of pension for children alone receiving death pension under section 542(a). Currently, pension is paid at a rate of $42 per month for one child and $17 for each additional child. As amended, this subsection would provide a monthly rate of $44 for the first child and $18 for each additional child.

Subsection (*b*) would increase the unearned income limitation for children alone receiving death pension under subsection 542(c). Currently, the maximum unearned income is $2,000. As amended, this subsection would provide an unearned income limitation of $2,400.

SECTION 4

This section would amend section 4 of Public Law 90-275 (82 Stat. 68) to increase by $400 the maximum annual income limitations applicable under the prior pension program in effect on June 30, 1960: From $2,200 to $2,600 for a veteran without a dependent, or widow without a dependent, or a child alone; and from $3,500 to $3,900 for a veteran with a dependent and for a widow with a child.

SECTION 5

Subsection (a) would increase the rates of dependency and indemnity compensation (DIC) and annual income limitations for a sole surviving parent under subsection 415 (b). Currently, a sole surviving parent receives a maximum monthly DIC payment of $100 if his annual income is $800 or less, decreasing on a graduated basis to $10 with an annual income of $2,600. As amended, this subsection would provide for a maximum monthly rate of $110 with an annual income of $800 or less, down to $4 for an annual income of $3,000.

Subsection (b) would increase the rates of dependency and indemnity compensation and annual income limitations for two parents not living together under subsection 415(c). Currently, each of two parents who are not living together receives a maximum monthly DIC payment of $70 if annual income is $800 or less, decreasing on a graduated basis to $10 with an annual income of $2,600. As amended, this subsection would provide a maximum monthly rate of $77 with an annual income of $800 or less, down to $6 for an annual income of $3,000.

Subsection (c) would increase the rates of dependency and idemnity compensation and annual income limitations payable under subsection 415(d). Currently, if there are two parents who are living together, or if a parent is remarried and is living with his spouse, each parent receives a maximum monthly DIC payment of $67 if annual income is $1,000 or less, decreasing on a graduated basis to $10 with an annual income of $3,800. This subsection would provide a maximum monthly rate of $74 with an annual income of $1,000 or less, down to $5 for an annual income of $4,200.

SECTION 6

This section would increase the amount of pension paid to a veteran, with neither wife nor child, who is being furnished hospital treatment, institutional, or domiciliary care by the Veterans' Administration under section 3202(a)(1). Currently, such a veteran may receive $30 per month. As amended, this subsection would provide a maximum of $50 per month.

SECTION 7

This section amends the law as to the effective dates for pension awards under subsection 3010(b). Currently, the effective date of pension awards is the date of application. As amended, this subsection would provide the effective date to be the date of application, or the date on which the veteran became totally and permanently disabled (if an application therefore is received within one year from the date of disability) whichever is to the advantage of the veteran.

SECTION 8

Subsection (a) provides for the payment of $25,000 upon application of any surviving veteran of the Brownsville incident of August 13, 1906, whose discharge was not subsequently ruled eligible for reenlistment by a special Army tribunal decision of April 6, 1910.

Subsection (b) provides for the payment of $10,000 upon application to the unremarried widow of any veteran so described in subsection (a). If following enactment a veteran makes application pursuant to subsection (a) but dies prior to payment, the widow or his estate shall be entitled to $25,000 rather than $10,000.

Subsection (c) directs that payment to the applicable veteran or widow shall be made by the Secretary of the Army upon certification by the Administrator of Veterans' Affairs of the entitlement of such veteran or widow to receive such payment.

SECTION 9

This section provides that the provisions of the bill shall be effective on the first day of the second calendar month following enactment.

COST ESTIMATES PURSUANT TO SECTION 252 OF THE LEGISLATIVE REORGANIZATION ACT OF 1970

In accordance with section 252(a) of the Legislative Reorganization Act of 1970 (Public Law 91-510, 91st Congress) the Committee, based on information supplied by the Veterans' Administration, estimates that the Fiscal Year 1974 cost to be $171.9 million increasing to $255.4 million at the end of five years. An itemized breakdown of the cost of S. 275, Committee substitute, by categories of beneficiaries and in total for the first five years is shown in the following table:

TABLE 11.—5-YEAR COST OF S. 275, COMMITTEE SUBSTITUTE

Year	Cases	Cost (millions)
I. Current law, 10-percent increase $400 income limit increase:		
1974	1,917,000	$152.7
1975	2,020,000	212.9
1976	2,133,000	224.8
1977	2,250,000	230.5
1978	2,383,000	244.6
II. Old law, $400 income limit increase:		
1974	6,508	5.1
1975	5,890	5.6
1976	5,331	5.0
1977	4,825	4.6
1978	4,367	4.1
III. DIC parents, 10-percent increase $400 income limit increase:		
1974	71,665	3.8
1975	71,457	4.1
1976	71,249	4.0
1977	71,042	3.9
1978	70,834	3.9
IV. Increase in children's rates:		
1974	321,000	8.2
1975	323,000	11.0
1976	318,000	10.8
1977	303,000	10.3
1978	278,000	9.4
V. Increased assistance for hospitalized veteran:		
1974	18,500	2.1
1975	11,000	2.8
1976	11,000	2.8
1977	11,000	2.8
1978	11,000	2.8
VI. Total cost:		
1974	1,995,173	171.9
1975	2,097,347	236.4
1976	2,209,580	247.4
1977	2,325,867	252.1
1978	2,458,201	255.4

Note: Sept. 1, 1973 effective date assumed for all provisions.

TABULATION OF VOTES CAST IN COMMITTEE

Pursuant to section 133(b) of the Legislative Reorganization Act of 1946, as amended, the following is a tabulation of votes cast in person or by proxy of the Members of the Committee on Veterans' Affairs on a motion to report S. 275 with an amendment in the nature of a substitute and a title amendment favorably to the Senate:

Yeas—9

Vance Hartke, Herman E. Talmadge, Jennings Randolph, Harold E. Hughes, Alan Cranston, Clifford P. Hansen, Strom Thurmond, Robert T. Stafford, James A. McClure.

Nays—0

Mr. HARTKE. Mr. President, I urge that the Senate pass S. 275, as reported.

The amendment was agreed to.

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

The title was amended so as to read: "A bill to amend title 38, United States Code, to increase the monthly rates of disability and death pensions and dependency and indemnity compensation and to increase income limitations relating thereto, and for other purposes."

Mr. MANSFIELD subsequently said: Mr. President, I ask unanimous consent that the previous action of the Senate on S. 275 be vacated.

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the vote by which S. 275 was read the third time and passed be reconsidered and that the Senate proceed to the consideration of S. 275.

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Veterans' Affairs Committee be discharged from its consideration of H.R. 9474.

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

Mr. MANSFIELD. Mr. President, I move that the Senate proceed to the consideration of H.R. 9474.

The PRESIDING OFFICER. The clerk will report the measure.

The legislative clerk read as follows:

A bill (H.R. 9474) to amend title 38 of the United States Code to increase the monthly rates of disability and death pensions, and dependency and indemnity compensation, and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to, and the Senate proceeded to consider the bill.

Mr. MANSFIELD. Mr. President, I move to strike all after the enacting clause of H.R. 9474 and to substitute in lieu thereof the text of S. 275, as it was reported to the Senate with an amendment.

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

The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 9474) was read the third time and passed.

Mr. MANSFIELD. Mr. President, I move that the Senate reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that S. 275 be indefinitely postponed.

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

Mr. MANSFIELD. Mr. President, I move that the vote by which the bill was passed be reconsidered.

Mr. GRIFFIN and Mr. ROBERT C. BYRD moved to lay the motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, for the information of the Senate, the vote on the treaties, which will be taken up later this afternoon, will occur at the hour of 10:45 a.m. tomorrow morning, and I ask unanimous consent that that time be agreed upon at this time.

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

EMERGENCY MEDICAL SERVICES SYSTEMS ACT OF 1973—VETO

The PRESIDING OFFICER (Mr. SCOTT of Virginia). Pursuant to the previous order, the Chair now lays before the Senate the President's veto message on S. 504, the Emergency Medical Services Systems Act of 1973, which the clerk will state.

The legislative clerk read as follows:

A veto message on S. 504, the Emergency Medical Services Systems Act of 1973.

(The text of the President's veto message is printed on page 27240 of the CONGRESSIONAL RECORD of August 1, 1973.)

The Senate proceeded to reconsider the bill.

The PRESIDING OFFICER. The question is, shall the bill pass, the objections of the President of the United States to the contrary notwithstanding? The Constitution requires that the vote shall be determined by yeas and nays.

Under the agreement, time for debate is limited to 30 minutes, to be equally divided and controlled by the majority and minority leaders or their designees.

Mr. GRIFFIN. Mr. President, I wish to designate the distinguished Senator from Nebraska (Mr. CURTIS) to be in control of our time.

Mr. KENNEDY. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 3 minutes.

Mr. KENNEDY. Mr. President, for the benefit of the Senate, S. 504, the Emergency Medical Services Systems Act of 1973, is legislation that consists of three major areas. One deals with training of health manpower, one with transportation of those needing emergency medical care, and one with planning and implementation of State and local EMS programs. The total amount of money actually agreed on in the conference on S. 504 is $185 million for a 3-year period.

The legislation was considered for 4 days in the Health Subcommittee. The subcommittee held hearings in Washington and in California. The hearings in California were chaired by the distinguished Senator from California (Mr. CRANSTON).

That this legislation bears the imprint of the fine work of the Senator from California. This is a program in which he has been interested and to which he contributed enormously. I want to recognize those contributions right at the outset of this debate.

Mr. President, the amount of money being considered here is $185 million over a 3-year period. Consider for a moment that the American Medical Association asked for $630 million to do this very job, this is probably one of the few times the Senate, or at least the Health Subcommittee, reported a bill with an amount less than one-half of what the American Medical Association felt was absolutely essential if we were really to provide help and assistance to the localities and the communities the length and breadth of this land.

I doubt that any piece of legislation is more clearly directed toward saving the lives of our people than —the Emergency Medical Services Systems Act of 1973.

The figures are startling. In 1968, there were 100,000 trauma deaths in the United States. Ten million people in 1968 were temporarily disabled because of various disabilities. We know that at least 25 or 30 percent of the heart deaths could have been prevented, had this legislation been in effect at that time, with full funding.

So, Mr. President, I would hope that the Senate would vote to override the President's veto. I want to remind Senators that they voted 97 to 0 to support the conference report just 2 weeks ago, that they voted 79 to 13 when the initial legislation came before the Senate, and that this legislation has strong bipartisan support—the support of all the members of the Health Subcommittee, the full Committee on Labor and Public Welfare, and the Senators in this Chamber.

Mr. President, with his veto of the Emergency Medical Services Act, the President has written another sorry chapter in his administration's systematic effort to prevent real progress in improving the health of the American people. It would be easier to understand the President's action if the President believed that there was no health crisis in America. But that is not the case. Early in his first term President Nixon called on all Americans to watch what his administration would do rather than what it would say.

It is particularly tragic that the President has chosen to veto a bill which, if implemented, would likely result in a reduction in loss of life and morbidity. Accidental death is one of the great neglected diseases today. In fact, the lack of adequate emergency medical services is the major cause of avoidable premature death today. Indeed, it is the leading cause of death for persons between the ages of 1 and 38. Every year more than 52 million Americans are injured, and of those more than 11,000 die and more than 400,000 suffer lasting disabilities. More than half of the 700,000 deaths which occur each year occur before the victim reaches the hospital. How many of these could be saved if only the Nation had adequate and competent emergency medical services? That is what S. 504 is all about.

I believe there is great disparity between what the President has said and what he has accomplished to alleviate the health crisis which confronts this Nation.

Mr. President, I want to briefly highlight the most significant actions this administration has taken in the area of health. The President has twice vetoed health appropriations bills. He is threatening to veto yet another. He continues to impound money for health programs when he knows full well that such impoundment is illegal given the provisions of section 601 of Public Law 91-296. He threatens to destroy the National Institutes of Health by cutting most of the research programs there in order to pay for increases in heart and cancer research. He proposes, in the name of efficiency, to terminate training programs which are designed to assure the Nation an adequate supply of competent biomedical researchers. He has opposed legislation which continues the Center for Disease Controls' programs to combat communicable diseases.

Even in the face of recent revelations concerning the sterilization of young women without informed consent, he refuses to support legislation currently before the Congress specifically designed to protect humans who are subjects of biomedical research. He has found his own national health insurance proposal so full of inadequacies and inequities that he has scrapped it and replaced it with nothing. He initially called for a major new program to assure an adequate supply of physicians, nurses, and other essential health personnel, which the Congress passed in 1971, and now he has proposed the termination of most aspects of that landmark legislation.

He initially called for a massive Health Maintenance Organization program in order to bring about much needed diversity to this Nation's monopolistic health care delivery system. But the HMO legislation, which has passed the Senate twice, has been emasculated in the House by the American Medical Association while a knowing President looked the other way. He has proposed the elimination of the public health training program. He has proposed the elimination of the migrant health program. He has proposed the elimination of the allied health program. He has proposed the elimination of the community mental health centers program. He has proposed the elimination of the regional medical programs. He has proposed the elimination of the lead-based paint poisoning program. He has proposed the elimination of the family planning and population research program.

And now, Mr. President, he proposes the elimination of the emergency medical services program, which he himself called for in a recent health message, before it is even begun.

The President has lost his way. Even the arguments he musters in his own defense are without substance. For example, his veto message proclaims that S. 504 would "thrust the Federal Government into an area which is traditionally a concern of State and local governments." What S. 504 proposes to do is to authorize HEW to make assistance available to State and local governments such that they can design and implement emergency medical services which are tailored to their own needs as they perceive them. Mr. President, Secretary Weinberger's letter to Senator TAFT which described his objections to the bill and which was printed in the CONGRESSIONAL RECORD on July 16, 1973, is a more cogent and coherent document than the President's veto message.

Mr. President, about a week ago Stuart Auerbach of the Washington Post wrote a superb column which documents the administration's shell game. I ask unanimous consent that Mr. Auerbach's insightful analysis of the administration's track record in health be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. KENNEDY. Finally, Mr. President, I wan[t] to call attention to the overwhelming bipartisan support this legislation has already received. The Senate adopted S. 504 in its final form on July 19, 1973, by a vote of 97 to 0. I ask unanimous consent that the names of the Senators who supported S. 504 be printed in the RECORD.

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

SENATE VOTE ON CONFERENCE REPORT TO ACCOMPANY, S. 504, JULY 19, 1973

Abourezk Aiken, Allen, Baker, Bartlett, Bayh, Beall, Bellmon, Bennett, Bentsen, Bible, Biden, Brock, Brooke, Buckley, Burdick, Byrd, Harry F., Jr., Byrd, Robert C., Cannon, Case, Chiles, Church, Clark, Cook, Cotton, Cranston, Curtis, Dole, Domenici, Dominick, Eagleton, Eastland.

Ervin, Fannin, Fong, Fulbright, Goldwater, Gravel, Griffin, Gurney, Hansen, Hart, Hartke, Haskell, Hatfield, Hathaway, Helms, Hollings, Hruska, Huddleston, Hughes, Humphrey, Inouye, Jackson, Javits, Johnston, Kennedy, Long, Magnuson, Mansfield, Mathias, McClellan, McClure, McGee, McGovern.

McIntyre, Metcalf, Mondale, Montoya, Moss, Muskie, Nelson, Nunn, Packwood, Pastore, Pearson, Pell, Percy, Proxmire, Randolph, Ribicoff, Roth, Schweiker, Scott, Pa., Scott, Va., Sparkman, Stafford, Stevenson, Symington, Taft, Talmadge, Thurmond, Tower, Tunney, Weicker, Williams, Young.

Mr. KENNEDY. Mr. President, as chairman of the Health Subcommittee, I urge my colleagues to vote to override the veto.

EXHIBIT 1

THE ADMINISTRATION: GOING SLOW ON HEALTH CARE

(By Stuart Auerbach)

"The main thing I would like as sincerely as I possibly can convey is our absolute and total commitment to assure that health care is constantly improved . . . and that it will not be denied to anyone by the irrelevant factor of their not having sufficient income." —HEW Secretary, Caspar W. Weinberger.

"The administration's health program has been a great big bust. The words and goals are shared by all of us. But the action has been a complete and unadulterated failure." —Sen. Edward M. Kennedy (D-Mass.).

For two days early this month the Nixon administration bombarded medical writers who came from around the country with the story of its health initiatives.

In glittering generalities, administration big guns such as HEW Secretary Caspar W. Weinberger and chief presidential domestic adviser Melvin Laird described the high priority that health has among the inner circle at the White House.

"Its priority is so high, inherently so high, that proponents of sound health programs should have great confidence as to their ability to secure adequate funding," Weinberger told the health seminar for medical writers.

He said that for the first time the Nixon administration has fashioned "a total health strategy."

Yet a look at the administration's record on health programs over the past 4½ years shows something different. The Nixon administration in 1973 is not even matching the goals set by President Nixon in his health messages of 1971 and 1972.

The national health insurance plan that President Nixon announced in 1971 "to ensure that no American family will be prevented from obtaining basic medical care by ability to pay" has been scrapped and HEW planners are now drafting a new proposal. Not since 1971 has the President mentioned the national health "crisis." The 1972 drive to increase the number of doctors, dentists and paramedics has foundered in a budget that cuts federal aid to medical and dental schools. Even with increases for cancer and heart research, the National Institutes of Health budget is down $34 million.

Although it appears that the 1974 HEW health budget is greater than 1973's ($26.3 billion versus $20.3 billion), the difference dwindles to $71 million after one subtracts medicare and medicaid money for future years along with programs that have been transferred from other government agencies. The increase that remains is not enough to cover inflation.

The clearest example of the administration's failure to pursue its goals is in the area of health maintenance organizations (HMOs), those pre-paid group practice plans which appeared in 1971 to be a cornerstone of administration efforts to reform American medicine.

"Some 7 million Americans are now enrolled in HMOs and the number is growing," said President Nixon in his 1971 health message. "Studies show they are receiving high quality care at a significantly lower cost. Patients and practitioners are enthusiastic about this organization concept. So is this administration."

A year later, Mr. Nixon called HMOs "a central feature of my national health strategy." And then-Secretary Elliot L. Richardson, now serving as attorney general, talked about spreading the HMO concept across the country so that 90 per cent of all Americans could be treated in an HMO by 1980.

Now, this has all changed. Instead of viewing HMOs as a proven method of delivering medical care—as President Nixon and Secretary Richardson did two years ago—Weinberger says they need further testing. Instead of moving HEW forward in a full program of encouraging prepaid group practice, he talks of them as an "experiment." And yet he denies that the administration has pulled back from its commitment to HMOs. "The attachment we have to the health maintenance organization experiment has not changed, has not weakened," he says.

The facts do not support that statement. The administration clearly has bought the go-slow line of the American Medical Association, which has consistently called HMOs an experiment. Indeed, the AMA's new president-elect, Dr. Malcolm Todd, a campaigner for President Nixon and head of the Physicians Committee for the Re-Election of the President, said in an interview last fall, with National Journal:

"We used all the force we could bring to bear against this (HMOs). As a result, there is no question that there has been some backtracking on the part of the White House. The White House has directed the (HEW) Secretary (Richardson) to slow down on this thing . . . The Secretary has called off the aggressiveness, and this is good."

Dr. Gordon K. MacLeod, who was brought in from Yale University to run the HMO program in HEW, said in a speech last week that, "The administration now has reversed its previous position. For the subordination of HMO activity from a national program of 100 persons to a desk function of 5 or 6 people is not consistent with the priority formerly given to HMOs by the administration," he said.

MacLeod quit his job over the downgrading of the HMO operation, but Weinberger dismissed his concern as merely having to do with "his status within the organization."

Other health programs, including the highly vaunted administration initiatives in cancer and heart disease, also can be examined to show where the reality fails to match the promise.

The administration failed to spend $50 million for cancer that was available in the 1973 fiscal year. And although the National Heart Institute received $18 million more in the 1974 budget, it was directed to start entirely new programs in lung diseases that will eat up the entire increase without allowing it to focus more resources on heart diseases—the nation's biggest killer.

In explaining the administration's total health strategy, Weinberger said existing health programs are put under a microscope to make sure they are not squandering the "finite" share of the national resources that can go for health.

That's the truth of it; only so much of the federal pie has been alotted to health. And contrary to Weinberger's prose, its priority is not that high. So why pretend? Why insist the administration's commitment to health in general and HMOs in particular hasn't changed when clearly it has?

Mr. KENNEDY. Mr. President, I now yield 4 minutes to the distinguished Senator from California (Mr. CRANSTON).

Mr. CRANSTON. Mr. President, I ask unanimous consent that Jon Steinberg and Louise Ringwalt have the privilege of the floor during the discussion of this veto.

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

Mr. CRANSTON. Mr. President, I want to thank the distinguished chairman of the Subcommittee on Health (Mr. KENNEDY) for the very fine and effective work work he has done on this measure and also for his kind words in connection with my work on it.

I would also like to express my appreciation for the outstanding assistance made in the development of this legislation by the chairman of the full committee (Mr. WILLIAMS), the ranking minority member of the full committee and subcommittee (Mr. JAVITS and Mr. SCHWEIKER), respectively, and for the imaginative and resourceful contributions made by the distinguished Senator from Colorado (Mr. DOMINICK) and the distinguished Senator from Maryland (Mr. BEALL).

This legislation has been developed on a totally bipartisan basis throughout its consideration in both Houses and in the conference committee.

For that reason, Mr. President, I am very disappointed that the President has chosen to veto S. 504, the Emergency Medical Services Systems Act of 1973, which I authored in the Senate.

The President has expressed two major objections to the emergency medical services provisions of this legislation. These are:

First, he believes the Federal role should be limited to a demonstration effort, leaving the States and communities "free to establish the full range of emergency medical services systems that best suit their varying local needs."

Second, the bill authorizes appropriations "far in excess of the amounts that can be prudently spent."

SCOPE OF NEED

Mr. President, some 175,000 people die needlessly each year because they are unable to get adequate medical care in an emergency—an accident, a heart attack, a stroke.

Another 25,000 people are left permanently disabled because of inept handling by untrained ambulance attendants and rescue workers.

This crisis in emergency medical care cannot be met by limited demonstration projects as proposed by the President.

We do not need demonstration projects, we need large-scale Federal action and we need it immediately.

The American College of Emergency Physicians, the American College of Surgeons, and the American Hospital Association among others who have testified on behalf of my bill all agree. Other professional associations supporting the concept of S. 504 are:

The American Nurses Association, the American College of Cardiology, the United States Catholic Conference, the American Public Health Association, the American Heart Association and the Society of Critical Care Medicine.

The President has budgeted $15 million for emergency medical services demonstration projects for fiscal 1974.

My bill authorizes for appropriation $45 million for fiscal 1974. Of this, $30 million would go toward helping communities develop comprehensive emergency medical services systems with properly staffed and equipped ambulances, up-to-date hospital-to-ambulance radio communications and modern hospital emergency rooms. Another $10 million is authorized for training doctors, nurses and para-professionals in emergency medicine. And $5 million is authorized for research in emergency medicine.

Funds would be available in matching grants ranging from ratios of 50 to 50 to 75 to 25 in areas of severe need.

My bill authorizes $185 million which may or may not be spent, as the Congress and the President subsequently determine over the next 3 years. Far from being excessive as the President claims, these funds fall far short of what medical experts tell us we presently need.

I challenge the President's priorities. I would by far prefer to spend millions of dollars to save lives than to continue to spend billions of dollars in military operations that destroy lives.

REBUTTAL OF VETO STATEMENT

Mr. President, I would now like to answer the President's contentions directly.

PRIMARY BASIS OF ADMINISTRATION OBJECTION

The veto message talks in terms of "demonstration initiatives." S. 504 deals with the development of comprehensive emergency medical services systems in local communities.

I believe, and testimony has shown clearly, that there is sufficient knowledge and experience available now, which can be employed effectively now, in the Nation's communities. We do not need "demonstration" projects to show us how to improve medical care in emergencies. We need emergency medical services systems with the capacity to utilize that knowledge and expertise.

The subcommittee received convincing testimony from a broad range of witnesses to exactly this effect. In addition, the excellent study undertaken by the National Research Council of the National Academy of Sciences, entitled "Roles and Resources of Federal Agencies in Support of Comprehensive Emergency Medical Services," published in March, 1972, recommended that Federal programs along the lines authorized by S. 504 be established.

CURRENT STATUS OF EMS NATIONWIDE

That report stated:

Emergency medical service is one of the weakest links in the delivery of health care in the Nation. Thousands of lives are lost through lack of systematic application of established principles of emergency care. Few at the site of accidental injury or sudden illness are trained in the fundamentals of restoration of breathing, control of hemorrhage, or splinting of fractures. The majority of ambulances in the United States are of the hearse, limousine, or stationwagon type which are inadequate in space and equipment and are manned by individuals with inadequate training to provide essential life support. Pilot studies with better ambulance services indicate that thousands of lives can be saved and disability reduced.

Many ambulances lack radio communication even with their own dispatchers. Communication rarely exists between ambulances and hospitals, so that most patients arrive at emergency departments without prior notification. Most emergency departments of the Nation are not only lacking in facilities and personnel, but are overtaxed by millions of non-emergency cases for whom ancillary outpatient facilities should be provided, especially during evening hours and on weekends. In comparison with facilities for definitive care of illness, few centers of excellence for the care of the critically ill or injured exist.

That statement by this prestigious group summarizes the state of affairs in the Nation's communities with respect to the provision of emergency medical services.

That report was published last year. It indicates the current scope of the problem.

COMMUNITY RECOGNITION OF NEEDS

Mr. President, few communities have initiated on their own a coordinated effort to provide these services. As a matter of fact, the two programs most cited as examples of community efforts to meet the problem, the State of Illinois and the city of Jacksonville, are two of the five units of government which have been chosen as demonstration projects by HEW.

In hearings held in California before the Subcommittee on Health, I heard from representatives of several units of government, ranging from vast metropolitan areas such as Los Angeles and San Diego to rural areas such as the counties of far northern California along the Sierra mountain range, and along the new interstate highway in the San Joaquin Valley. These communities were desperate for assistance. They had surveyed their resources and they fully recognized their inability to provide the quality of emergency care they felt essential for their communities. Their financial resources were limited and with the many demands made upon these units of government they were unable to allocate sufficient funds to organizing the various community elements into an efficient system.

This testimony provides a convincing rebuttal to the President's statement that he believes Federal funding will limit the States' and communities' ability to "establish the full range of emergency medical services systems that best suit their varying local needs."

COMPLEXITY OF PROBLEM IN COMMUNITY

A major impediment to the organization of efficient EMS systems is the diversity of governmental units which must be involved. Without the encouragement provided by Federal technical assistance and funding, many communities are just unable to take the initial step of joint discussions with surrounding communities in inventorying health resources and developing a common program to provide emergency medical services on a regional basis.

Mr. President, I think it is interesting to note that, under the highway safety act adopted in 1966, the Department of Transportation was authorized to provide limited assistance to States developing statewide plans for providing emergency medical services. As of today, 32 States have developed a plan. However, these plans have been achieved only over a period of years and with consistent assistance from the experts at the Federal level who have been able to provide guidance.

And these plans deal only with the question of how the State will allocate its funding and personnel resources. They are by no means plans for operation of a system.

Thus, local units of government have a long way to go before they can develop a means of providing emergency care to their residents without some appreciable outside assistance.

While some communities may utilize general revenue sharing for emergency medical services, as the administration suggests, there is no assurance that such an investment will result in meeting the basic need for the development of a coordinated system utilizing, to the maximum extent, existing resources. Nor is there any guarantee that these funds would not be used for the purchase of hardware or equipment without an initial assessment of the real gaps in the community's emergency medical services capability.

RECOGNITION IN S. 504 OF COMMUNITY DIVERSITY

With regard to the President's contentions that this legislation would inhibit local communities from establishing EMS systems suited to their needs, I would like to stress that the provisions of S. 504 do not impose an inflexible emergency medical services system upon the Nation's communities. The provisions of S. 504 require that a comprehensive system be developed that must include adequate personnel, adequate communications and transportation equipment, and adequate facilities linked together in a fashion that will insure an emergency victim of immediate and high quality medical care suited to his particular medical emergency. Each community is expected to develop its own system based on its own existing resources, public and private, and is to look to Federal support in providing technical assistance and in supplementing its deficiencies.

I do not believe that any of the Members of Congress who participated in the

development of this legislation—and I would like to say the interest in and support for this bill has been strongly bipartisan—had ever conceived of this legislation as inflicting any kind of rigid system on the communities.

We are well aware of the diversity of this Nation, Mr. President, and of the individual characteristics of the Nation's communities. An effective emergency medical system must be designed to meet the individual characteristics of each community. S. 504 provides for this by calling for each community to come up with its own plan to provide the required components of a comprehensive system.

NOT A CATEGORICAL PROGRAM

Insofar as the President's assertion that the bill establishes another narrow categorical authority, I would like to emphasize the philosophy behind this bill is clearly stated in statutory provisions that in providing assistance to communities eligible for grants to establish or expand an emergency medical services system, the Secretary must insure that any assistance under the provisions in S. 504 is provided only to the extent that assistance under other legislative authorities is insufficient to enable the qualitative and quantitative requirements established in the bill to be met.

Our intention is, Mr. President, that when a community applies for help in developing a comprehensive emergency medical services system, the Secretary of HEW shall first seek to provide such support from existing authorities in the Public Health Service Act—such as those for health personnel training or renovation of facilities—and, as appropriate, investigate the availability of support under authorities administered by other Federal agencies—such as the Department of Transportation for purchase of equipment and training of personnel—before providing funds under the provisions of S. 504.

APPROPRIATIONS MODERATE AUTHORIZATIONS

Mr. President, to move toward the President's objection that the sums authorized to be appropriated by S. 504 are far in excess of the amounts that can be prudently spent, I want to clarify and emphasize that the funding levels were considerably reduced in the conference report. This was done to be accommodating to the administration despite very conclusive evidence presented to the Health Subcommittee in hearings in Washington and California that much higher levels of funding are badly needed and can be effectively used. The sums authorized to be appropriated in the reported bill—$185 million over the next 3 fiscal years—are considerably less than in the bill as introduced—which was $315 million in the Senate bill, and in the bill as it passed the Senate—$240 million—and far lower than in the AMA bill—S. 654—introduced in both Houses, which was $630 million.

Dr. Peter Safar, president of the Society of Critical Care Medicine, who testified at Senate hearings on S. 504, gave us the following estimates of the costs of improving emergency medical services across the Nation:

Two thousand ambulances with defibrillators, plus ambulance-hospital based telemetry equipment, $50 million.

Emergency communications equipment, $200 million.

Training 20,000 emergency medical technicians, $40 million.

Ten special critical care centers, $10 million.

Organizational work necessary to establish systems in the Nation's communities, $27 million.

Mr. President, it should be noted these figures do not include the upgrading of emergency rooms, the costs of ambulance transportation, or the costs of training of physicians for emergency departments.

At hearings held in California, Mr. President, I asked the Director of Health Services for Los Angeles County, how much he estimated a coordinated emergency medical services system for that county would cost. He estimated that about $7 million would be required for Los Angeles County alone.

The Director of Health Services for San Diego County in response to a similar question, estimated costs to be in the range of $400,000 per year alone to organize an emergency care program.

The Director of Health for San Francisco County planned to spend $1.4 million for upgrading ambulance equipment and communications alone.

S. 504 authorizes the appropriation of $30 million in fiscal year 1974, of which 15 percent is to be made available for feasibility and planning studies, 60 percent for the establishment and initial operation of emergency medical services systems, and 25 percent for expansion and improvement of emergency medical services systems.

Mr. President, this is a very modest amount in comparison with the broad interest evidenced so far in communities throughout the Nation in applying for support under S. 504.

It is also a very small amount in comparison with the $15 million which the administration has requested for fiscal year 1974 for continued support of the five demonstration projects and two subsystems they are currently supporting, as well as for additional projects to support subsystems such as training, communications, transportation, or equipment, which are projected by the administration for fiscal year 1974.

Mr. President, during the entire period spent in developing this legislation, I made every effort, and had strong support in these efforts from all members of the committee, to meet the objections which the administration has raised. I believe we met these objections.

I believe we have passed a piece of legislation that will give the administration the statutory authority to do what they have currently recognized as a priority item. It does so in a manner that will insure the Nation's communities of continued support once they embark upon a program to develop a system and will at the same time protect the communities from the uncertainties to be expected from a program which is based on administrative whims in setting priorities.

To date, without legislative authority, the administration has committed $8 million in fiscal year 1972 to the development of five demonstration programs for emergency medical services systems to be carried over a period of up to 3 years. The second year of continuation funding for these programs in fiscal year 1973 has been reduced from an initial proposed $15 million to $1.8 million. The budget request is only $15 million for fiscal year 1974. With statutory authority such as is contained in S. 504, there would have been far greater assurance of continued support of these programs for the duration of the period of the contract. Instead, there was an initial investment in 1972 in the development of programs which have not yet had a chance to become self-supporting, but which now are uncertain of the continued support necessary to build on the promising starts which have been made.

I think everyone will agree this situation places these communities in an unsatisfactory position and is certainly an improper way for the Federal Government to encourage improvement of programs for emergency medical services in the communities.

Just yesterday, Mr. President, the Los Angeles Times reported on the tragic outcome of a traffic accident in Los Angeles County where two lives were lost due to the lack of coordination of community resources and the inadequacies of those resources involved in providing emergency medical care. Mr. President, I ask unanimous consent that this article be printed in the RECORD at the conclusion of my remarks. This article provides heartbreaking evidence of the need in our communities for assistance in organizing life-saving elements in a system that will avoid recurrence of these kinds of needless tragedies.

I urge the support of my colleagues in overriding this latest veto of a health measure by the President.

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

COUNTY'S EMERGENCY MEDICAL AID CRITICIZED

(By Charles R. Donaldson)

The adequacy of emergency medical services in outlying areas of Los Angeles County was questioned Tuesday. The questioning was a result of the handling of a Gorman area traffic accident on July 13 which took two lives.

Supervisor Baxter Ward brought in a report showing that the Sheriff's Department had mistakenly summoned an ambulance 26 miles from the accident scene on the Golden State Freeway a half hour before a Gorman ambulance finally was called.

Then, Ward said, once the victims reached the Newhall area emergency hospital only one doctor was available to handle the six injured from that crash, as well as two men who were hurt in a subsquent accident. One person was pronounced dead at the crash scene.

"We simply don't have enough organization to adequately cover such problems in areas like Saugus-Newhall, Malibu and Topanga," Ward said.

"There's a question if the survivors of the July 13 incident could have been treated better had the response been more swift.

5½-HOUR WAIT

"Only one doctor was present at Golden State Memorial Hospital at Newhall. One victim, a child with a severe head injury, had

to lay largely untreated for an hour. He later died. His mother, who suffered severe lacerations, because of the lack of staff had to wait five-and-a-half hours for treatment."

The boy who died and another youngster were transported by a county Fire Department helicopter ambulance to UCLA Medical Center. The nurse from the Newhall hospital who accompanied them described graphically the journey to supervisors.

Mrs. Doreen Hamilton of Saugus told how the fatally injured 11-year-old boy and a critically injured 6-year-old boy were placed inside the helicopter, which she said was really not large enough to transport more than one patient.

The helicopter had to stop for fuel in Pacoima en route to the medical center and then became lost in fog.

After the helicopter left Pacoima, she related, the older boy began bleeding.

"They have a vacuum operated suction apparatus in the helicopter which, when I started to use it on the boy who was hemorrhaging, was totally inefficient," she said.

"I used it for about two minutes and it didn't really work at all," she said, "and I had to resort to oral suction to keep the boy's throat clear.

"It was absolutely black inside the helicopter. I stuck a flashlight in my neck so I could see as I worked.

"The boy was about to expire and I needed both hands. He stopped breathing and his eyes were dilated. I felt I could resuscitate him and I did make an attempt, but there wasn't any room in the helicopter to do that.

"I couldn't get enough room to even compress his chest properly, so the fireman put his arm over the top of me because he was at a better angle to press on the boy's chest while I continued to suction him with my mouth.

"We had been trying to resuscitate the older boy for 15 minutes without success when the other little boy started to scream and there were signs of growing cerebral problems, so we had to quit on the one boy and start working on the other.

"There was only room to work on one boy and there was only one oxygen mask. There wasn't even a hook in the helicopter on which we could hang a plasma bottle."

It took about 25 minutes to reach UCLA, Mrs. Hamilton reported.

"We lost our way in the fog," she said, "and the lights at the UCLA landing pad were inadequate. We had to keep going up and down between the buildings. Finally we landed in the parking lot and asked our way because I just didn't want any more time wasted."

Supervisor Kenneth Hahn proposed equipping county Fire Department rescue units with stretchers so they could service ambulances. He insisted that calls for ambulances should go directly to the ambulance service without being relayed by the Sheriff's Department.

Hahn said, "We wouldn't tolerate this on Fire Department dispatching to put out a fire. The insurance companies would stop that. Why should we tolerate this when human lives are involved?"

Ward has continually pressed for removing the Sheriff's Department from its relay role in summoning ambulances.

Liston A. Witherill, director of health services for the county, said a pilot project to permit direct calls for ambulance services would begin today in the Saugus-Newhall area and continue for a 30-day trial.

Mr. President, I yield back such time as remains.

Mr. CURTIS. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 10 minutes.

Mr. CURTIS. Mr. President, an argument can be made in favor of every health bill presented to the Senate. Without a doubt, they carry out worthwhile programs. I think that we are faced with the question, however, of just how many Federal health programs we can have, what responsibility must fall on the State, what responsibility must fall on the communities, and what responsibility must fall on individuals and voluntary organizations.

I believe we should support the veto of the President. I am convinced that we have passed so many health programs that right at this very time the Appropriations Committees are having extreme difficulty in adequately financing programs we already have.

For instance, we passed medicare and medicaid. Medicaid was for the poor people; medicare for all people over 65 years of age, regardless of need. What has the Government been doing ever since then? Increasing the amount that the participants have to pay. Increasing that portion of the hospital bills and increasing that portion of physicians' charges that the people must pay, because we have gone on and on, enacting health legislation. We would render far better service to the country if we had fewer programs better run and better financed.

The legislation suffers from several defects. First, it would establish yet another unduly categorical assistance program, involving matters which are essentially of local concern.

Second, the bill would authorize an appropriation of $185 million for a financing program for the next 3 years. This is far in excess of the amount that can be provided, with the limited resources available to the Federal Government. The bill is, therefore, a promise of Federal assistance that cannot be kept.

The administration has engaged for the past 2 years in an effort to demonstrate the effectiveness of various types of emergency medical services that could be utilized by local communities. Some $8 million was budgeted for this purpose in the last fiscal year, and $15 million should be spent in the current fiscal year.

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 the State and local governments and should remain under their jurisdiction.

I know what an unhappy situation occurs when any hospital is closed in the State of any Senator. I have experienced that. I have fought to keep them open. The bill does close some Public Health Service hospitals. However, they were conceived a long time ago, before we had all these other medical programs. It is my understanding that contractual arrangements are being made to care for these patients in newer, more modern facilities.

I have caused to be compiled, as of early June of this year, a list of 48 of the public laws dealing with health programs that have been enacted in the last six Congresses. The list calls for an expenditure of many billions of dollars, and the list is by no means complete. It does give some indication of how expensive participation by the National Government in this field has become.

I will call attention to a few of these programs. Many of them are very good. On the other hand, I am thoroughly convinced that every time we add a new program, we add competition for the dollars that are available in the health field.

Just as it is important for hospitals in a community not to engage in every type of medical service, but to divide them up, so we are not providing good health care by putting the Federal Government into every field.

I shall mention a few of the major bills that have been passed in the last few Congresses.

Public Law 87–395, the Community Health Services and Facilities Act of 1961: a total cost of $380 million.

Public Law 87–838, among other things, extended for 3 years, through fiscal 1966, the Health Research Facilities Act at a cost of $150 million.

Public Law 87–868, the Vaccination Assistance Act of 1962, $36 million.

Public Law 87–692, grants by the Public Health Service for establishing and operating family health service clinics for domestic migratory farmworkers and their families, $9 million.

Public Law 88–443, extending the Hospital Survey and Construction Act of 1946 for 5 years, at a cost of $1,362,500,000.

Public Law 88–164, the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, a total of $329 million.

Public Law 88–581, the Nurse Training Act of 1964, a total of $283 million.

Public Law 88–156, to increase Federal aid under the maternal and child health services program for mental retardation programs, a total of $282,200,000.

Public Law 88–129, the Health Professions Educational Assistance Act of 1963, a total of $236,400,000.

Public Law 88–497, the Graduate Public Health Training Amendments of 1964, $69,595,000.

Public Law 89–97, establishing a medical care program for the aged under Social Security: The first full year estimate cost, for 1967, was $4,239,000,000. That is a program in which Congress passed more than a 3-year delivery.

Mr. President, the average aged person is spending more for medical care today than he did before medicare was enacted. Prices have gone up, up, and up. We have required him to pay the first portion of the bill, even to carry coinsurance and do other things. He is spending more money now than before the act was passed.

What I am saying is that we should make good on medical programs that have been enacted. If the bill is enacted, it will mean $185 million of money for another program.

The PRESIDING OFFICER. The 10 minutes of the Senator from Nebraska have expired.

Mr. CURTIS. Mr. President, I yield myself the remainder of the time.

The bill is competing for the dollars that finance payments already made to our citizens.

Public Law 88–239, the Heart Disease, Cancer, and Stroke Amendments of 1965, authorized a new 3-year program of Federal grants, costing $340 million. I am not against that.

I say that when you add another program today, you are going to make it harder to get money. All across the land there are worthwhile medical research projects that are without money today because it has not been provided. Instead of meeting that situation, we are enacting another health program. It does not make sense, Mr. President. These programs will either be run by medically competent people or they will not. Suppose they are run by people who are not medically competent. Then they are no good. Suppose they are run by medically competent people. The result is we will have too many of our doctors working for the Government, pushing pencils, and shuffling papers when they should be out curing the sick.

We cannot go on enacting separate programs, separate categorical programs just because they sound good and just because they have a worthy objective. Our purpose is to make good on the programs already enacted to see that they are adequately financed.

Mr. President, do not confuse communities and other areas with the multiplicity of programs, but carry on and do a better job under the ones we have now.

Mr. President, I wish to call to the attention of the Senate Public Law 89–115, the health research facilities amendment. It allowed $280 million for the years 1967–69. Then, there is Public Law 89–749, the Comprehensive Health Planning and Services Act, $154 million; Public Law 89–109, the Community Health Service Act of 1965, $117 million.

The facts are that whether one talks to members of the Committee on Appropriations or an agency downtown, there is not enough money provided to carry on the programs we now have. Why embark on another program? The President was correct in his veto.

We have Public Law 89–291, authorizing $105 million for a 4-year program or grant to build medical library facilities. Public Law 89–793, the Narcotics Addiction Rehabilitation Act, $30 million. This program will compete with that program for dollars.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. CURTIS. Mr. President, I urge that we support the veto.

Mr. KENNEDY. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, all of these programs were in existence at the time the Senator from Nebraska voted for this conference report, which is barely 2 weeks ago.

Mr. CURTIS. Mr. President, will the Senator yield there?

Mr. KENNEDY. I am pressed for time.

Mr. CURTIS. The Senator mentioned my name. Will the Senator yield for 10 seconds?

Mr. KENNEDY. Ten seconds.

Mr. CURTIS. I voted against this bill. The conference report was a slight improvement on it.

Mr. KENNEDY. The fact remains that all the programs the Senator listed obviously were on the statute books weeks ago, and yet he still voted for the conference report at that time.

Mr. President, I yield 3 minutes to the Senator from Maryland.

Mr. BEALL. Mr. President, as a member of the Health Subcommittee and as a cosponsor of S. 504, the Emergency Medical Services Systems Development Act of 1973, I urge the Senate to override the President's veto.

S. 504 authorizes a 3-year, $185 million program to develop emergency medical systems throughout the communities and the States of this country. Under the bill Federal assistance is provided to States, local governments, and regional governments to plan, establish initial operations, or to expand emergency medical care systems. Mr. President, this bill should not have been vetoed by the President; it should have been enthusiastically embraced. As I said when the conference report to S. 504 cleared the Senate, this bill is "truly a matter of life or death."

Mr. President, to say that is not being overly dramatic. The following statistics indicate the magnitude of the problem and the need for an expanded effort in the emergency medical field.

Injuries are the leading cause of death of Americans age 1 through 38, the second leading cause of death between ages 1 and 48, and the fourth highest cause of death among our total population.

One out of every four citizens in the Nation will have some type of accident this year.

Every eighth hospital bed is occupied by an accident victim.

The National Safety Council estimates that accidents result in the loss of 150,000 lives annually, 55,000 by motor vehicles alone.

Death is only part of the story as accidents also result in approximately 10 million disabling injuries leaving some 400,000 individuals totally disabled.

The total cost of these injuries is estimated at $25 billion. All of us are potential victims.

Mr. President, there is too much complacency in the country with respect to this problem. The public has a tendency when such accidents occur to shrug and to blame it on inevitable occurrences. We know that many accidents can be prevented. In addition, and this is the purpose of this bill, once such accidents do occur, we do not have to accept death or disabling injuries as inevitable.

We can and should do better. To emphasize the complacency in the country, I called to the attention of the Senate that when Hurricane Agnes was rampaging up the east coast for 6 days claiming 118 lives and causing damage estimated at $3 billion, this was front page news each day. On the other hand, during each of these same 6 days, 316 of our citizens died as a result of accidents for a total of 2,212 victims over the same 6 days that Agnes killed 118 citizens.

Mr. President, I have been interested and involved in efforts to improve emergency medical services for some time. I know also that the President is vitally interested in this area for he helped spotlight the problem by funding a national research and development effort to demonstrate improved emergency care and services in the United States. I am also very proud of my State of Maryland's work in this area as they have been one of the pioneers in this field. Maryland probably has the most sophisticated trauma center, now called the Institute of Emergency Medicine, a system of rapid transportation that has been developed utilizing a helicopter system operated by the Maryland State Police. I might add at this point that all my colleagues have to do is talk with some of the policemen, many of whom are former veterans and one can sense immediately the spirit and dedication of these men and their commitment to this program. Their testimonies would be more eloquent and effective than my words today in urging the overriding of this veto.

In addition to the Institute of Emergency Medicine, the Johns Hopkins University Hospital Pediatric Trauma Center, the Baltimore City Hospital-University of Maryland Neonatal Centers, the Baltimore City Hospital Burn Center, the special coronary units, community hospitals and the paid and volunteer ambulance services provided in the Baltimore area mean that Maryland has the component parts and capability to lead the Nation in this vital area. Although the Baltimore area is ahead of the rest of the States, there is tremendous interest in this program throughout the State, from the mountains of western Maryland to the coastal area of the eastern shore.

As the message is received by our citizens with respect to the fact that accidents just do not happen to the other guy, and that we can do better in saving lives once accidents occur, we are going to see a revolution in emergency medical care here at home such as that which occurred in Vietnam and in earlier wars.

As my colleagues know, the military efforts have been so successful in Vietnam that former Secretary of Defense Laird was able to say that the death of trauma victims in Vietnam was near zero.

Mr. President, I know the White House is interested in this area. Ken Cole, now head of the Domestic Council, was kind enough to visit the trauma center in Maryland with me during the last Congress. He was impressed with what Maryland was doing and Marylanders in the area were impressed with his interest. Later I had the pleasure of announcing that the State of Maryland was granted a $1.25 million grant to develop emergency medical communication systems, which is a vital component of a total emergency care system, for the Baltimore metropolitan area. This communi-

cation system will improve care for victims of medical emergency by getting the victim to the most appropriate medical facility as quickly as possible. I believe, as does the State of Maryland, this system should be expanded statewide as soon as possible. As my colleagues may know, the Governor of my State has announced plans for the development of a statewide system.

Dr. R. Adams Cowley was appointed statewide director. I am pleased to say that prior to the State taking this action, I had written to Governor Mandel urging both the appointment of a statewide director and that Dr. Cowley be so named. Naturally, I was gratified with the Governor's action in this regard.

Mr. President, the President gave a number of reasons for vetoing this measure and I would like to respond briefly to them.

First, it is argued that this bill represents another narrow categorical program. Mr. President, I support in general the block grant and revenue sharing approaches. But, I believe that the Federal Government has a vital role to play in identifying national problems and stimulating State and local governments to respond thereto. Can anyone say that this does not represent a national problem? Even more importantly, it represents a national problem for which the technology and know-how exists to do something—and do something now.

Secondly, the administration argues that the bill provides too much money. Again, I am aware of the inflationary pressures in the economy and the need for Federal restraint.

I would point out, however, that the American Medical Association recommended a 3-year, $635 million program. Now I submit the American Medical Association is not known for being unrealistic in terms of Federal spending. Yet the magnitude of the problem prompted the American Medical Association to recommend amounts far in excess of that contained in S. 504. Furthermore, Mr. President, it should be pointed out that this is an authorization measure and while I am against excessive authorization, I believe the need I have discussed and the recommendations of the American Medical Association demonstrate that the authorization level is not excessive. Furthermore, I believe that by spending money on emergency medicine we will be not only saving lives but saving money over a long term.

The third reason by the President for vetoing the bill is the mandate by the Congress to continue Public Health Service Hospitals. Mr. President, this year as I have on previous occasions I visited the Public Health Service Hospital in Baltimore. I was impressed by the work that is going on there and the service that is provided. One area of emphasis, for example, is their cancer program. This certainly should fit in with the administration's priority attack against this dreaded disease. The precipitate closing of the Baltimore Public Health Service Hospital without a determination of who will continue this cancer effort makes no sense.

Also, as I talked with those in the health community and those citizens in Baltimore with respect to the hospital, I was disturbed over the failure of the administration, even assuming that they are correct with respect to the ultimate action of the Public Health Service hospitals, to consult adequately with the community and their determination to close these hospitals without an adequate transition period and without making certain that the community has adequate time to plan for and absorb these important health facilities. This is not even to mention the question of needed guarantees that the present beneficiaries of the Public Health Service hospitals will be provided adequate health care.

Mr. President, Dr. R. Adams Cowley, the director of Maryland's Institute for Emergency Medicine predicts that accident deaths in Maryland could be cut in half in 2 years with a statewide system. With the mobility of our population, it seems imperative that we develop first rate emergency medical care systems throughout the Nation. This bill will provide Federal funds to stimulate State and local action in this regard.

Mr. President, in some areas of health, such as our attack against cancer and heart diseases, we are often looking for new discoveries or new breakthroughs. In the trauma area, I am convinced, the technology and the know-how exists today to dramatically reduce the number of trauma deaths.

This is an area where action by the Senate today will lead to immediate payoff in terms of lives saved.

Mr. President, I urge that the Senate overwhelming override the President's veto.

The PRESIDING OFFICER. The Senator's time has expired.

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

The PRESIDING OFFICER. Four minutes. The Senator from Washington has the remaining time.

Mr. MAGNUSON. Now, Mr. President, as the chief sponsor of the PHS hospital amendment which has been incorporated in S. 504 as section 5, I wish to summarize that portion of the bill and the effect it will have if it becomes law. Also, I wish to briefly review the events which led me to introduce the amendment.

Mr. President, there are now eight general Public Health Service hospitals located in Seattle, San Francisco, Galveston, New Orleans, Norfolk, Baltimore, New York, and Boston. Section 5 would require that these hospitals remain open and continue operating at no less than their January 1, 1973, level until the Congress enacts further legislation authorizing their closure or transfer to non-Federal sponsors. This provision does not mean that these hospitals may never be closed. Instead, it simply means that the Congress—through the normal legislative process—will play its proper role in determining their future.

It is true that section 5 requires that the executive branch obtain the formal approval of the 314(a) and 314(b) health planning agencies on any plan it might wish to submit in the future to the Congress for closing these hospitals. However, it should be remembered that these agencies were established pursuant to Federal law and are funded by the Federal Government to conduct comprehensive health planning at the State and regional level. Also, I would suggest that the direct involvement of these State and local agencies would be entirely consistent with the President's expresed objective of returning decisionmaking authority to the people and of reversing the notion that "Washington always knows best."

Now, Mr. President, I would like to briefly review the events which led me to introduce the amendment that became section 5 of S. 504.

Last year the Congress passed, and the President signed, Public Law 92–585, which established conditions for the closure or transfer of Public Health Services facilties. This law, which Senator KENNEDY and I sponsored, requires that the Secretary of Health, Education, and Welfare transmit to Congress detailed plans for closing any PHS hospital at least 90 days in advance of the intended closure date. Furthermore, this law requires that those plans contain the following:

First. Assurances that those now receiving care at the hospitals will be provided equivalent care under any new arrangement;

Second. An estimate of the cost of providing such care; and

Third. The comments of the relevant 314(a) and 314(b) health planning agencies if they wish to comment after being given a reasonable opportunity to do so.

On March 28 of this year, the Congress received HEW's plans for closing this summer the PHS hospitals in Seattle, San Francisco, Galveston, New Orleans, Baltimore, and Boston. Subsequently, we have also received the plan for closing the Norfolk hospital.

Mr. President, these plans are disastrously lacking with respect to the requirements of Public Law 92–585.

First, they do not assure equivalent care to those now receiving treatment at the hospitals. They do include what amounts to a superficial survey of bed availability in the affected communities. But, they do not include assurances that those beds would, in fact, be made available to PHS beneficiaries. Nor do they include any details on how inpatient care would be offered in community hospitals to serve the unique requirements of seamen or of the poor who are being served by many of the PHS hospitals.

Second, with respect to costs, HEW's plans indicate that they would actually cost the Federal Government more in the long run than will continued operation of the PHS hospitals. They point out that closing the hospitals will save some $35 to $45 million in renovation costs in the short run. But then they go on to demonstrate that this initial saving would soon be consumed by the higher annual costs of providing care to merchant seamen and other PHS patients through community hospitals. Specifically, HEW's plans indicate that the operating cost of its proposal would run about $8 million more each year than it now costs to keep the PHS hospitals going.

Third and finally, HEW's plans are in several instances grossly inconsistent with the requirement in Public Law 92–585 that 314 (a) and (b) agencies be given a reasonable opportunity to comment on those proposals. In fact, the planning agencies never saw HEW's plans. What they did see was a three-page letter outlining in very general terms the basic policies behind the plan, with no specific indication of what hospitals in their area would be used to care for PHS beneficiaries or what specific arrangements would be made with those hospitals to assure that the patients would, in fact, receive equivalent care. Finally, HEW allowed the agencies only 10 working days in which to comment.

Mr. President, in light of these facts it is not surprising that two Federal district court judges—Judge Pratt here in the District and Judge Sharp in Seattle—have granted temporary injunctions barring closure of the hospitals. Likewise, it is not surprising that both have noted that there is "substantial doubt" as to whether HEW's plans comply with Public Law 92–585.

In summary, Mr. President, I offer these three final points:

First, HEW's present plans for closing the hospitals simply do not comply with the requirements of Public Law 92–585.

Second, notwithstanding Congress action on this veto, we have already formally expressed our disapproval of those plans. The conference report on S. 504, which passed the House 305 to 111 and passed the Senate 97 to 0, states:

> The conferees were aware . . . that the DHEW had submitted a 90-day notice of proposed closure of in-patient services in some of the affected hospitals. While the notice was submitted pursuant to the requirements of P.L. 92–585, the conferees felt that it did not meet the requirements in that law . . .

Thus, even if the President's veto is sustained, we will still be left with a situation where the only plans submitted by HEW are inconsistent with Public Law 92–585 and have been rejected by a majority vote in both Houses of Congress.

Third, in overriding this veto the Congress will not be saying that these hospitals may never be closed. Instead, we will just be making it clear—once and for all—that the future of these hospitals will be determined by the Congress acting through the legislative process and not by bureaucratic fiat.

That is certainly consistent with the separation-of-powers concept, and it is a position which I think all of us in Congress must support regardless of our position on the merits of these particular hospitals.

The distinguished Senator from Nebraska said that we should make good on all the health bills that we have passed. I agree. Congress has been responsible and has tried for some time to provide adequate funding for these health programs. But every time we pass an appropriations bill with sufficient health funds the measure is vetoed. Regrettably, in the past there have not been enough Senators willing to stand up and vote to override the veto. Congress should stand up and be counted when the President vetoes these critical health bills, and I hope we will all stand up today and vote against this veto.

The Public Health Service hospitals that S. 504 would keep open do not just serve the seamen. For example, the Seattle Hospital provides care for retired military personnel, for Indians, and for the medically indigent as well as for the seamen. Furthermore, the Seattle Hospital, like many of the others, is involved in critical research and in training new health personnel.

Mr. President, I think this is an extremely unfortunate veto. Everyone talks about the importance of health. We had better begin to give health the priority it deserves because it is one of the most important domestic problems we have. We have good research. But we can do more and we must do more to translate that research into care for all Americans. That is what this vote is all about.

We have not been unreasonable in passing this bill. I certainly cannot subscribe to the notion that cutting health programs is the way to fight inflation. I do not think the way to combat inflation is by closing facilities like the Baltimore PHS Hospital where cancer victims are receiving treatment. And I do not think the way to fight inflation is by vetoing a bill to provide emergency medical equipment to communities.

When he was Secretary of Health, Education, and Welfare, Mr. Richardson came before my Health Appropriations Subcommittee and made a half-hour plea and said they were going to dedicate themselves to more ambulatory medical services. I listened to him and I accepted his ideas.

Now the first time a bill comes along to do just what Mr. Richardson was talking about it is vetoed.

Mr. DOMINICK. Mr. President, I am not going to take more than a minute, but I thought, since it is unusual when I rise to ask my colleagues to override the President, I should make a statement in explanation.

I worked with the Senator from California on this matter, and he and I worked out a bill to provide needed service, particularly when regional medical programs are being dismantled, and as a result of funding which had been developed for the purpose of trying to provide ambulance service, communication, and the rest of it, and the emergency health facilities were about to be cut out of the bill entirely the regional medical program will stay in for at least 1 year—at least, I hope it will—but this whole bill, it seems to me, is an enormous improvement over what we have had before. So I urge my colleagues to vote to override the President's veto.

Mr. JACKSON. Mr. President, I strongly oppose the President's veto of the Emergency Medical Services bill. Through the veto of this bill, I believe the administration has once again proven its lack of concern and failed in its responsibilities to meet the health needs of the American people. This bill provides $185 million over a 3-year period to improve the Nation's emergency medical service facilities. Studies have shown that better ambulance and emergency room treatments could save 60,000 lives a year.

I further object to the veto of this bill as I was a cosponsor of the amendment to this bill keeping open the Nation's major Public Health Service Hospitals. Public Health Service Hospitals are an integral part of our national health network, providing medical care to well over 1 million Americans.

In Washington, the Seattle Public Health Service Hospital cared for 45,790 people last year. Seattle's hospital is one of the Nation's major hospitals caring for our National merchant seamen, retired military personnel, their families, and our Indian families. Closure of this hospital means that these persons will have to seek care at private hospitals at much higher personal costs that they cannot afford.

The Seattle Public Health Service Hospital has also provided over one quarter of the training opportunities for students at the University of Washington Medical School. This country needs more, not less, spent on medical research and training.

In order to improve emergency medical services and to keep open the Public Health Service Hospitals, I urge my colleagues to join with me in overriding the veto of the Emergency Medical Services bill. I believe we must override this veto if we are to continue to meet our responsibilities to the American people to help provide them with quality health care.

Mr. TUNNEY. Mr. President, the President vetoed the Emergency Medical Services System Act. I am deeply concerned over this veto because it once again exemplifies the lack of concern of the administration over the health and welfare of the people of the United States. The Emergency Medical Services Systems Act would provide for the establishment and improvement of emergency care throughout the United States and could possibly mean life or death to millions of people who suddenly find themselves medically inept.

This veto also concerns me because it gives the green light to the administration's attempt to close the remaining Public Health Service Hospitals.

The Emergency Medical Service Systems Act contains Senator MAGNUSON's amendment, of which I am a cosponsor, to continue operation of the Public Health Service Hospitals in Seattle, San Francisco and other cities.

As part of its cutback program, it is the intention of the Department of Health, Education, and Welfare to terminate all inpatient services at the Public Health Service Hospital in San Francisco. In my opinion, the closing of the Public Health Service Hospital would have a direct and detrimental impact on health care services in San Francisco and the bay area. In addition, the hospital's closure will not, from the study I have made, save the Federal Government any money. In fact, this action will cost the Government up to three and four times as much as at present.

I visited this hospital on my last trip to California in May of this year. From sources within the San Francisco Public Health Service Hospital, I received the following documentation to support my view. First of all, the closing of the hospital will prove to be extremely costly to

the Federal Government. In fiscal 1972, 78,036 inpatient days were recorded at the San Francisco hospital. This includes 51,058 inpatient days for American seamen, who must by law continue to receive full health coverage, which is to be paid by the Federal Government. The remaining 27,000 inpatient days refer to additional recipients who would no longer be covered by this particular program, but who would still qualify under other Federal programs such as military care.

What this means is that the Federal Government is not relieving itself of responsibility for providing health services; it is merely shifting that responsibility. To assume that this action will reduce Federal expenditures is incorrect. The present plan, which calls for the transfer of the contracts of the Federal beneficiaries—which is all categories of American seamen—from the PHS hospital to community hospitals around San Francisco, will prove to be far more expensive to the Government than if these beneficiaries could continue to receive inpatient care at the PHS hospital.

HEW estimates that $135 will be the daily cost of comprehensive hospitalization for the Federal beneficiaries at private hospitals. The plan at present is to create sole-source contracts—which allow no subsequent subcontracting—with Pacific Medical Center in San Francisco. These contracts will cover all Federal beneficiaries in the area—that is, it will cover the approximately 20,000 American seamen in the bay area. The cost per day at Pacific Medical Center is presently estimated at $167 per day for initial hospitalization only. Extra costs such as tests and physician fees increase this figure to an estimated $240 per day. This compares to an inpatient cost per day at the San Francisco PHS Hospital of only $80.

There is the possibility that the Pacific Medical Center will not be able to carry out the present plan of taking all PHS hospital's American seamen beneficiaries because of a lack of facilities. If this occurs, then the plan would be to let the other 19 San Francisco hospitals bid for these contracts. The problem here is that the lowest bidder may only be able to supply a portion of the beds and services needed, and the other PHS hospital's patients must be doled out to any number of the remaining hospitals, with accompanying higher rates. The result would be that some patients would go to one hospital for one rate, while others would go elsewhere for another price. Not only will all of these prices exceed the present rate, but the administration and red-tape involved will be a great problem for both patients and the hospitals themselves.

Another important point is that the cost of supplies and drugs at the Public Health Service hospital is approximately one-third the cost for the same materials at the non-Federal hospitals. This is a substantial saving which would disappear with the closing of the PHS hospital.

San Francisco's PHS Hospital serves several vital purposes, including direct patient care, training programs for over 30 groups in the bay area, research—including several projects with NASA—and a host of special services. These services include a leprosy center, a hemodialysis unit, and an alcohol and drug detoxification program. If the hospital is closed as planned, most of these programs will be terminated. In addition to this, it is estimated that up to 500 employees at the PHS hospital would be terminated—a sudden and serious employment problem.

To cut off the above-mentioned training programs would severely hamper the intern programs at both the medical school of the University of California at Berkeley and at the City College of San Francisco. The University of California sends approximately 150 interns per year to the various programs at the PHS Hospital, and City College sends 170. In all, 525 interns attend the hospital each year, and to close it would cripple, and in some cases, terminate existing intern programs in the bay area.

Another group who relies exclusively on the PHS hospital in San Francisco is virtually all the leprosy patients in the Western United States. One hundred eighteen leprosy patients utilized the PHS hospital in San Francisco in 1972, and this is the only place where such patients can go for inpatient service in the entire United States with the single exception of the leprosarium in Carville, La. To terminate the program in San Francisco would, of course, mean that any inpatient service would have to be obtained at Carville. This would not only be a great inconvenience to these patients, but it also would cost the Government extra money to transport the patients back and forth.

I firmly believe that the Government should allow the Public Health Service hospital in San Francisco to continue its inpatient services. Not only will its closing be distressing to many bay area residents, but it will cost the Federal Government considerably more than it is now spending. I favor the saving of Federal dollars where it can be done effectively, but to close the PHS hospital in San Francisco will be even more costly—to all of us as taxpayers, and to the lives and welfare of bay area residents.

Mr. HUMPHREY. Mr. President, President Nixon's veto message on S. 504, the Emergency Medical Services Systems Act of 1973, is incomprehensible, inhumane, and utterly irrelevant to the critical problems to which this vital legislation is addressed.

Once again, the President has callously brushed aside major legislation on the basis of an extremely narrow viewpoint that totally avoids the demand to confront urgent needs of American citizens. Earlier this year, he vetoed historic legislation that would have provided essential rehabilitation services to millions of handicapped Americans—sacrificing this major initiative to meet an urgent domestic social welfare need on the altar of budget control, while at the same time not hesitating to request increased budget expenditures for defense weaponry, including $2.1 billion in military aid to South Vietnam, which in itself was far in excess of appropriations authorized for fiscal year 1974 under the vetoed Rehabilitation Act of 1973.

Now the President would sacrifice legislation providing for the substantial reform and expansion of emergency medical systems on the "altar of federalism," somehow seeing this program as "thrusting the Federal Government into an area which is traditionally a concern of State and local governments and should remain under their jurisdiction."

What the President is apparently unaware of is that the States and cities and towns desperately need help in achieving what must be a drastic reform of emergency medical services. All too often, a local emergency medical system is either nonexistent or completely uncoordinated. Meanwhile, the harsh reality is that tens of thousands of American people are being permanently disabled or allowed to die because qualified emergency medical care is not available.

It has been stated emphatically that enactment of the Emergency Medical Services Systems Act of 1973 could mean a potential saving of 60,000 lives a year. A recent report of the National Academy of Sciences sees a dramatic upsurge in the demand for emergency medical care, and estimates that more than 52 million people are now injured each year. Nevertheless, this reports finds emergency care is "one of the weakest links in the U.S. health care system." The harsh fact is that mortality from accidents alone could be reduced by up to 20 percent by proper medical care at the scene of the accident or en route to an emergency medical facility. Thirty percent of cardiac deaths could be prevented. And immediate medical attention could prevent 5,000 deaths each year from other causes such as poisonings, drownings, and drug overdoses.

The National Academy of Sciences report estimates that only two-thirds of the ambulance attendants across America have received advanced first-aid training. Another survey by the American College of Emergency Physicians found only 37 percent of ambulances meeting minimal design standards, and still less as having adequate lifesaving or communications equipment. And hospital emergency rooms, confronting an almost overwhelming escalation over recent years in outpatient visits, are all too often compelled to meet this demand with inadequate and undertrained personnel and a lack of intensive care equipment.

I have been particularly encouraged by provision made in the Emergency Medical Services Systems Act to help meet the critical need for emergency care in rural communities. The National Academy of Sciences reported that 70 percent of motor vehicle deaths occur in rural areas and communities with a population under 2,500—one cause being inadequate emergency room facilities. Moreover, rural communities face peak periods of emergency cases during vacation seasons or harvesting, for which they are too often totally unprepared.

I strongly urge the Senate to vote to override the President's veto of S. 504, which can provide vitally needed support and strong incentives to States and com-

munities to coordinate and substantially improve emergency medical services under a comprehensive and integrated system of up-to-date facilities, modern transportation equipment, and effective communications networks. This is fiscally responsible legislation, authorizing only $185 million over a 3-year period, which would be utilized as seed money in conjunction with other resources upon which State and local jurisdictions and combinations of local governments are to place maximum reliance for funding.

The extremely limited demonstration level effort of $15 million for the current fiscal year proposed by the administration simply will not begin to do the job that urgently needs to be accomplished right now. And I am profoundly disturbed that such a disregard of public need on the part of the administration would come immediately on top of its violation of the public interest, as recently revealed in its failure to spend $1.1 billion or about one-fourth of the funds Congress authorized for the last fiscal year for the National Institutes of Health and the programs of the Health Services and Mental Health Administration.

Mr. President, an excellent article, asserting that—

Incompetent emergency medicine in the United States is a national scandal, costing tens of thousands of lives each year.

It appeared in the August, 1973 issue of Family Health. Entitled "An American Tragedy," and written by John Kelly, this article tells a story of families left in grief by the loss of loved ones who would be alive today if they had received good emergency medical care, and it documents cases of cities which have taken dramatic steps in meeting this vital need. I ask unanimous consent that this article be included in the RECORD.

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

AN AMERICAN TRAGEDY

(By John Kelly)

Perched on the edge of the sofa, Fred DeLuca flips quickly through the leather-bound album. "Ah, here it is, he says softly, pointing to a small photo at the bottom of the manila page. The girl in it is about four or five, with a pert grin and her father's wide, dark eyes. "Rose took that two or three days before the accident. It's the last picture we have of Gina." The tone may sound casual and easy, but the pain of her loss is still apparent in DeLuca's sad distant smiles. The incident that tore apart Fred and Rose DeLuca's small, secure universe occurred on a bright, early spring afternoon in 1971. Gina and her younger brother were playing in front of the family's modest Huntington, Long Island, home when their ball suddenly bounced into the street. Gina dashed after it and was hit by a car. Her parents rushed her to the emergency room of a nearby hospital, where an intern examined her and diagnosed the injury as a broken leg. "He set it and told us not to worry, everything would be all right," recalls the father, shaking his head sadly.

But everything wasn't all right. The leg had been improperly set and gangrene developed. Three days later, Gina was dead.

Shocking, yes. Unusual—unfortunately, no. The incompetent medical care that cost young Gina DeLuca her life is all too common in a scandalously large number of America's more than 5000 emergency rooms (ER's). Indeed, judging from a new National Academy of Sciences (NAS) report, virtually every section of the nation's chaotic emergency-care system—from the ambulances to the ER's themselves—is shot through with incompetence, inefficiency, and inertia. Lambasting emergency care as "one of the weakest links in the U.S. health-care system," the report charges that its "inadequacies are costing the needless loss of thousands of lives."

A score of other health authorities echo that indictment. "With better, prompter care," says Dr. Campbell Moses, former Medical Director of The American Heart Association, "we could be saving as many as fifty thousand heart-attack victims each year." All told, perhaps "twenty percent of those who die in medical emergencies might be saved if modern equipment and proven methods of treatment were being used," adds Dr. Julius E. Stolfi, Dean for Clinical Affairs at the State University of New York Downstate Medical Center.

What these figures add up to is a crisis in the American emergency-care system. Quietly building for the last two decades, it's been brought to a sudden, swift head by the dramatic upsurge in the demand for emergency care. The NAS estimates that more than 52 million people are now injured each year. Although the vast majority of these injuries are minor, still 110,000 are killed, 400,000 are permanently scarred or maimed, and an additional 11 million spend a day or more in bed because of injuries. Another 300,000–400,000 die each year of heart attacks either before help arrives or en route to a hospital.

"If a disease were causing deaths and injuries on this scale, we would have long ago since mounted a major campaign to curb it," says Dr. Jesse W. Mahoney, Associate Professor of Clinical Surgery at New York University Medical Center. "But we—and by 'we' I mean the medical profession as well as the public and government officials—have been slow to grasp the terrible seriousness of the problem."

Hence, while visits to emergency rooms shot up 308 percent over the last 15 years, the emergency-care system in most communities remains a ramshackle scene out of a Rube Goldberg cartoon. "Rarely is it clear who's really running the system. Planning is done on a piecemeal basis, and the decisions made by the people at the top often don't filter down to the doctors and technicians who must administer care," declares Dr. Robert B. Andrews, a University of California management expert who specializes in medical systems.

The upshot is succinctly summed up in the NAS report: Almost never is there anyone at the site of an accident or injury capable of administering first aid. The ambulances used to transport patients are often of inadequate size, ill equipped, and manned by untrained or only partially trained drivers. Frequently, there's no communication setup between them and the hospital or a central dispatcher. And the emergency rooms themselves are critically short of competent doctors, nurses, and other personnel, often poorly equipped, and swamped by millions of non-emergency cases.

Since 1966—the year the first National Academy of Sciences report on emergency care was issued—some tentative reforms have been initiated. Jacksonville, Florida, San Diego, California, and several other communities have shown what can be done when local politicians and medical authorities bury their petty jealousies and the citizenry puts its minds and money behind the effort to upgrade emergency care. In addition, two new societies of physicians in emergency medicine are now working vigorously to bring order to the present chaos. And the powerful American Medical Association has started to place some of its money and considerable political muscle behind the effort to upgrade care.

But public apathy, a tightfisted federal government, and the entrenched conservatism of organized medicine make progress painfully slow. "We've gotten a ten-percent response to a problem that demands one-hundred-percent response," says Dr. Gail V. Anderson, Chairman of the Department of Emergency Medicine at the University of Southern California School of Medicine.

The emergency room (ER), of course, has always been one of medicine's eyesores. But today, the problem extends beyond the emergency room and into even the most seemingly simple areas of emergency care.

"Just plugging into the system has become maddeningly difficult," complains Dr. Fred B. Vogt, Professor of Bio-Medical Engineering at the University of Texas. Only 125 communities have a central 911 emergency telephone number. Barely 10 percent of the states have clear highway signs indicating how to get to the nearest hospital. And responsibility for delivering emergency care in most areas is often hopelessly splintered among state and local police, the fire department, public and private ambulance services, and community and private hospitals.

A Massachusetts psychiatrist recently had a firsthand introduction to the dangers inherent in this chaos. Seeing a man slumped on the sidewalk and suspecting a heart attack, the psychiatrist immediately called the local police. They said medical emergencies were out of their jurisdiction. So he tried the fire department, but they also declined any responsibility. Finally, out of desperation, the psychiatrist piled the man into his own car and drove him to the nearest hospital. It, however, turned out to be a chronic-care facility and couldn't provide help in this kind of emergency. At last, a call to the State police did bring a promise of assistance, but by the time the troopers arrived, the man was dead.

A well-equipped ambulance with a trained attendant might have saved this man's life. But aside from a few exceptional cities and towns, responsibility for providing ambulance service also is fragmented between public and private authorities. And the ambulances themselves are often woefully inadequate to the demands of their task.

Indeed, more than 20,000 so-called ambulances actually are hearses, pickup trucks, or station wagons, and nearly half the nation's emergency medical calls are answered by morticians or garage owners using such vehicles. Many of the vehicles built especially as ambulances aren't much better. "It's most unusual for ambulances to be equipped with the instruments necessary to monitor coronary patients," points our Dr. Moses, "and equally unusual for them to carry the drugs that could save thousands of heart-attack victims."

Unfortunately, even if they did carry such equipment, many ambulance attendants wouldn't know how to use it. According to one estimate, thirty-five percent have never completed an elementary Red Cross course.

In rural areas, the situation is far more critical than these figures indicate. A recent University of Iowa study found that 80 percent of that state's drivers have no organized inservice training. And the Ambulance Association of America estimates that, nationwide, 25,000 people end up with permanent injuries or disabilities each year because of untrained ambulance attendants and rescue workers.

A few communities do insist that ambulance drivers be trained, and excellent programs are offered. Unfortunately, the situation in Pennsylvania is far more typical. That state requires its barbers to take 1500 hours of training at a barber college, and its manicurists must complete 200 hours of study at a beauty-culture school. But ambulance attendants need only have a driver's license.

Brock Peters, a 23-year-old Buffalo, New York, man, can testify as to what might happen at the hands of untrained ambu-

lance attendants. Peters was playing hockey with friends when he was whacked on the back of the neck. Even the most elementary first-aid manuals advise that individuals with neck injuries be totally immobolized before being moved. But the ambulance attendants simply picked young Peters from the ice; as a result, he now watches his hockey from a wheelchair, permanently paralyzed because of this negligent care.

Patients who manage to get to the emergency room on their own often aren't much better off than those who arrive by ambulance. Herded into crowded, dirty reception areas, they frequently must wait hours before seeing a doctor—that is, if one's available. In populous Manhattan, more than 25 percent of the hospitals don't staff doctors in their emergency rooms around-the-clock. In many smaller communities and rural areas, the figure is closer to 50 percent.

The reluctance of private physicians to see patients outside of office hours—no matter what the emergency—is partly responsible for the added crush in hospital emergency rooms.

A survey in one large eastern city revealed that almost 25 percent of the doctors routinely refer after-office-hours callers to an emergency room for treatment. In addition, an increasing number of central city areas are without doctors as more and more physicians follow their middle-class patients to the suburbs. For example, in Baltimore, residents of 15 inner-city census tracts are now without a doctor. A similar situation exists in Philadelphia. "We've got plenty of physicians," notes James Tate, former mayor of that city, "but unfortunately, they are all living in the suburbs."

As a result, the city emergency room has been forced to assume an entirely new role. "It's become family physician to those who don't have a doctor or can't get in touch with him," says Dr. Ronald Holloway, chief of the emergency room at Manhattan's St. Claire's Hospital. "Very few of the cases seen in the ER's qualify as true emergencies."

Statistics bear him out. By one estimate, only 12 percent of the patients who flock to Los Angeles' overburdened emergency rooms each day are dangerously ill or injured. And nationally, experts claim that no more than 20 percent of those crowding into ER's are, indeed, emergency cases.

Regardless of what brings patients to the ER, there is mounting evidence that they are being badly shortchanged in terms of care. A recent survey in one busy Baltimore ER indicated that less than a third of the noncritical cases treated there received adequate care. And a second study, conducted by researchers from Johns Hopkins School of Hygiene and Public Health, concluded that over half the auto-accident victims who died from abdominal injuries after being admitted to a large metropolitan ER would "have had a reasonable chance for survival if there haven't been an error in diagnosis or treatment."

Inadequately equipped facilities are partly to blame for these dismal statistics. A large number of medical emergencies, especially auto accidents, occur in rural sections; yet three-fourths of the small hospitals (200 beds or less) that serve these areas don't have intensive-care units. More than half lack blood banks. And although heart disease has virtually become "The American Way of Death," only 42 percent of our community hospitals have intensive cardiac-care units.

The level of competence among physicians who man the nation's emergency rooms is also troubling. "For all the talk about emergency care," says the University of California's Dr. Andrews, "the ER is still considered Siberia. And most good doctors escape from it as soon as they can." Where they most often escape to, of course, is the high pay, reasonable hours, and relaxing atmosphere of a specialty practice.

Almost by default, then, responsibility for the emergency room in many areas has fallen or—perhaps more accurately—been thrust into the laps of the lowest men on the hospital totem pole, the interns and residents. In Baltimore's General Hospitals, they provide 37 percent of the emergency care. Many of them are superbly competent and fiercely dedicated young men and women. But many others, though equally dedicated, are dangerously inexperienced, as the David Niles family recently found out to their sorrow.

In February, the San Rafael, California, couple was granted the largest damage claim ever awarded by an American court. The sum, slightly over $4 million, was retribution for the incompetent care that left their once bright and active 13-year-old son, Kelly, profoundly retarded and totally paralyzed for the rest of his life.

Hit in the head during a playground tussle two years ago, the boy was rushed to the emergency room of San Francisco's Mount Zion Hospital by his father. An intern examined him and, despite the youngster's nausea and vomiting, sent him back home. Kelly's condition continued to worsen, however, and when his frantic father brought him back to the ER six hours later, the boy was totally unconscious. This time, the ER staff called in an experienced neurosurgeon who quickly diagnosed the boy's injury as intradural hematoma, or bleeding inside the skull. In granting the money, the court noted that prompt treatment during Kelly's first visit to the emergency room might have prevented the tragedy.

Because of the long hours, often poor pay, and nerve-racking atmosphere, those hospitals that do try to staff their ER's with full-time, experienced physicians are frequently forced to recruit abroad. Again, many of these foreign physicians are splendidly trained, but even the best of them sometimes encounter language problems. "New York State requires such doctors to take a written medical test in English," says NYU's Dr. Mahoney. "But most doctor-patient communication is verbal, and no one has yet demanded they take an oral test."

Tim Malloy was a victim of this elementary oversight. Brought into the ER of an upstate New York hospital with an injured ankle, he was examined by an Argentine doctor who somehow didn't spot a fracture in the X rays. He sewed up the ankle wound and sent him home. The Argentine's reluctance to consult with his superior, a Filipino, because of a language problem proved costly for young Malloy, since subsequent X rays did reveal a fracture. But gangrene had set in and his leg had to be amputated.

Staff rotation is another source of problems. The practice, common in most places, is based on reciprocity. In exchange for use of their facilities, hospitals require physicians to periodically serve a stint in ER. "Now, an internist may be a first-rate cardiologist, but that doesn't mean he knows a damn thing about neurology," says malpractice lawyer Albert Averbach of Seneca Falls, New York. "Yet this procedure throws him into the emergency room and forces him to treat all injuries on a first-come, first-served basis."

No one can promise a quick, easy solution to this or to emergency medicine's other complex problems. But already, scattered amidst the chaos, there are some encouraging signs of progress. One of the most significant is the formation of two new specialty organizations, the 3900-member American College of Emergency Physicians (ACEP) and the slightly smaller American Trauma Society (ATS). Influenced by the activist attitude of their largely youthful members both societies are pressing hard for stricter controls on the training of ambulance drivers, first-aid courses for schoolchildren, and more research into the effects of trauma.

Efforts are also being made to forge emergency medicine into a separate discipline. Although the AMA has yet to act on the ACEP's application for specialty status, Tulane, the University of Cincinnati, and nine other schools now have full-fledged departments of emergency medicine. The first and largest of these, the one at the University of Southern California's School of Medicine, is headed by Dr. Gail V. Anderson, a tough physician with a reputation for cutting through academic red tape.

"Our goal," says Dr. Anderson, "is to train an individual who can cope with acute problems on a broad basis. We emphasize skills that have to do with the acute aspects of such disciplines as surgery, orthopedics, gynecology, neurology, and obstetrics. We also emphasize speed, because our men don't have all day to work up tests. They've got to get in, size up the situation swiftly, and treat it." In addition to the 11 residents, the USC center is training 14 specialized emergency-room physicians, 77 paramedics, and 52 ambulance attendants.

Equally encouraging for the future is the rapid growth of community councils, backed by the AMA–ATS, to coordinate all emergency care services in a particular area. "In many areas, responsibility for emergency care has never been clearly defined, so systems have been allowed to slip without anybody really noticing or caring," says Dr. John Howard, Secretary of the ATS. "The community council is designed to fill that vacuum."

These councils include representatives from the fire and police departments, the local hospitals, medical societies, and private ambulance services. Their chief task is to weld the various components of the emergency system into a single community-wide unit. In most towns, this entails drumming up money and support for the system, hiring an administrator, establishing a single emergency number, and creating a central dispatch service to direct the area's ambulances. The councils also provide first-aid training for ambulance attendants.

The Jacksonville, Florida, Emergency Medical System (EMS) is a good example of the benefits this kind of unified organization can provide. Since its formation in 1968 under Captain John Waters, a gruff ex-Coast Guardsman, the number of auto-accident fatalities has been cut by 38 percent, even though the number of accidents has climbed by 7000. The community's statistics on heart-attack "saves" aren't as complete, but one preliminary study showed that 97.2 percent of Jacksonville's heart-attack cases arrive safely at a city emergency room. Nationally, it's estimated that 60 percent of the heart-attack deaths occur before the victims reach a hospital or see a doctor.

What can be done on a statewide basis is evident in Illinois, where the Illinois Trauma Unit serves hundreds of communities. In its two years of existence, the unit's young, aggressive director, Dr. David R. Boyd, has managed to parlay his talent for organization and some fortunate political friendships into a system that many observers feel could serve as a national model.

The unit's center has a sophisticated radio network linking the system's hospitals to one another and to local police and fire departments. Manning it are a corps of Trauma coordinators, who are thoroughly acquainted with the medical resources of a particular area. These coordinators swiftly size up the seriousness of an injury, accident, or other medical emergency, and take whatever action is deemed necessary. For example, the unit's helicopters and specially trained nurses and technicians may be dispatched to pick

up a badly injured accident victim on a highway near Peoria. Instead of taking the injured person to the nearest hospital, the helicopter ferries him to one of the unit's nine regional medical centers.

These 15 centers, scattered strategically over the state, are at the apex of Illinois' 45-hospital system. All are affiliated with university medical schools and they offer the most sophisticated care available. Cases of the second magnitude go to area centers, where a physician must be on duty and major medical specialists are only minutes away. On the third level are 17 local centers, which must have adequate emergency equipment and a physician on hand.

A recent $4 million grant by the U.S. Department of Health, Education, and Welfare insures Dr. Boyd's unit a healthy future. But the fate of most of the nation's other model emergency-care systems hinges on events in Washington during the coming months. The Nixon Administration has slashed aid to emergency medicine. So present hopes are pinned on the Emergency Medical Service Act. The bill has already been passed by the House of Representatives, but its fate in the Senate depends on public reaction. "We don't make policies, we react to pressure," one politician told Dr. John Howard. "So if you want more money for emergency care, go out and create a pressure group."

In short, then, what emergency medicine needs, even more desperately than money, manpower, and new equipment, is involved, committed people like Janet Schwettman. Shocked by the cardiac deaths of nine men, two of them close personal friends, the Palatine, Illinois, housewife began investigating mobile intensive-care units. "It took two months of study, but I put together a proposal for an emergency cardiac unit," says the young mother of two, "then presented it to our village council." They bought the idea, and so did eight surrounding villages. The result is the Northwest Community Hospital Mobile Intensive-Care Unit.

"The power of the individual is still very much alive in this country," says Mrs. Schwettman. "Thank goodness we're not all IBM cards yet." And when it comes to emergency medicine, the life you're saving may be your own!

Mr. WILLIAMS. Mr. President, once again the President of the United States has vetoed legislation designed to make vitally needed improvements in our health care system. And once again, the President has argued that this legislation is too expensive and that its objectives can be achieved by State and local governments without Federal assistance.

In my view, once again, the President's action is ill advised and demonstrates a continued insensitivity to the needs of the American people.

S. 504, the Emergency Medical Services Systems Act of 1973, is an important piece of legislation designed to encourage the creation of areawide coordinated emergency medical services systems throughout the Nation. Its purpose is a simple one—to help prevent the 115,000 deaths which occur each year as a result of accidents on our highways, in our homes, and in the workplace. In addition, the development of better emergency medical services could well reduce the annual toll of 40,000 accident victims who are permanently disabled and 10 million persons who are partially disabled. Frankly, the President does not seem to think that this is an important enough problem for the Federal Government to become involved.

The question before us today is whether we should act to override the President's veto of this bill. He has told us that it is too expensive; yet, this legislation authorizes only $185 million over a 3-year period to upgrade emergency medical care. We know, too, that the costs for better services will run millions and millions of dollars more than the modest amounts authorized in this bill.

We have been told by the President that to establish this program thrusts the Federal Government into an area which has traditionally been the concern of State and local governments. Yet we know the financial crisis facing States, our cities, and our rural areas and they simply do not have the funds to be able to provide emergency health care for their citizenry. And, in this regard, the President's action to withhold more than $1 billion in Federal health care funds last year has put State and local governments in an even more perilous position.

Mr. President, I have grown weary and impatient with the administration's arguments that the Congress has acted irresponsibly. When this bill was first introduced in the Senate it authorized $315 million for these purposes, and, as reported by the Labor and Public Welfare Committee and passed by the Senate, the authorization in this bill was reduced to $240 million—a figure substantially lower than the $630 million proposed by the American Medical Association in the bill introduced on its behalf in both Houses.

In fashioning S. 504, we did our utmost to assure that its provisions did not duplicate existing legislative authorities and wrote specific language to assure that in providing assistance to communities to establish or expand emergency medical services, the Secretary of HEW must insure that any assistance under the provisions of this bill must come first out of existing programs authorized by the Public Health Service Act.

As always, the administration claims that it is already moving in this area and has committed funds for these purposes. Yet, as always, their arguments fall short upon even minimal analysis. In fiscal year 1972, HEW committed $8 million for the development of five emergency medical services demonstration programs to be carried out over a period of up to 3 years. In fiscal year 1973, the second year of continuing funding for these projects was reduced in the initial budget request from $15 to $1.8 million. This is hardly a commitment which anyone can be proud of.

Mr. President, in his veto message, President Nixon also objects to the provision of this bill which proposed that the Public Health Service Hospitals remain in operation, provide services, and conduct health-related activities at the same level as in effect at the beginning of this year. The bill provides that the Secretary may close a hospital or reduce its activities only if the Congress specifically authorizes such an act. In my view, the beneficiaries of PHS hospitals must continue to be able to rely upon receiving comprehensive health care. The administration has for several years now been attempting to terminate these activities. But, as always, HEW has not developed any acceptable alternatives for those patients who are entitled, through the Public Health Service Hospital System, to receive the best possible medical treatment available. To paraphrase the words of the President in his veto message, I cannot agree to any action that would deny these patients that opportunity.

Mr. President, I regret that the Chief Executive of the Government of the United States seems unable to have a clear understanding of the importance of much of the legislation which has passed the Congress. As one Senator, I am unwilling to turn my back on the people of America.

Mr. COOK. Mr. President, we have all heard of, or had personal experiences, where immediate and trained emergency care was vital to the preservation of life and/or future health. A great deal of attention has been focused on the often fragmented availability of adequate emergency services all over the country. In my own State of Kentucky, this has been the subject of much concern and discussion, and I have been the recipient of many dismaying accounts of needless loss due to the unnecessary lack of immediate and proper medical care.

The medical community and others involved in emergency transportation and treatment have developed highly effective means of meeting the needs in this area. I believe this bill will go a long way in making these developments available where needed. Although I agree with the President's desire to hold down Federal spending, I do not feel that this is the area in which to do it; and I, therefore, feel compelled to vote to override.

Mr. JAVITS. Mr. President, as ranking minority member of the Committee on Labor and Public Welfare, which was responsible for the development of the "Emergency Medical Services Systems Act of 1973" (S. 504)—which passed the Senate on May 15, 1973 by a vote of 79 to 13—and as a conferee on the conference report on the bill, which in great measure, was similar in form and concept with the Senate bill—which passed the Senate on July 19, 1973 by a vote of 97 to 0—I urge my colleagues to vote to override the President's veto.

The bill is the result of mutual dedication by the House of Representatives and the Senate to achieve the most effective and appropriate means to improve our Nation's ability to provide emergency medical services.

RESPONSE TO CATEGORICAL PROGRAM ARGUMENT

The President's veto message argues that the grant program established by the bill—

> Woud 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.

This is precisely the same argument which the Department of Health, Education, and Welfare presented to the Committee on March 9, 1973 in hearings on the legislation. This position was rejected

by the committee in its report on the bill; the report states:

The provisions of S. 504 have broad applicability to all aspects of community health, including training, equipment, systems development, transportation, facilities, and the overall planning and coordination of health resources.

Moreover, grant assistance for an Emergency Medical Service System is provided only when other funding support is insufficient to enable the qualitative and quantitative requirements of the bill to be met. As the report on the bill makes clear:

The Committee does not intend to create new grant authorities under the provisions of this bill which are duplicative of existing authorities. The basic purpose of the legislation is to encourage and provide incentives to appropriate units of government to inventory their resources for providing comprehensive emergency medical services, identify the gaps in such services and seek to remedy these deficiencies through better coordination or utilization of existing resources—their own and those available under other Federal programs—as well as to develop the new components which are essential to the achievement of an integrated, comprehensive area emergency medical services system which would meet requirements established by the Secretary.

Thus, there is nothing new in the President's position on this issue which was not considered by the Senate and rejected by the Senate on May 15 and July 19, 1973.

RESPONSE TO AUTHORIZATION LEVEL ARGUMENT

The President's veto message argues that the $185 million authorization of appropriations is—far in excess of the amounts that can be prudently spent. This is exactly the same argument which was presented by the Department of Health, Education, and Welfare on March 9, 1973, in hearings on the bill.

The hearing record is replete with testimony on the need for Federal funding support in excess of the authorization levels provided for by the bill. The American Medical Association bill on this subject—introduced in both Houses—recommended authorizations of $630 million. One example of the estimates of the costs of improving emergency medical services nationwide was presented by the Society of Critical Care Medicine. Their testimony indicated the need for:

About 2,000 ambulances with defibrillators, plus ambulance-hospital-based telemetry equipment: $50 million.

Emergency communications equipment: $200 million.

Training 20,000 emergency medical technicians: $40 million.

Ten special critical care centers: $10 million.

It should be noted these figures do not include the upgrading of emergency rooms, the costs of ambulance transportation or the costs of training of physicians for emergency departments.

The President's budget recommendations of $15 million is not enough. More must be done when we recognize, based on the hearing testimony, that:

Less than 10 percent of the Nation's hospitals are equipped to handle all types of medical emergencies.

Of the 55,000 Americans who die in highway accidents, as many as 15,000 could be saved from death if we had a proper emergency medical services system.

Thirty percent of heart attack deaths could be prevented with properly trained crews and adequately equipped ambulances.

More than 100,000 Americans die unnecessarily each year because of deficiencies in emergency medical services.

Death by accident is the Nation's No. 1 killer in the 1–37 year-old-age bracket and ranks fourth for deaths of all ages.

Thus, there is nothing new in the President's position on this issue which was not considered by the Senate and rejected by the Senate on May 15 and July 19, 1973.

RESPONSE TO PUBLIC HEALTH SERVICE HOSPITAL ARGUMENT

The President's veto message argues that—

It requires the continued operation of the inpatient facilities of the eight general hospitals presently maintained by the Public Health Service.

This argument has been presented to the Congress time and time again and has been rejected by the Congress, evidenced by the requirements set forth in Public Law 92–585 regarding closure of inpatient services in the hospitals.

There has been no evidence offered to support the assertion that the beneficiary population of the hospitals would be better served if these hospitals were not operated by the Federal Government.

Moreover, there has been no information to suggest that the beneficiaries share the President's conviction that they will be better served if the PHS hospitals were closed and they were referred to other community facilities. In fact, other beneficiary groups have successfully brought judicial actions in Federal courts in Seattle and New York to keep the hospitals open.

In response to any allegations that it is not possible to continue the operation of the hospitals because of staff shortages, it is important to understand that the administration proposes to present Congress with the fait accompli, that is, first it encourages employees to leave and now it argues that the hospitals should be closed because of staff shortages. In response to the argument that to close the hospitals without congressional approval would fly in the face of sound administrative judgment makes no sense, there is nothing that would have precluded HEW from closing these hospitals if it can demonstrate with hard evidence that it can and will provide in some other fashion for those now being treated at the hospitals, for the health manpower training activities being carried on at the hospitals, and for the health research being conducted at the hospitals. Should Congress be expected to approve closure of the hospitals without that evidence and on the basis of the administration's assertions alone? It is argued that the bill should not require the 314(a) and 314(b) local planning agencies which have to approve any plans for closure of the hospitals. But this is based on the President's principle with respect to the decentralization of power, the returning of power to the people, and abhorrence of the idea that the Federal Government always knows best; and, moreover, 314 (a) and 314(b) agencies were established pursuant to Federal law and receive Federal funds for the very purpose of participating in health planning at the State and local levels.

Thus, there is nothing new in the President's position on this issue which was not considered by the Senate and rejected by the Senate on May 15 and July 19, 1973.

If we are to reverse the tragic statistics of death and disabilities due to inadequate treatment capabilities and response at the time of the emergency, it is essential that we override the President's veto.

The PRESIDING OFFICER. The Senator's time has expired.

The question is, Shall the bill (S. 504), pass, the objections of the President of the United States to the contrary notwithstanding? The yeas and nays are mandatory under the Constitution. The clerk will call the roll.

Mr. KENNEDY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. KENNEDY. Will a "yea" vote in effect be a vote to override the President's veto?

The PRESIDING OFFICER. A "yea" vote is a vote to override the veto.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. HARTKE) and the Senator from Maine (Mr. MUSKIE) 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. HARTKE) and the Senator from South Dakota (Mr. ABOUREZK) 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 Utah (Mr. BENNETT), and the Senator from Pennsylvania (Mr. SCOTT) are necessarily absent.

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

The yeas and nays resulted—yeas 77, nays 16, as follows:

[No. 367 Leg.]

YEAS—77

Aiken	Cook	Hughes
Baker	Cranston	Humphrey
Bartlett	Dole	Inouye
Bayh	Domenici	Jackson
Beall	Dominick	Javits
Bellmon	Eagleton	Johnston
Bentsen	Ervin	Kennedy
Bible	Fong	Long
Biden	Fulbright	Magnuson
Brooke	Gravel	Mansfield
Burdick	Gurney	Mathias
Byrd, Robert C.	Hart	McClure
Cannon	Haskell	McGee
Case	Hatfield	McGovern
Chiles	Hathaway	McIntyre
Church	Hollings	Metcalf
Clark	Huddleston	Mondale

Montoya	Proxmire	Symington
Moss	Randolph	Taft
Nelson	Ribicoff	Talmadge
Nunn	Roth	Tower
Packwood	Schweiker	Tunney
Pastore	Sparkman	Weicker
Pearson	Stafford	Williams
Pell	Stevens	Young
Percy	Stevenson	

NAYS—16

Allen	Curtis	Hruska
Brock	Eastland	McClellan
Buckley	Fannin	Saxbe
Byrd, Harry F., Jr.	Griffin	Scott, Va.
Cotton	Hansen	Thurmond
	Helms	

NOT VOTING—7

Abourezk	Hartke	Stennis
Bennett	Muskie	
Goldwater	Scott, Pa.	

The PRESIDING OFFICER. On this vote the yeas are 77, and the nays 16. Two-thirds of the Senators present and voting having voted in the affirmative, the bill, on reconsideration, is passed, the objections of the President of the United States to the contrary notwithstanding.

FULL OPPORTUNITY AND NATIONAL GOALS AND PRIORITIES ACT

Mr. MANSFIELD. Mr. President, what is the pending business?

The PRESIDING OFFICER. The Chair lays before the Senate the unfinished business which the clerk will report.

The legislative clerk read as follows:

Calendar No. 325 (S. 5) a bill to promote the general welfare.

The Senate continued with the consideration of the bill.

DEATH OF ICC COMMISSIONER CHESTER M. WIGGIN, JR.

Mr. COTTON. Mr. President, on the morning of Tuesday, July 31, the country was shocked to learn of another major air disaster when a plane crashed as it sought to land at the Logan International Airport at Boston. Eighty-eight lives were lost and the one survivor, according to the last reports, was not expected to live. Among the victims was the Honorable Chester M. Wiggin, Jr., of Contoocook, N.H., a member of the Interstate Commerce Commission. Mr. Wiggin was well known here in Washington, as well as in New Hampshire, and his untimely death at the age of 56 has brought sorrow to the hearts of the many who knew and esteemed him.

Chester M. Wiggin, Jr. was born and raised in Conway, N.H. When his father passed away in 1966 in his 85th year I had occasion to say on the floor of this Senate that his death marked the passing of an era because he was one of the last of a vanishing breed—the old-time country doctor who was the physician, friend, and father confessor of people from miles around through four generations. Chester, the son, was educated at Dartmouth College and Boston University Law School. Throughout World War II he was in combat service in the Pacific as an officer in the Marine Corps coming out of the war with the rank of lieutenant colonel. Upon his return he was appointed attorney adviser to the Secretary of the Navy from which position he was called by the late Senator Styles Bridges to become his administrative assistant. It was then that I first came to know him.

My association with Chester Wiggin has been long and close. During the 9 years that he served as administrative assistant to the late Senator Styles Bridges, I, first as a Member of the House and then as junior Senator, was constantly in close contact with him, and he was almost as helpful to me as he was to his own Senator. When Senator Bridges passed away, I eagerly sought his services, and he became my administrative assistant serving with me for 7 years, after which it was my privilege to recommend him to the President for appointment as Federal Chairman of the New England Regional Commission. From there because of the recognized quality of his services and the need for the Northeast to have one member of the Interstate Commerce Commission he received that appointment. He was recommended unanimously by all the Governors and all the Senators of New England.

In all my years in government, I have known few men who equaled him and none who excelled him in ability. He was amazingly knowledgeable of many, many aspects of government. He was a man of remarkably sound judgment who never shot from the hip but always made careful and dispassionate decisions, and he was heavily endowed with that priceless quality that we New Englanders call "commonsense."

His sudden death at the very height of his powers is a tragic loss to his State and to the Nation but, even more than that, it is a stunning blow to a host of his grief-stricken friends. For this New Hampshire native, this Son of Dartmouth, has long played a quiet but important role in Washington. He has walked with our greatest and endeared himself to the humblest both here and in New Hampshire. There are many sad hearts today, and our sympathy goes out to his beloved wife, Joyce, and his brother. As for me, he was about the oldest and dearest of my friends and associates who stood at my right hand both here in the Senate and in campaigns at home. I share the grief of his family and to the last hour of my life, I shall miss him.

Mr. McINTYRE. Mr. President, I want to associate myself with the remarks of my senior colleague. I plan to have something to say tomorrow on the several tragedies which have occurred in Boston concerning my good friend and former administrative assistant to Senator COTTON, Chester M. Wiggin, Jr., and also Robert Morgan, the assistant attorney general of my State, and his wife.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider certain conventions.

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

CONVENTION ON THE PREVENTION OF MARINE POLLUTION (EX. C. 93–1); CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES OF WILD FAUNA AND FLORA (EX. H, 93–1); AMENDMENTS TO THE INTERNATIONAL CONVENTION ON LOAD LINES, 1966 (EX. D. 93–1); SIX AMENDMENTS TO THE CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1960 (EX. I, 93–1)

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Chair lay before the Senate Executive C, 93d Congress, 1st session; Executive H, 93d Congress, 1st session; Executive D, 93d Congress, 1st session; and Executive I, 93d Congress, 1st session.

The PRESIDING OFFICER. Is there objection?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider Executive C, 93d Congress, 1st session; The Convention on the Prevention of Marine Pollution; Executive H, 93d Congress, 1st session, The Convention on International Trade in Endangered Species of Wild Fauna and Flora; Executive D, 93d Congress, 1st session, Amendments to the International Convention on Load Lines, 1966; and Executive I, 93d Congress, 1st session, The Six Amendments to the Convention for the Safety of Life at Sea, 1960, which were read the second time, as follows:

CONVENTION ON THE PREVENTION OF MARINE POLLUTION BY DUMPING OF WASTES AND OTHER MATTER

The Contracting Parties to this Convention,

Recognizing that the marine environment and the living organisms which it supports are of vital importance to humanity, and all people have an interest in assuring that it is so managed that its quality and resources are not impaired;

Recognizing that the capacity of the sea to assimilate wastes and render them harmless, and its ability to regenerate natural resources, is not unlimited;

Recognizing that States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction;

Recalling Resolution 2749 (XXV) of the General Assembly of the United Nations on the principles governing the sea-bed and the ocean floor and the subsoil thereof, beyond the limits of national jurisdiction;

Noting that marine pollution originates in many sources, such as dumping and discharges through the atmosphere, rivers, estuaries, outfalls and pipelines, and that it is important that States use the best practicable means to prevent such pollution and develop products and processes which will reduce the amount of harmful wastes to be disposed of;

Being convinced that international action to control the pollution of the sea by dumping can and must be taken without delay but that this action should not preclude discussion of measures to control other sources of marine pollution as soon as possible; and

Wishing to improve protection of the marine environment by encouraging States

with a common interest in particular geographical areas to enter into appropriate agreements supplementary to this Convention;

Have agreed as follows:

ARTICLE I

Contracting Parties shall individually and collectively promote the effective control of all sources of pollution of the marine environment, and pledge themselves especially to take all practicable steps to prevent the pollution of the sea by the dumping of waste and other matter that is liable to create hazards to human health, to harm living resources and marine life, to damage amenities or to interfere with other legitimate uses of the sea.

ARTICLE II

Contracting Parties shall, as provided for in the following Articles, take effective measures individually, according to their scientific technical and economic capabilities, and collectively, to prevent marine pollution caused by dumping and shall harmonize their policies in this regard.

ARTICLE III

For the purposes of this Convention:

1. (a) "Dumping" means:

(i) any deliberate disposal at sea of wastes or other matter from vessels, aircraft, platforms or other man-made structures at sea;

(ii) any deliberate disposal at sea of vessels, aircraft, platforms or other man-made structures at sea.

(b) "Dumping" does not include:

(i) the disposal at sea of wastes or other matter incidental to, or derived from the normal operations of vessels, aircraft, platforms or other man-made structures at sea and their equipment, other than wastes or other matter transported by or to vessels, aircraft, platforms or other man-made structures at sea operating for the purpose of disposal of such matter or derived from the treatment of such wastes or other matter on such vessels, aircraft, platforms or structures;

(ii) placement of matter for a purpose other than the mere disposal thereof, provided that such placement is not contrary to the aims of this Convention.

(c) The disposal of wastes or other matter directly arising from, or related to the exploration, exploitation and associated offshore processing of sea-bed mineral resources will not be covered by the provisions of this Convention.

2. "Vessels and aircraft" means waterborne or airborne craft of any type whatsoever. This expression includes air cushioned craft and floating craft, whether self-propelled or not.

3. "Sea" means all marine waters other than the internal waters of States.

4. "Wastes or other matter" means material and substance of any kind, form or description.

5. "Special permit" means permission granted specifically on application in advance and in accordance with Annex II and Annex III.

6. "General permit" means permission granted in advance and in accordance with Annex III.

7. "The Organization" means the Organisation designated by the Contracting Parties in accordance with Article XIV (2).

ARTICLE IV

1. In accordance with the provisions of this Convention Contracting Parties shall prohibit the dumping of any wastes or other matter in whatever form or condition except as otherwise specified below:

(a) the dumping of wastes or other matter listed in Annex I is prohibited;

(b) the dumping of wastes or other matter listed in Annex II requires a prior special permit;

(c) the dumping of all other wastes or matter requires a prior general permit.

2. Any permit shall be issued only after careful consideration of all the factors set forth in Annex III, including prior studies of the characteristics of the dumping site, as set forth in Sections B and C of that Annex.

3. No provision of this Convention is to be interpreted as preventing a Contracting Party from prohibiting, insofar as that Party is concerned, the dumping of wastes or other matter not mentioned in Annex I. That Party shall notify such measures to the Organisation.

ARTICLE V

1. The provisions of Article IV shall not apply when it is necessary to secure the safety of human life or of vessels, aircraft, platforms or other man-made structures at sea in cases of *force majeure* caused by stress of weather, or in any case which constitutes a danger to human life or a real threat to vessels, aircraft, platforms or other man-made structures at sea, if dumping appears to be the only way of averting the threat and if there is every probability that the damage consequent upon such dumping will be less than would otherwise occur. Such dumping shall be so conducted as to minimise the likelihood of damage to human or marine life and shall be reported forthwith to the Organisation.

2. A Contracting Party may issue a special permit as an exception to Article IV(1)(a), in emergencies, posing unacceptable risk relating to human health and admitting no other feasible solution. Before doing so the Party shall consult any other country or countries that are likely to be affected and the Organisation which, after consulting other Parties, and international organisations as appropriate, shall in accordance with Article XIV promptly recommend to the Party the most appropriate procedures to adopt. The Party shall follow these recommendations to the maximum extent feasible consistent with the time within which action must be taken and with the general obligation to avoid damage to the marine environment and shall inform the Organisation of the action it takes. The Parties pledge themselves to assist one another in such situations.

3. Any Contracting Party may waive its rights under paragraph (2) at the time of, or subsequent to ratification of, or accession to this Convention.

ARTICLE VI

1. Each Contracting Party shall designate an appropriate authority or authorities to:

(a) issue special permits which shall be required prior to, and for, the dumping of matter listed in Annex II and in the circumstances provided for in Article V(2);

(b) issue general permits which shall be required prior to, and for, the dumping of all other matter;

(c) keep records of the nature and quantities of all matter permitted to be dumped and the location, time and methods of dumping;

(d) monitor individually, or in collaboration with other Parties and competent International Organisations, the condition of the seas for the purposes of this Convention.

2. The appropriate authority or authorities of a Contracting Party shall issue prior special or general permits in accordance with paragraph (1) in respect of matter intended for dumping:

(a) loaded in its territory;

(b) loaded by a vessel or aircraft registered in its territory or flying its flag, when the loading occurs in the territory of a State not party to this Convention.

3. In issuing permits under sub-paragraphs (1) (a) and (b) above, the appropriate authority or authorities shall comply with Annex III, together with such additional criteria, measures and requirements as they may consider relevant.

4. Each Contracting Party, directly or through a Secretariat established under a regional agreement, shall report to the Organisation, and where appropriate to other Parties, the information specified in sub-paragraphs (c) and (d) of paragraph (1) above, and the criteria, measures and requirements it adopts in accordance with paragraph (3) above. The procedure to be followed and the nature of such reports shall be agreed by the Parties in consultation.

ARTICLE VII

1. Each Contracting Party shall apply the measures required to implement the present Convention to all:

(a) vessels and aircraft registered in its territory or flying its flag;

(b) vessels and aircraft loading in its territory or territorial seas matter which is to be dumped;

(c) vessels and aircraft and fixed or floating platforms under its jurisdiction believed to be engaged in dumping.

2. Each Party shall take in its territory appropriate measures to prevent and punish conduct in contravention of the provisions of this Convention.

3. The Parties agree to co-operate in the development of procedures for the effective application of this Convention particularly on the high seas, including procedures for the reporting of vessels and aircraft observed dumping in contravention of the Convention.

4. This Convention shall not apply to those vessels and aircraft entitled to sovereign immunity under international law. However each Party shall ensure by the adoption of appropriate measures that such vessels and aircraft owned or operated by it act in a manner consistent with the object and purpose of this Convention, and shall inform the Organisation accordingly.

5. Nothing in this Convention shall affect the right of each Party to adopt other measures, in accordance with the principles of international law, to prevent dumping at sea.

ARTICLE VIII

In order to further the objectives of this Convention, the Contracting Parties with common interests to protect in the marine environment in a given geographical area shall endeavour, taking into account characteristic regional features, to enter into regional agreements consistent with this Convention for the prevention of pollution, especially by dumping. The Contracting Parties to the present Convention shall endeavour to act consistently with the objectives and provisions of such regional agreements, which shall be notified to them by the Organisation. Contracting Parties shall seek to co-operate with the parties to regional agreements in order to develop harmonized procedures to be followed by Contracting Parties to the different conventions concerned. Special attention shall be given to co-operation in the field of monitoring and scientific research.

ARTICLE IX

The Contracting Parties shall promote, through collaboration within the Organisation and other international bodies, support for those Parties which request it for:

(a) the training of scientific and technical personnel;

(b) the supply of necessary equipment and facilities for research and monitoring;

(c) the disposal and treatment of waste and other measures to prevent or mitigate pollution caused by dumping;

preferably within the countries concerned, so furthering the aims and purposes of this Convention.

ARTICLE X

In accordance with the principles of international law regarding State responsibility for damage to the environment of other

States or to any other area of the environment, caused by dumping of wastes and other matter of all kinds, the Contracting Parties undertake to develop procedures for the assessment of liability and the settlement of disputes regarding dumping.

ARTICLE XI

The Contracting Parties shall at their first consultative meeting consider procedures for the settlement of disputes concerning the interpretation and application of this Convention.

ARTICLE XII

The Contracting Parties pledge themselves to promote, within the competent specialised agencies and other international bodies, measures to protect the marine environment against pollution caused by:

(a) hydrocarbons, including oil, and their wastes;

(b) other noxious or hazardous matter transported by vessels for purposes other than dumping;

(c) wastes generated in the course of operation of vessels, aircraft, platforms and other man-made structures at sea;

(d) radio-active pollutants from all sources, including vessels;

(e) agents of chemical and biological warfare;

(f) wastes or other matter directly arising from, or related to the exploration, exploitation and associated off-shore processing of sea-bed mineral resources.

The Parties will also promote, within the appropriate international organisation, the codification of signals to be used by vessels engaged in dumping.

ARTICLE XIII

Nothing in this Convention shall prejudice the codification and development of the law of the sea by the United Nations Conference on the Law of the Sea convened pursuant to Resolution 2750C (XXV) to the General Assembly of the United Nations nor the present or future claims and legal views of any State concerning the law of the sea and the nature and extent of coastal and flag State jurisdiction. The Contracting Parties agree to consult at a meeting to be convened by the Organisation after the Law of the Sea Conference, and in any case not later than 1976, with a view to defining the nature and extent of the right and the responsibility of a coastal State to apply the Convention in a zone adjacent to its coast.

ARTICLE XIV

1. The Government of the United Kingdom of Great Britain and Northern Ireland as a depositary shall call a meeting of the Contracting Parties not later than three months after the entry into force of this Convention to decide on organisational matters.

2. The Contracting Parties shall designate a competent Organisation existing at the time of that meeting to be responsible for Secretariat duties in relation to this Convention. Any party to this Convention not being a member of this Organisation shall make an appropriate contribution to the expenses incurred by the Organisation in performing these duties.

3. The Secretariat duties of the Organisation shall include:

(a) the convening of consultative meetings of the Contracting Parties not less frequently than once every two years and of special meetings of the Parties at any time on the request of two-thirds of the Parties;

(b) preparing and assisting, in consultation with the Contracting Parties and appropriate International Organisations, in the development and implementation of procedures referred to in sub-paragraph (4)(e) of this Article;

(c) considering enquiries by, and information from the Contracting Parties, consulting with them and with the appropriate International Organisations, and providing recommendations to the Parties on questions related to, but not specifically covered by the Convention;

(d) conveying to the Parties concerned all notifications received by the Organisation in accordance with Articles IV(3), V (1) and (2), VI(4), XV, XX and XXI.

Prior to the designation of the Organisation these functions shall, as necessary, be performed by the depositary, who for this purpose shall be the Government of the United Kingdom of Great Britain and Northern Ireland.

4. Consultative or special meetings of the Contracting Parties shall keep under continuing review the implementation of this Convention and may, *inter alia:*

(a) review and adopt amendments to this Convention and its Annexes in accordance with Article XV;

(b) invite the appropriate scientific body or bodies to collaborate with and to advise the Parties or the Organisation on any scientific or technical aspect relevant to this Convention, including particularly the content of the Annexes;

(c) receive and consider reports made pursuant to Article VI(4);

(d) promote co-operation with and between regional organisations concerned with the prevention of marine pollution;

(e) develop or adopt, in consultation with appropriate International Organisations, procedures referred to in Article V(2), including basic criteria for determining exceptional and emergency situations, and procedures for consultative advice and the safe disposal of matter in such circumstances, including the designation of appropriate dumping areas, and recommend accordingly;

(f) consider any additional action that may be required.

5. The Contracting Parties at their first consultative meeting shall establish rules of procedure as necessary.

ARTICLE XV

1. (a) At meetings of the Contracting Parties called in accordance with Article XIV amendments to this Convention may be adopted by a two-thirds majority of those present. An amendment shall enter into force for the Parties which have accepted it on the sixtieth day after two-thirds of the Parties shall have deposited an instrument of acceptance of the amendment with the Organisation. Thereafter the amendment shall enter into force for any other Party 30 days after that Party deposits its instrument of acceptance of the amendment.

(b) The Organisation shall inform all Contracting Parties of any request made for a special meeting under Article XIV and of any amendments adopted at meetings of the Parties and of the date on which each such amendment enters into force for each Party.

2. Amendments to the Annexes will be based on scientific or technical considerations. Amendments to the Annexes approved by a two-thirds majority of those present at a meeting called in accordance with Article XIV shall enter into force for each Contracting Party immediately on notification of its acceptance to the Organisation and 100 days after approval by the meeting for all other Parties except for those which before the end of the 100 days make a declaration that they are not able to accept the amendment at that time. Parties should endeavour to signify their acceptance of an amendment to the Organisation as soon as possible after approval at a meeting. A Party may at any time substitute an acceptance for a previous declaration of objection and the amendment previously objected to shall thereupon enter into force for that Party.

3. An acceptance or declaration of objection under this Article shall be made by the deposit of an instrument with the Organisation. The Organisation shall notify all Contracting Parties of the receipt of such instruments.

4. Prior to the designation of the Organisation, the Secretarial functions herein attributed to it, shall be performed temporarily by the Government of the United Kingdom of Great Britain and Northern Ireland, as one of the depositaries of this Convention.

ARTICLE XVI

This Convention shall be open for signature by any State at London, Mexico City, Moscow and Washington from 29 December 1972 until 31 December 1973.

ARTICLE XVII

This Convention shall be subject to ratification. The instruments of ratification shall be deposited with the Governments of Mexico, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America.

ARTICLE XVIII

After 31 December 1973, this Convention shall be open for accession by any State. The instruments of accession shall be deposited with the Governments of Mexico, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America.

ARTICLE XIX

1. This Convention shall enter into force on the thirtieth day following the date of deposit of the fifteenth instrument of ratification or accession.

2. For each Contracting Party ratifying or acceding to the Convention after the deposit of the fifteenth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such Party of its instrument of ratification or accession.

ARTICLE XX

The depositaries shall inform Contracting Parties:

(a) of signatures to this Convention and of the deposit of instruments of ratification, accession or withdrawal, in accordance with Articles XVI, XVII, XVIII and XXI, and

(b) of the date on which this Convention will enter into force, in accordance with Article XIX.

ARTICLE XXI

Any Contracting Party may withdraw from this Convention by giving six months' notice in writing to a depositary, which shall promptly inform all Parties of such notice.

ARTICLE XXII

The original of this Convention of which the English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Governments of Mexico, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and the United States of America who shall send certified copies thereof to all States.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorised thereto by their respective Governments have signed the present Convention.

DONE in quadruplicate at London, Mexico City, Moscow and Washington, this twenty-ninth day of December, 1972.

ANNEXES

ANNEX I

1. Organohalogen compounds.
2. Mercury and mercury compounds.
3. Cadmium and cadmium compounds.
4. Persistent plastics and other persistent synthetic materials, for example, netting and ropes, which may float or may remain in suspension in the sea in such a manner as to interfere materially with fishing, navigation or other legitimate uses of the sea.
5. Crude oil, fuel oil, heavy diesel oil, and lubricating oils, hydraulic fluids, and any

mixtures containing any of these, taken on board for the purpose of dumping.

6. High-level radio-active wastes or other high-level radio-active matter, defined on public health, biological or other grounds, by the competent international body in this field, at present the International Atomic Energy Agency, as unsuitable for dumping at sea.

7. Materials in whatever form (e.g. solids, liquids, semi-liquids, gases or in a living state) produced for biological and chemical warfare.

8. The preceding paragraphs of this Annex do not apply to substances which are rapidly rendered harmless by physical, chemical or biological processes in the sea provided they do not:

(i) make edible marine organisms unpalatable, or

(ii) endanger human health or that of domestic animals.

The consultative procedure provided for under Article XIV should be followed by a Party if there is doubt about the harmlessness of the substance.

9. This Annex does not apply to wastes or other materials (e.g. sewage sludges and dredged spoils) containing the matters referred to in paragraphs 1–5 above as trace contaminants. Such wastes shall be subject to the provisions of Annexes II and III as appropriate.

ANNEX II

The following substances and materials requiring special care are listed for the purposes of Article VI (1) (a).

A. Wastes containing significant amounts of the matters listed below:

arsenic, lead, copper, zinc, and their compounds

organosilicon compounds

cyanides

fluorides

pesticides and their by-products not covered in Annex I.

B. In the issue of permits for the dumping of large quantities of acids and alkalis, consideration shall be given to the possible presence in such wastes of the substances listed in paragraph A and to the following additional substances:

beryllium, chromium, nickel, vanadium, and their compounds.

C. Containers, scrap metal and other bulky wastes liable to sink to the sea bottom which may present a serious obstacle to fishing or navigation.

D. Radio-active wastes or other radio-active matter not included in Annex I. In the issue of permits for the dumping of this matter, the Contracting Parties should take full account of the recommendations of the competent international body in this field, at present the International Atomic Energy Agency.

ANNEX III

Provisions to be considered in establishing criteria governing the issue of permits for the dumping of matter at sea, taking into account Article IV(2), include:

A. Characteristics and composition of the matter

1. Total amount and average composition of matter dumped (e.g. per year).

2. Form, e.g. solid, sludge, liquid, or gaseous.

3. Properties: physical (e.g. solubility and density), chemical and biochemical (e.g. oxygen demand, nutrients) and biological (e.g. presence of viruses, bacteria, yeasts, parasites).

4. Toxicity.

5. Persistence: physical, chemical and biological.

6. Accumulation and biotransformation in biological materials or sediments.

7. Susceptibility to physical, chemical and biochemical changes and interaction in the aquatic environment with other dissolved organic and inorganic materials.

8. Probability of production of taints or other changes reducing marketability or resources (fish, shellfish, etc.)

B. Characteristics of dumping site and method of deposit

1. Location (e.g. co-ordinates of the dumping area, depth and distance from the coast), location in relation to other areas (e.g. amenity areas, spawning, nursery and fishing areas and exploitable resources).

2. Rate of disposal per specific period (e.g. quantity per day, per week, per month).

3. Methods of packaging and containment, if any.

4. Initial dilution achieved by proposed method of release.

5. Dispersal characteristics (e.g. effects of currents, tides and wind on horizontal transport and vertical mixing).

6. Water characteristics (e.g. temperature, pH, salinity, stratification, oxygen indices of pollution-dissolved oxygen (DO), chemical oxygen demand (COD), biochemical oxygen demand (BOD)—nitrogen present in organic and mineral form including ammonia, suspended matter, other nutrients and productivity).

7. Bottom characteristics (e.g. topography, geochemical and geological characteristics and biological productivity).

8. Existence and effects of other dumpings which have been made in the dumping area (e.g. heavy metal background reading and organic carbon content).

9. In issuing a permit for dumping, Contracting Parties should consider whether an adequate scientific basis exists for assessing the consequences of such dumping, as outlined in this Annex, taking into account seasonal variations.

C. General considerations and conditions

1. Possible effects on amenities (e.g. presence of floating or stranded material, turbidity, objectionable odour, discolouration and foaming).

2. Possible effects on marine life, fish and shellfish culture, fish stocks and fisheries, seaweed harvesting and culture.

3. Possible effects on other uses of the sea (e.g. impairment of water quality for industrial use, underwater corrosion of structures, interference with ship operations from floating materials, interference with fishing or navigation through deposit of waste or solid objects on the sea floor and protection of areas of special importance for scientific or conservation purposes).

4. The practical availability of alternative land-based methods of treatment, disposal or elimination, or of treatment to render the matter less harmful for dumping at sea.

CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES OF WILD FAUNA AND FLORA

The Contracting States,

RECOGNIZING that wild fauna and flora in their many beautiful and varied forms are an irreplaceable part of the natural systems of the earth which must be protected for this and the generations to come;

CONSCIOUS of the ever-growing value of wild fauna and flora from aesthetic, scientific, cultural, recreational and economic points of view;

RECOGNIZING that peoples and States are and should be the best protectors of their own wild fauna and flora;

RECOGNIZING, in addition, that international cooperation is essential for the protection of certain species of wild fauna and flora against over-exploitation through international trade;

CONVINCED of the urgency of taking appropriate measures to this end;

HAVE AGREED as follows:

ARTICLE I

DEFINITIONS

For the purpose of the present Convention, unless the context otherwise requires:

(*a*) "Species" means any species, subspecies, or geographically separate population thereof;

(*b*) "Specimen" means:

(*i*) any animal or plant, whether alive or dead;

(*ii*) in the case of an animal: for species included in Appendices I and II, any readily recognizable part or derivative thereof; and for species included in Appendix III, any readily recognizable part or derivative thereof specified in Appendix III in relation to the species; and

(*iii*) in the case of a plant: for species included in Appendix I, any readily recognizable part or derivative thereof; and for species included in Appendices II and III, any readily recognizable part or derivative thereof specified in Appendices II and III in relation to the species;

(*c*) "Trade" means export, re-export, import and introduction from the sea;

(*d*) "Re-export" means export of any specimen that has previously been imported;

(*e*) "Introduction from the sea" means transportation into a State of specimens of any species which were taken in the marine environment not under the jurisdiction of any State;

(*f*) "Scientific Authority" means a national scientific authority designated in accordance with Article IX;

(*g*) "Management Authority" means a national management authority designated in accordance with Article IX;

(*h*) "Party" means a State for which the present Convention has entered into force.

ARTICLE II

FUNDAMENTAL PRINCIPLES

1. Appendix I shall include all species threatened with extinction which are or may be affected by trade. Trade in specimens of these species must be subject to particularly strict regulation in order not to endanger further their survival and must only be authorized in exceptional circumstances.

2. Appendix II shall include:

(*a*) all species which although not necessarily now threatened with extinction may become so unless trade in specimens of such species is subject to strict regulation in order to avoid utilization incompatible with their survival; and

(*b*) other species which must be subject to regulation in order that trade in specimens of certain species referred to in subparagraph (a) of this paragraph may be brought under effective control.

3. Appendix III shall include all species which any Party identifies as being subject to regulation within its jurisdiction for the purpose of preventing or restricting exploitation, and as needing the cooperation of other parties in the control of trade.

4. The parties shall not allow trade in specimens of species included in Appendices I, II and III except in accordance with the provisions of the present Convention.

ARTICLE III

REGULATION OF TRADE IN SPECIMENS OF SPECIES INCLUDED IN APPENDIX I

1. All trade in specimens of species included in Appendix I shall be in accordance with the provisions of this Article.

2. The export of any specimen of a species included in Appendix I shall require the prior grant and presentation of an export permit. An export permit shall only be granted when the following conditions have been met:

(*a*) a Scientific Authority of the State of export has advised that such export will not be detrimental to the survival of that species;

(*b*) a Management Authority of the State of export is satisfied that the specimen was not obtained in contravention of the laws of that State for the protection of fauna and flora;

(c) a Management Authority of the State of export is satisfied that any living specimen will be so prepared and shipped as to minimize the risk of injury, damage to health or cruel treatment; and

(d) a Management Authority of the State of export is satisfied that an import permit has been granted for the specimen.

3. The import of any specimen of a species included in Appendix I shall require the prior grant and presentation of an import permit and either an export permit or a re-export certificate. An import permit shall only be granted when the following conditions have been met:

(a) a Scientific Authority of the State of import has advised that the import will be for purposes which are not detrimental to the survival of the species involved;

(b) a Scientific Authority of the State of import is satisfied that the proposed recipient of a living specimen is suitably equipped to house and care for it; and

(c) a Management Authority of the State of import is satisfied that the specimen is not to be used for primarily commercial purposes.

4. The re-export of any specimen of a species included in Appendix I shall require the prior grant and presentation of a re-export certificate. A re-export certificate shall only be granted when the following conditions have been met:

(a) a Management Authority of the State of re-export is satisfied that the specimen was imported into that State in accordance with the provisions of the present Convention;

(b) a Management Authority of the State of re-export is satisfied that any living specimen will be so prepared and shipped as to minimize the risk of injury, damage to health or cruel treatment; and

(c) a Management Authority of the State of re-export is satisfied that an import permit has been granted for any living specimen.

5. The introduction from the sea of any specimen of a species included in Appendix I shall require the prior grant of a certificate from a Management Authority of the State of introduction. A certificate shall only be granted when the following conditions have been met:

(a) a Scientific Authority of the State of introduction advises that the introduction will not be detrimental to the survival of the species involved;

(b) a Management Authority of the State of introduction is satisfied that the proposed recipient of a living specimen is suitably equipped to house and care for it; and

(c) a Management Authority of the State of introduction is satisfied that the specimen is not to be used for primarily commercial purposes.

Article IV

Regulation of trade in specimens of species included in Appendix II

1. All trade in specimens of species included in Appendix II shall be in accordance with the provisions of this Article.

2. The export of any specimen of a species included in Appendix II shall require the prior grant and presentation of an export permit. An export permit shall only be granted when the following conditions have been met:

(a) a Scientific Authority of the State of export has advised that such export will not be detrimental to the survival of that species;

(b) a Management Authority of the State of export is satisfied that the specimen was not obtained in contravention of the laws of that State for the protection of fauna and flora; and

(c) a Management Authority of the State of export is satisfied that any living specimen will be so prepared and shipped as to minimize the risk of injury, damage to health or cruel treatment.

3. A Scientific Authority in each Party shall monitor both the export permits granted by that State for specimens of species included in Appendix II and the actual exports of such specimens. Whenever a Scientific Authority determines that the export of specimens of any such species should be limited in order to maintain that species throughout its range at a level consistent with its role in the ecosystems in which it occurs and well above the level at which that species might become eligible for inclusion in Appendix I, the Scientific Authority shall advise the appropriate Management Authority of suitable measures to be taken to limit the grant of export permits for specimens of that species.

4. The import of any specimen of a species included in Appendix II shall require the prior presentation of either an export permit or a re-export certificate.

5. The re-export of any specimen of a species included in appendix II shall require the prior grant and presentation of a re-export certificate. A re-export certificate shall only be granted when the following conditions have been met:

(a) a Management Authority of the State of re-export is satisfied that the specimen was imported into that State in accordance with the provisions of the present Convention; and

(b) a Management Authority of the State of re-export is satisfied that any living specimen will be so prepared and shipped as to minimize the risk of injury, damage to health or cruel treatment.

6. The introduction from the sea of any specimen of a species included in Appendix II shall require the prior grant of a certificate from a Management Authority of the State of introduction. A certificate shall only be granted when the following conditions have been met:

(a) a Scientific Authority of the State of introduction advises that the introduction will not be detrimental to the survival of the species involved; and

(b) a Management Authority of the State of introduction is satisfied that any living specimen will be so handled as to minimize the risk of injury, damage to health or cruel treatment.

7. Certificates referred to in paragraph 6 of this Article may be granted on the advice of a Scientific Authority, in consultation with other national scientific authorities or, when appropriate, international scientific authorities, in respect of periods not exceeding one year for total numbers of specimens to be introduced in such periods.

Article V

Regulation of trade in specimens of species included in Appendix III

1. All trade in specimens of species included in Appendix III shall be in accordance with the provisions of this Article.

2. The export of any specimen of a species included in Appendix III from any State which has included that species in Appendix III shall require the prior grant and presentation of an export permit. An export permit shall only be granted when the following conditions have been met:

(a) a Management Authority of the State of export is satisfied that the specimen was not obtained in contravention of the laws of that State for the protection of fauna and flora; and

(b) a Management Authority of the State of export is satisfied that any living specimen will be so prepared and shipped as to minimize the risk of injury, damage to health or cruel treatment.

3. The import of any specimen of a species included in Appendix III shall require, except in circumstances to which paragraph 4 of this Article applies, the prior presentation of a certificate of origin and, where the import is from a State which has included that species in Appendix III, an export permit.

4. In the case of re-export, a certificate granted by the Management Authority of the State of re-export that the specimen was processed in that State or is being re-exported shall be accepted by the State of import as evidence that the provisions of the present Convention have been complied with in respect of the specimen concerned.

Article VI

Permits and certificates

1. Permits and certificates granted under the provisions of Articles III, IV, and V shall be in accordance with the provisions of this Article.

2. An export permit shall contain the information specified in the model set forth in Appendix IV, and may only be used for export within a period of six months from the date on which it was granted.

3. Each permit or certificate shall contain the title of the present Convention, the name and any identifying stamp of the Management Authority granting it and a control number assigned by the Management Authority.

4. Any copies of a permit or certificate issued by a Management Authority shall be clearly marked as copies only and no such copy may be used in place of the original, except to the extent endorsed thereon.

5. A separate permit or certificate shall be required for each consignment of specimens.

6. A Management Authority of the State of import of any specimen shall cancel and retain the export permit or re-export certificate and any corresponding import permit presented in respect of the import of that specimen.

7. Where appropriate and feasible a Management Authority may affix a mark upon any specimen to assist in identifying the specimen. For these purposes "mark" means any indelible imprint, lead seal or other suitable means of identifying a specimen, designed in such a way as to render its imitation by unauthorized persons as difficult as possible.

Article VII

Exemptions and other special provisions relating to trade

1. The provisions of Articles III, IV and V shall not apply to the transit or trans-shipment of specimens through or in the territory of a Party while the specimens remain in Customs control.

2. Where a Management Authority of the State of export or re-export is satisfied that a specimen was acquired before the provisions of the present Convention applied to that specimen, the provisions of Articles III, IV and V shall not apply to that specimen where the Management Authority issues a certificate to that effect.

3. The provisions of Articles III, IV and V shall not apply to specimens that are personal or household effects. This exemption shall not apply where:

(a) in the case of specimens of a species included in Appendix I, they were acquired by the owner outside his State of usual residence, and are being imported into that State; or

(b) in the case of specimens of species included in Appendix II:

(i) they were acquired by the owner outside his State of usual residence and in a State where removal from the wild occurred;

(ii) they are being imported into the owner's State of usual residence; and

(iii) the State where removal from the wild occurred requires the prior grant of export permits before any export of such specimens;

unless a Management Authority is satisfied that the specimens were acquired before the provisions of the present Convention applied to such specimens.

4. Specimens of an animal species included in Appendix I bred in captivity for commercial purposes, or of a plant species included in Appendix I artificially propagated for commercial purposes, shall be deemed to be specimens of species included in Appendix II.

5. Where a Management Authority of the State of export is satisfied that any specimen of an animal species was bred in captivity or any specimen of a plant species was artificially propagated, or is a part of such an animal or plant or was derived therefrom, a certificate by that Management Authority to that effect shall be accepted in lieu of any of the permits or certificates required under the provisions of Articles III, IV, or V.

6. The provisions of Articles III, IV and V shall not apply to the noncommercial loan, donation or exchange between scientists or scientific institutions registered by a Management Authority of their State, of herbarium specimens, other preserved, dried or embedded museum specimens, and live plant material which carry a label issued or approved by a Management Authority.

7. A Management Authority of any State may waive the requirements of Articles III, IV and V and allow the movement without permits or certificates of specimens which form part of a travelling zoo, circus, menagerie, plant exhibition or other travelling exhibition provided that:

(a) the exporter or importer registers full details of such specimens with that Management Authority;

(b) the specimens are in either of the categories specified in paragraphs 2 or 5 of this Article; and

(c) the Management Authority is satisfied that any living specimen will be so transported and cared for as to minimize the risk of injury, damage to health or cruel treatment.

Article VIII

Measures to be taken by the Parties

1. The Parties shall take appropriate measures to enforce the provisions of the present Convention and to prohibit trade in specimens in violation thereof. These shall include measures:

(a) to penalize trade in, or possession of, such specimens, or both; and

(b) to provide for the confiscation or return to the State of export of such specimens.

2. In addition to the measures taken under paragraph 1 of this Article, a Party may, when it deems it necessary, provide for any method of internal reimbursement for expenses incurred as a result of the confiscation of a specimen traded in violation of the measures taken in the application of the provisions of the present Convention.

3. As far as possible, the Parties shall ensure that specimens shall pass through any formalities required for trade with a minimum of delay. To facilitate such passage, a Party may designate ports of exit and ports of entry at which specimens must be presented for clearance. The Parties shall ensure further that all living specimens, during any period of transit, holding or shipment, are properly cared for so as to minimize the risk of injury, damage to health or cruel treatment.

4. Where a living specimen is confiscated as a result of measures referred to in paragraph 1 of this Article:

(a) the specimen shall be entrusted to a Management Authority of the State of confiscation;

(b) the Management Authority shall, after consultation with the State of export, return the specimen to that State at the expense of that State, or to a rescue centre or such other place as the Management Authority deems appropriate and consistent with the purposes of the present Convention; and

(c) the Management Authority may obtain the advice of a Scientific Authority, or may, whenever it considers it desirable, consult the Secretariat in order to facilitate the decision under subparagraph (b) of this paragraph, including the choice of a rescue centre or other place.

5. A rescue centre as referred to in paragraph 4 of this Article means an institution designated by a Management Authority to look after the welfare of living specimens, particularly those that have been confiscated.

6. Each Party shall maintain records of trade in specimens of species included in Appendices I, II and III which shall cover:

(a) the names and addresses of exporters and importers; and

(b) the number and type of permits and certificates granted; the States with which such trade occurred; the numbers or quantities and types of specimens, names of species as included in Appendices I, II and III and, where applicable, the size and sex of the specimens in question.

7. Each Party shall prepare periodic reports on its implementation of the present Convention and shall transmit to the Secretariat:

(a) an annual report containing a summary of the information specified in subparagraph (b) of paragraph 6 of this Article; and

(b) a biennial report on legislative, regulatory and administrative measures taken to enforce the provisions of the present Convention.

8. The information referred to in paragraph 7 of this Article shall be available to the public where this is not inconsistent with the law of the Party concerned.

Article IX

Management and Scientific Authorities

1. Each Party shall designate for the purposes of the present Convention:

(a) one or more Management Authorities competent to grant permits or certificates on behalf of that Party; and

(b) one or more Scientific Authorities.

2. A State depositing an instrument of ratification, acceptance, approval or accession shall at that time inform the Depositary Government of the name and address of the Management Authority authorized to communicate with other Parties and with the Secretariat.

3. Any changes in the designations or authorizations under the provisions of this Article shall be communicated by the Party concerned to the Secretariat for transmission to all other Parties.

4. Any Management Authority referred to in paragraph 2 of this Article shall if so requested by the Secretariat or the Management Authority of another Party, communicate to it impression of stamps, seals or other devices used to authenticate permits or certificates.

Article X

Trade with States not Party to the Convention

Where exports or re-export is to, or import is from, a State not a party to the present Convention, comparable documentation issued by the competent authorities in that State which substantially conforms with the requirements of the present Convention for permits and certificates may be accepted in lieu thereof by any Party.

Article XI

Conference of the Parties

1. The Secretariat shall call a meeting of the Conference of the Parties not later than two years after the entry into force of the present Convention.

2. Thereafter the Secretariat shall convene regular meetings at least once every two years, unless the Conference decides otherwise, and extraordinary meetings at any time on the written request of at least one-third of the Parties.

3. At meetings, whether regular or extraordinary, the Parties shall review the implementation of the present Convention and may:

(a) make such provision as may be necessary to enable the Secretariat to carry out its duties;

(b) consider and adopt amendments to Appendices I and II in accordance with Article XV;

(c) review the progress made towards the restoration and conservation of the species included in Appendices I, II and III;

(d) receive and consider any reports presented by the Secretariat or by any Party and

(e) where appropriate, make recommendations for improving the effectiveness of the present Convention.

4. At each regular meeting, the Parties may determine the time and venue of the next regular meeting to be held in accordance with the provisions of paragraph 2 of this Article.

5. At any meeting, the Parties may determine and adopt rules of procedure for the meeting.

6. The United Nations, its Specialized Agencies and the International Atomic Energy Agency, as well as any State not a Party to the present Convention, may be represented at meetings of the Conference by observers, who shall have the right to participate but not to vote.

7. Any body or agency technically qualified in protection, conservation or management of wild fauna and flora, in the following categories, which has informed the Secretariat of its desire to be represented at meetings of the Conference by observers, shall be admitted unless at least one-third of the Parties present object:

(a) international agencies or bodies, either governmental or non-governmental, and national governmental agencies and bodies; and

(b) national non-governmental agencies or bodies which have been approved for this purpose by the State in which they are located. Once admitted, these observers shall have the right to participate but not to vote.

Article XII

The Secretariat

1. Upon entry into force of the present Convention, a Secretariat shall be provided by the Executive Director of the United Nations Environment Programme. To the extent and in the manner he considers appropriate, he may be assisted by suitable intergovernmental or non-governmental international or national agencies and bodies technically qualified in protection, conservation and management of wild fauna and flora.

2. The functions of the Secretariat shall be:

(a) to arrange for and service meetings of the Parties;

(b) to perform the functions entrusted to it under the provisions of Articles XV and XVI of the present Convention;

(c) to undertake scientific and technical studies in accordance with programmes authorized by the Conference of the Parties as will contribute to the implementation of the present Convention, including studies concerning standards for appropriate preparation and shipment of living specimens and the means of identifying specimens;

(d) to study the reports of Parties and to request from Parties such further information with respect thereto as it deems necessary to ensure implementation of the present Convention;

(e) to invite the attention of the Parties to any matter pertaining to the aims of the present Convention;

(f) to publish periodically and distribute to the Parties current editions of Appendices I, II and III together with any information which will facilitate identification of specimens of species included in those Appendices.

(g) to prepare annual reports to the Parties on its work and on the implementation of the present Convention and such other reports as meetings of the Parties may request;

(h) to make recommendations for the implementation of the aims and provisions of the present Convention, including the exchange of information of a scientific or technical nature;

(i) to perform any other function as may be entrusted to it by the Parties.

ARTICLE XIII

INTERNATIONAL MEASURES

1. When the Secretariat in the light of information received is satisfied that any species included in Appendices I or II is being affected adversely by trade in specimens of that species or that the provisions of the present Convention are not being effectively implemented, it shall communicate such information to the authorized Management Authority of the Party or Parties concerned.

2. When any Party receives a communication as indicated in paragraph 1 of this Article, it shall, as soon as possible, inform the Secretariat of any relevant facts insofar as its laws permit and, where appropriate, propose remedial action. Where the Party considers that an inquiry is desirable, such inquiry may be carried out by one or more persons expressly authorized by the Party.

3. The information provided by the Party or resulting from any inquiry as specified in paragraph 2 of this Article shall be reviewed by the next Conference of the Parties which may make whatever recommendations it deems appropriate.

ARTICLE XIV

EFFECT ON DOMESTIC LEGISLATION AND INTERNATIONAL CONVENTIONS

1. The provisions of the present Convention shall in no way affect the right of Parties to adopt:

(a) stricter domestic measures regarding the conditions for trade, taking possession or transport of specimens of species included in Appendices I, II and III, or the complete prohibition thereof; or

(b) domestic measures restricting or prohibiting trade, taking possession, or transport of species not included in Appendices I, II or III.

2. The provisions of the present Convention shall in no way affect the provisions of any domestic measures or the obligations of Parties deriving from any treaty, convention, or international agreement relating to other aspects of trade, taking possession, or transport of specimens which is in force or subsequently may enter into force for any Party including any measure pertaining to the Customs, public health, veterinary or plant quarantine fields.

3. The provisions of the present Convention shall in no way affect the provisions of, or the obligations deriving from, any treaty, convention or international agreement concluded or which may be concluded between States creating a union or regional trade agreement establishing or maintaining a common external customs control and removing customs control between the parties thereto insofar as they relate to trade among the States members of the union or agreement.

4. A State party to the present Convention, which is also a party to any other treaty, convention or international agreement which is in force at the time of the coming into force of the present Convention and under the provisions of which protection is afforded to marine species included in Appendix II, shall be relieved of the obligations imposed on it under the provisions of the present Convention with respect to trade in specimens of species included in Appendix II that are taken by ships registered in that State and in accordance with the provisions of such other treaty, convention or international agreement.

5. Notwithstanding the provisions of Articles III, IV and V, any export of a specimen taken in accordance with paragraph 4 of this Article shall only require a certificate from a Management Authority of the State of introduction to the effect that the specimen was taken in accordance with the provisions of the other treaty, convention or international agreement in question.

6. Nothing in the present Convention shall prejudice the codification and development of the law of the sea by the United Nations Conference on the Law of the Sea convened pursuant to Resolution 2750 C (XXV) of the General Assembly of the United Nations nor the present or future claims and legal views of any State concerning the law of the sea and the nature and extent of coastal and flag State jurisdiction.

ARTICLE XV

AMENDMENTS TO APPENDICES I AND II

1. The following provisions shall apply in relation to amendments to Appendices I and II at meetings of the Conference of the Parties:

(a) Any Party may propose an amendment to Appendix I or II for consideration at the next meeting. The text of the proposed amendment shall be communicated to the Secretariat at least 150 days before the meeting. The Secretariat shall consult the other Parties and interested bodies on the amendment in accordance with the provisions of sub-paragraphs (b) and (c) of paragraph 2 of this Article and shall communicate the response to all Parties not later than 30 days before the meeting.

(b) Amendments shall be adopted by a two-thirds majority of Parties present and voting. For these purposes "Parties present and voting" means Parties present and casting an affirmative or negative vote. Parties abstaining from voting shall not be counted among the two-thirds required for adopting an amendment.

(c) Amendments adopted at a meeting shall enter into force 90 days after that meeting for all Parties except those which make a reservation in accordance with paragraph 3 of this Article.

2. The following provisions shall apply in relation to amendments to Appendices I or II between meetings of the Conference of the Parties:

(a) Any Party may propose an amendment to Appendix I or II for consideration between meetings by the postal procedures set forth in this paragraph.

(b) For marine species, the Secretariat shall, upon receiving the text of the proposed amendment, immediately communicate it to the Parties. It shall also consult inter-governmental bodies having a function in relation to those species especially with a view to obtaining scientific data these bodies may be able to provide and to ensuring coordination with any conservation measures enforced by such bodies. The Secretariat shall communicate the views expressed and data provided by these bodies and its own findings and recommendations to the Parties as soon as possible.

(c) For species other than marine species, the Secretariat shall, upon receiving the text of the proposed amendment, immediately communicate it to the Parties, and, as soon as possible thereafter, its own recommendations.

(d) Any party may, within 60 days of the date on which the Secretariat communicated its recommendations to the Parties under subparagraphs (b) or (c) of this paragraph, transmit to the Secretariat any comments on the proposed amendment together with any relevant scientific data and information.

(e) The Secretariat shall communicate the replies received together with its own recommendations to the Parties as soon as possible.

(f) If no objection to the proposed amendment is received by the Secretariat within 30 days of the date the replies and recommendations were communicated under the provisions of sub-paragraph (e) of this paragraph, the amendment shall enter into force 90 days later for all Parties except those which make a reservation in accordance with paragraph 3 of this Article.

(g) If an objection by any Party is received by the Secretariat, the proposed amendment shall be submitted to a postal vote in accordance with the provisions of sub-paragraphs (h), (i) and (j) of this paragraph.

(h) The Secretaries shall notify the Parties that notification of objection has been received.

(i) Unless the Secretariat receives the votes for, against or in abstention from at least one-half of the Parties within 60 days of the date of notification under sub-paragraph (h) of this paragraph, the proposed amendment shall be referred to the next meeting of the Conference for further consideration.

(j) Provided that votes are received from one-half of the Parties, the amendment shall be adopted by a two-thirds majority of Parties casting an affirmative or negative vote.

(k) The Secretariat shall notify all Parties of the result of the vote.

(l) If the proposed amendment is adopted it shall enter into force 90 days after the date of the notification by the Secretariat of its acceptance for all Parties except those which make a reservation in accordance with paragraph 3 of this Article.

3. During the period of 90 days provided for by sub-paragraph (c) of paragraph 1 or sub-paragraph (1) of paragraph 2 of this Article any Party may by notification in writing to the Depositary Government make a reservation with respect to the amendment. Until such reservation is withdrawn the Party shall be treated as a State not a party to the present Convention with respect to trade in the species concerned.

ARTICLE XVI

APPENDIX III AND AMENDMENTS THERETO

1. Any party may at any time submit to the Secretariat a list of species which it identifies as being subject to regulation within its jurisdiction for the purpose mentioned in paragraph 3 of Article II. Appendix III shall include the names of the Parties submitting the species for inclusion therein, the scientific names of the species so submitted, and any parts or derivatives of the animals or plants concerned that are specified in relation to the species for the purposes of subparagraph (b) of Article I.

2. Each list submitted under the provisions of paragraph 1 of this Article shall be communicated to the Parties by the Secretariat as soon as possible after receiving it. The list shall take effect as part of Appendix III 90 days after the date of such communication. At any time after the communication of such list, any Party may by notification in writing to the Depositary Government enter a reservation with respect to any species or any parts or derivatives, and until such reservation is withdrawn, the State shall be treated as a State not a Party to the present Convention with respect to trade in the species or part or derivative concerned.

3. A Party which has submitted a species for inclusion in Appendix III may withdraw it at any time by notification to the Secretariat which shall communicate the withdrawal to all Parties. The withdrawal shall take effect 30 days after the date of such communication.

4. Any Party submitting a list under the provisions of paragraph 1 of this Article shall submit to the Secretariat a copy of all domestic laws and regulations applicable to the protection of such species, together with any interpretations which the Party may deem appropriate or the Secretariat may request. The Party shall, for as long as the species in question is included in Appendix III, submit any amendments of such laws and regulations or any new interpretations as they are adopted.

ARTICLE XVII

AMENDMENT OF THE CONVENTION

1. An extraordinary meeting of the Conference of the Parties shall be convened by the Secretariat on the written request of at least one-third of the Parties to consider and adopt amendments to the present Convention. Such amendments shall be adopted by a two-thirds majority of Parties present and voting. For these purposes "Parties present and voting" means Parties present and casting an affirmative or negative vote. Parties abstaining from voting shall not be counted among the two-thirds required for adopting an amendment.

2. The text of any proposed amendment shall be communicated by the Secretariat to all Parties at least 90 days before the meeting.

3. An amendment shall enter into force for the Parties which have accepted it 60 days after two-thirds of the Parties have deposited an instrument of acceptance of the amendment with the Depositary Government. Thereafter, the amendment shall enter into force for any other Party 60 days after that Party deposits its instrument of acceptance of the amendment.

ARTICLE XVIII

RESOLUTION OF DISPUTES

1. Any dispute which may arise between two or more Parties with respect to the interpretation or application of the provisions of the present Convention shall be subject to negotiation between the Parties involved in the dispute.

2. If the dispute cannot be resolved in accordance with paragraph 1 of this Article, the Parties may, by mutual consent, submit the dispute to arbitration, in particular that of the Permanent Court of Arbitration at The Hague, and the Parties submitting the dispute shall be bound by the arbitral decision.

ARTICLE XIX

SIGNATURE

The present Convention shall be open for signature at Washington until 30th April 1973 and thereafter at Berne until 31st December 1974.

ARTICLE XX

RATIFICATION, ACCEPTANCE, APPROVAL

The present Convention shall be open indefinitely for accession, or approval. Instruments of ratification, acceptance or approval shall be deposited with the Government of the Swiss Confederation which shall be the Depositary Government.

ARTICLE XXI

ACCESSION

The present Convention shall be open indefinitely for accession. Instruments of accession shall be deposited with the Depositary Government.

ARTICLE XXII

ENTRY INTO FORCE

1. The present Convention shall enter into force 90 days after the date of deposit of the tenth instrument of ratification, acceptance, approval or accession, with the Depositary Government.

2. For each State which ratifies, accepts or approves the present Convention or accedes thereto after the deposit of the tenth instrument of ratification, acceptance, approval or accession, the present Convention shall enter into force 90 days after the deposit by such State of its instrument of ratification, acceptance, approval or accession.

ARTICLE XXIII

RESERVATIONS

1. The provisions of the present Convention shall not be subject to general reservations. Specific reservations may be entered in accordance with the provisions of this Article and Articles XV and XVI.

2. Any State may, on depositing its instrument of ratification, acceptance, approval or accession, enter a specific reservation with regard to:

(*a*) any species included in Appendix I, II or III; or

(*b*) any parts or derivatives specified in relation to a species included in Appendix III.

3. Until a Party withdraws its reservation entered under the provisions of this Article, it shall be treated as a State not a party to the present Convention with respect to trade in the particular species or parts or derivatives specified in such reservation.

ARTICLE XXIV

DENUNCIATION

Any Party may denounce the present Convention by written notification to the Depositary Government at any time. The denunciation shall take effect twelve months after the Depositary Government has received the notification.

ARTICLE XXV

DEPOSITARY

1. The original of the present Convention, in the Chinese, English, French, Russian and Spanish languages, each version being equally authentic, shall be deposited with the Depositary Government, which shall transmit certified copies thereof to all States that have signed it or deposited instruments of accession to it.

2. The Depositary Government shall inform all signatory and acceding States and the Secretariat of signatures, deposit of instruments of ratification, acceptance, approval or accession, entry into force of the present Convention, amendments thereto, entry and withdrawal of reservations and notifications of denunciation.

3. As soon as the present Convention enters into force, a certified copy thereof shall be transmitted by the Depositary Government to the Secretariat of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized to that effect, have signed the present Convention.

DONE at Washington this third day of March, One Thousand Nine Hundred and Seventy-three.

AMENDMENTS TO THE INTERNATIONAL CONVENTION ON LOAD LINES, 1966—RESOLUTION A. 231(VII)

(Adopted on October 12, 1971)

The Assembly,

Noting Article 16(1) of the Convention on the Inter-Governmental Maritime Consultative Organization concerning the functions of the Assembly,

Recognizing the need for improvement in the texts of certain Articles and Regulations of the International Convention on Load Lines, 1966, and the attached Chart of Zones and Seasonal Areas in order to ensure the uniform application and interpretation of the Convention,

Noting further that Article 29 of the Convention provides for procedures for amendments involving participation by the Organization,

Having considered the particular amendments to the International Convention on Load Lines, 1966, forming the subject of a Recommendation by the Maritime Safety Committee at its twenty-first session in accordance with Article 29 of that Convention,

Adopts the amendments to the Convention, the texts of which are set out at Annex to this Resolution,

Requests the Secretary-General of the Organization, in accordance with Article 29(3)(b), to communicate for consideration and acceptance certified copies of this Resolution and its Annex, to all Contracting Governments to the International Convention on Load Lines, 1966, together with copies to all Members of the Organization,

Invites all governments concerned to accept the amendments at the earliest possible date.

ANNEX: AMENDMENTS TO THE INTERNATIONAL CONVENTION ON LOAD LINES, 1966

ENGLISH TEXT

Article 5(2)(c).—Replace the words "Punta Norte" by "Punta Rasa (Cabo San Antonio)".

Regulation 1.—Replace the heading by "Strength of Ship" and the word "hull" in the first sentence by "ship".

Regulation 3(5)(b).—Replace the words "the moulded lines of the deck and side shell plating" by "the moulded lines of deck and sides".

Regulation 5.—In the last sentence delete the words "(as illustrated in Figure 2)".

Regulation 15(5).—In the last sentence insert the word "linear" before "interpolation".

Regulation 22(5).—In the first sentence replace the words "All valves and sheli fittings" by "All shell fittings, and the values".

Regulation 23(2).—Replace the words "load waterline" by "Summer Load Line (or Summer Timber Load Line, if assigned)."

Regulation 24(2).—In the first sentence replace the words "calculated area" by "area calculated according to paragraph (1) of this Regulation".

In the second sentence insert the word "linear" before "interpolation".

Regulation 24(3).—Replace the words "a ship is fitted with a trunk which" by "a ship fitted with a trunk".

Regulation 27(11).—In the last sentence replace the word "weathertight" by "watertight".

Regulation 37(2).—In the footnote to tables for both Type 'A' and Type 'B' ships, insert after "super-structures" the words "and trunks".

Regulation 38(12).—In the definition of "y" replace the words "end of sheer" by "after or forward perpendicular".

Regulation 40(4).—In the first sentence replace the words "paragraph (1)" by "paragraph (3)".

Regulation 44(2).—In the last sentence replace the words "the superstructure" by "a superstructure other than a raised quarter deck".

Regulation 45(5).—Add after "waterline" the words "or with Regulation 40(8) based on the summer timber draught measured from the top of the keel to the supper timber load line".

Regulation 46(1)(b).—Replace the last sentence by the following: "Excluded from this zone are the North Atlantic Winter Seasonal Zone I, the North Atlantic Winter Seasonal Area and the Baltic Sea bounded by the parallel of latitude of the Skaw in the Skagerrak. The Shetland Islands are to be considered as being on the boundary of the North Atlantic Winter Seasonal Zones I and II.

Seasonal periods:

Winter: 1 November to 31 March.

Summer: 1 April to 31 October".

Regulation 47.—Insert after the first sentence (i.e. the sentence which ends with the words "the west coast of the American continent") the folowing:

"Valparaiso is to be considered as being on the boundary line of the Summer and Winter Seasonal Zones".

Chart of Zones and Seasonal Areas.

Replace the words "seasonal winter zone" where they indicate the area along the eastern const of USA by "winter seasonal area".

Replace the words "seasonal winter zone" wherever they appear in the chart (except

those mentioned above) by "winter seasonal zone" and also "seasonal tropical" by "seasonal tropical area".

In the note replace the word "western" by "eastern" and insert the words "(328 feet)" after "100 metres".

(Certification illegible.)

AMENDMENTS TO THE INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1960

(Resolution A.205 (VII) adopted on 12 October 1971)

THE ASSEMBLY,

RECOGNIZING the need to improve safety of life at sea,

NOTING Article 16(*i*) of the Convention on the Intergovernmental Maritime Consultative Organization, concerning the functions of the Assembly with regard to regulations relating to maritime safety,

NOTING FURTHER that Article IX of the International Convention for the Safety of Life at Sea, 1960, provides for procedures of amendment involving participation of the Organization,

HAVING CONSIDERED certain amendments to the International Convention for the Safety of Life at Sea, 1960, forming the subject of Recommendations adopted by the Maritime Safety Committee at its twenty-second and twenty-third sessions and directed towards improvement of safety of navigation,

ADOPTS the following amendments to Chapter IV and Chapter V of the International Convention for the Safety of Life at Sea, 1960:

(*a*) addition of a new paragraph (*h*) to Regulation 2, Chapter IV, the text of which is at Annex I to this Resolution;

(*b*) replacement of Regulations 7 (*a*) and (*b*), Chapter IV by a new text which is at Annex II to this Resolution;

(*c*) amendment of Regulation 9(*a*)(*ii*), 9(*h*), 9(*k*), 9(*l*) and 9(*m*), Chapter IV, the text of which is at Annex III to this Resolution;

(*d*) amendment of Regulation 15(*a*), 15 (*d*), 15(*g*) and 15(*j*), Chapter IV, the text of which is at Annex IV to this Resolution;

(*e*) insertion of new Regulation 15 bis(1) in Chapter IV, the text of which is at Annex V to this Resolution;

(*f*) replacement of Regulation 8, Chapter V by a new Regulation, the text of which is at Annex VI to this Resolution,

REQUESTS the Secretary-General of the Organization in conformity with Article IX (b) (i) to communicate, for purposes of acceptance, certified copies of this Resolution and its Annexes to all Contracting Governments to the International Convention for the Safety of Life at Sea, 1960, together with copies to all Members of the Organization, and

INVITES all Governments concerned to accept each of the amendments at the earliest possible date.

ANNEX I—AMENDMENT TO REGULATION 2 OF CHAPTER IV OF THE INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1960

REGULATION 2—TERMS AND DEFINITIONS

A new paragraph (*h*) is added as follows:

(*h*) "Radiotelephone auto alarm" means an automatic alarm receiving apparatus which responds to the radiotelephone alarm signal and has been approved.

ANNEX II—AMENDMENT TO REGULATION 7 OF CHAPTER IV OF THE IERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1960

REGULATION 7—WATCHES—RADIOTELEPHONES

Paragraphs (*a*) and (*b*) are replaced by the following:

(*a*) Each ship which is fitted with a radiotelephone station in accordance with Regulation 4 of this Chapter shall, for safety purposes, carry at least one radiotelephone operator (who may be the master, an officer or a member of the crew holding a certificate for radiotelephony) and shall, while at sea, maintain continuous watch on the radiotelephone distress frequency in the place on board from which the ship is usually navigated, by use of a radiotelephone distress frequency watch receiver, using a loudspeaker, a filtered loudspeaker or radiotelephone auto alarm.

(*b*) Each ship which in accordance with Regulation 3 or Regulation 4 of this Chapter is fitted with a radiotelegraph station shall, while at sea, maintain continuous watch on the radiotelephone distress frequency in a place to be determined by the Administration, by use of a radiotelephone distress frequency watch receiver, using a loudspeaker, a filtered loudspeaker or radiotelephone auto alarm.

ANNEX III—AMENDMENT TO REGULATION 9 OF CHAPTER IV OF THE INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1960

REGULATION 9—RADIOTELEPHONE INSTALLATIONS

Sub-paragraph (*ii*) of paragraph (*a*) is replaced by the following:

The main installation shall include a main transmitter, main receiver, radiotelephone distress frequency watch receiver, and main source of energy.

A new sub-paragraph (*iv*) to paragraph (*h*) is added as follows:

(*iv*) The radiotelephone distress frequency watch receiver shall be preset to this frequency. It shall be provided with a filtering unit or a device to silence the loudspeaker if on the bridge in the absence of a radiotelephone alarm signal. The device shall be capable of being easily switched in and out and may be used when, in the opinion of the master, conditions are such that maintenance of the listening watch would interfere with the safe navigation of the ship.

A new sub-paragraph (*v*) to paragraph (*h*) is added as follows:

(v)(1) A radiotelephone transmitter, if provided, shall be fitted with an automatic device for generating the radiotelephone alarm signal, so designed as to prevent actuation by mistake, and complying with the requirements of paragraph (*e*) of Regulation 15 of this Chapter. The device shall be capable of being taken out of operation at any time in order to permit the immediate transmission of a distress message;

(2) arrangements shall be made to check periodically the proper functioning of the automatic device for generating the radiotelephone alarm signal on frequencies other than the radiotelephone distress frequency using a suitable artificial aerial.

Replace existing paragraph (*k*) by the following:

(*k*) The reserve installation shall be provided with a source of energy independent of the propelling power of the ship and of the ship's electrical system.

Add the following sentence at the end of the existing paragraph (*l*):

The reserve source of energy is required to be of a capacity sufficient to operate simultaneously the reserve transmitter and the VHF installation, when fitted, for at least six hours unless a switching device is fitted to ensure alternate operation only. VHF usage of the reserve source of energy shall be limited to distress, urgency and safety communications. Alternatively, a separate reserve source of energy may be provided for the VHF installation.

Replace existing sub-paragraph (*iv*) of paragraph (*m*) by the following:

(*iv*) the VHF installation;

and add in the same paragraph (*m*) the following new sub-paragraphs:

(*v*) the device for generating the radiotelephone alarm signal, if provided;

(*vi*) any device, prescribed by the Radio Regulations, to permit change-over from transmission to reception and vice versa.

ANNEX IV—AMENDMENT TO REGULATION 15 OF CHAPTER IV OF THE INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1960

REGULATION 15—RADIOTELEPHONE INSTALLATIONS

Paragraph (*a*) is replaced by the following:

(*a*) The radiotelephone installation shall include transmitting and receiving equipment, and appropriate sources of energy (referred to in the following paragraphs as the transmitter, the receiver, the radiotelephone distress frequency watch receiver, and the source of energy respectively).

Paragraph (*d*) is replaced by the following:

(*d*) The transmitter shall be fitted with a device for generating the radiotelephone alarm signal by automatic means so designed as to prevent actuation by mistake. The device shall be capable of being taken out of operation at any time in order to permit the immediate transmission of a distress message. Arrangements shall be made to check periodically the proper functioning of the device on frequencies other than the radiotelephone distress frequency using a suitable artificial aerial.

Paragraph (*g*) is replaced by the following:

(*g*) The radiotelephone distress frequency watch receiver shall be preset to this frequency. It shall be provided with a filtering unit or a device to silence the loudspeaker in the absence of a radiotelephone alarm signal. The device shall be capable of being easily switched in and out and may be used when, in the opinion of the master, conditions are such that maintenance of the listening watch would interfere with the safe navigation of the ship.

In paragraph (*j*), delete the word "and" at the end of sub-paragraph (*ii*).

Add the following new sub-paragraph (*iv*):

(*iv*) the VHF installation.

ANNEX V—INSERTION OF NEW REGULATION 15 BIS (1) IN CHAPTER IV OF THE INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1960

Insert new Regulation 15 bis(1):

REGULATION 15 BIS(1)—RADIOPHONE AUTO ALARMS

(*a*) The radiotelephone auto alarm shall comply with the following minimum requirements:

(*i*) the frequencies of maximum response of the tuned circuits, and other tone selecting devices, shall be subject to a tolerance of ±1.5 per cent in each instance; and the response shall not fall below 50 per cent of the maximum response for frequencies within 3 per cent of the frequency of maximum response;

(*ii*) in the absence of noise and interference, the automatic receiving equipment shall be capable of operating from the alarm signal in a period of not less than four and not more than six seconds;

(*iii*) the automatic receiving equipment shall respond to the alarm signal, under conditions of intermittent interference caused by atmospherics and powerful signals other than the alarm signal, preferably without any manual adjustment being required during any period of watch maintained by the equipment;

(*iv*) the automatic receiving equipment shall not be actuated by atmospherics or by strong signals other than the alarm signal;

(*v*) the automatic receiving equipment shall be effective beyond the range at which speech transmission is satisfactory;

(*vi*) the automatic receiving equipment shall be capable of withstanding vibration, humidity, changes of temperature and variations in power supply voltage equivalent to the severe conditions experienced on board ships at sea, and shall continue to operate under such conditions;

(*vii*) the automatic receiving equipment

should, as far as practicable, give warning of faults that would prevent the apparatus from performing its normal functions during watch hours.

(b) Before a new type of radiotelephone auto alarm is approved, the Administration concerned shall be satisfied by practical tests, made under operating conditions equivalent to those obtained in practice, that the apparatus complies with paragraph (a) of this Regulation.

ANNEX VI—NEW REGULATION 8, CHAPTER V OF THE INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1960

Chapter V

Delete existing Regulation 8 and replace by the following:

REGULATION 8—ROUTING

(a) The practice of following, particularly in converging areas, routes adopted for the purpose of separating of traffic including avoidance of passage through areas designated as areas to be avoided by ships or certain classes of ships, or for the purpose of avoiding unsafe conditions, has contributed to the safety of navigation and is recommended for use by all ships concerned.

(b) The Organization is recognized as the only international body for establishing and adopting measures on an international level concerning routing and areas to be avoided by ships or certain classes of ships. It will collate and disseminate to Contracting Governments all relevant information.

(c) The selection of the routes and the initiation of action with regard to them, and the delineation of what constitutes converging areas, will be primarily the responsibility of the Governments concerned. In the development of routing schemes which impinge upon international waters, or such other schemes they may wish adopted by the Organization, they will give due consideraiton to relevant information published by the Organization.

(d) Contracting Governments will use their influence to secure the appropriate use of adopted routes and will do everything in their power to ensure adherence to the measures adopted by the Organization in connection with routing of ships.

(e) Where the Organization has adopted traffic separation schemes which specify one-way traffic lanes, ships using these lanes shall proceed in the specified direction of traffic flow. Ships crossing the lanes shall do so as far as practicable at right angles.

(f) Contracting Governments will also induce all ships proceeding on voyages in the vicinity of the Grand Banks of Newfoundland to avoid, as far as practicable, the fishing banks of Newfoundland north of latitude 43 degrees N and to pass outside regions known or believed to be endangered by ice.

Mr. PELL. Mr. President, tomorrow the Senate will be voting on the following four conventions:

The Convention on the Prevention of Marine Pollution (Ex. C, 93–1);

The Convention on International Trade in Endangered Species of Wild Fauna and Flora (Ex. H, 93–1);

Amendments to the International Convention on Load Lines, 1966 (Ex. D, 93–1);

The Six Amendments to the Convention for the Safety of Life at Sea, 1960 (Ex. I, 93–1).

Two of these conventions (Ex. C and H, 93–1) are the direct result of the preparations and activities of the United Nations Conference on the Human Environment. Although these agreements represent a significant advance in the global effort to protect and conserve our environment, they are only the first steps on the long road to a cleaner and more environmentally conscious world. I, therefore, commend the administration for its initiatives with respect to these conventions, and strongly urge it to continue its efforts to seek international environmental and conservation agreements.

I ask unanimous consent that certain excerpts from the committee reports on these agreements be inserted into the RECORD at this point.

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

THE CONVENTION ON THE PREVENTION OF MARINE POLLUTION (EX. C, 93–1)

PURPOSE

The Convention is designed to establish in each country party to the Convention, a national system for regulating the ocean disposal of wastes comparable to the system provided for the United States by Title I of Public Law 92–532, the Marine Protection, Research and Sanctuaries Act of 1972.

* * * * *

PROVISIONS OF THE CONVENTION

The Convention consists of a short preamble, 21 articles and 3 annexes. The following is a detailed summary provided in Secretary Roger's February 13, 1973, letter of submittal to the President:

"The Preamble to this Convention states that the marine environment is of vital importance to all people and that the best practicable means should be taken to cope with marine pollution originating from a wide variety of sources. While taking action without delay on controlling ocean pollution caused by dumping of wastes, including moving ahead with regional agreements, action in other areas of marine pollution control should be discussed. In Article I Parties pledge to promote effective marine pollution control especially through taking all practicable steps to prevent pollution of the sea caused by dumping. Under Article II, Parties will act individually according to their various capabilities and collectively in regulating ocean dumping.

"Article III defines dumping as the deliberate disposal at sea of wastes or other matter except: (1) that derived from the normal operation (not dumping) of ships, which is now and will be dealt with in the Inter-Governmental Marine Consultative Organization conventions; (2) that placed in the ocean for purposes other than disposal; and (3) that related to seabed exploration or exploitation, which is expected to be covered in agreements arising from the proposed Law of the Sea Conference. The sea is defined as all marine waters other than internal waters. Special and general permits are defined as permission granted in advance, with special permits requiring a specific application.

"Article IV prohibits the dumping of any wastes listed in Annex I, requires a prior special permit for the dumping of matter listed in Annex II, and a prior general permit for dumping of any other matter. Permits may be issued only after careful consideration of all factors listed in Annex III. Article V permits dumping of any substance when the safety of human life or of vessels at sea is endangered and, in emergencies, the issuance, after consultation with other countries likely to be affected, of a special permit for the dumping of Annex I substances when alternative disposal poses unacceptable risk relating to human health.

"Each Party, under Article VI, will designate an appropriate authority to issue permits, keep records of matter dumped, and monitor, in collaboration with others, the condition of the seas for the purposes of this Convention. Permits will be issued for any matter intended for dumping loaded within the Party's territory and loaded anywhere by vessels flying a Party's flag. The organization performing the secretariat duties for the Convention will be appropriately advised by each Party of that Party's activities pursuant to the term of the Convention.

"Enforcement is the responsibility of each Party. Under Article VII, each Party shall apply required measures to its flag vessels and aircraft, all vessels and aircraft loading matter in its territory for dumping, and those under its jurisdiction engaged in dumping; each Party is to take in its territory appropriate measures to prevent and punish conduct contrary to the Convention. Naval vessels and military aircraft are exempt from the provisions of the Convention; however, each Party is to ensure the adoption of measures for these vessels that accomplish the objectives of the Convention.

"Article VIII promotes regional dumping agreements consistent with this Convention and Article IX encourages support for training of personnel and for supplying necessary equipment.

The Parties agree in Article X to undertake to develop procedures for the assessment of liability and the settlement of disputes regarding dumping and in Article XI to consider at their first consultative meeting procedures for settlement of disputes concerning this Convention. In Article XII, Parties pledge to promote international measures to protect the marine environment from oil and other noxious substances, wastes from operating vessels, radioactive pollutants, chemical and biological warfare agents, and seabed activity wastes. Article XIII states that this Convention does not prejudice the law of the sea positions of any Party or the work in the United Nations Law of the Sea Conference.

"Article XIV provides for the United Kingdom to call a meeting of the Parties within three months after the Convention enters into force (thirty days after the deposit of the fifteenth instrument of ratification or accession), at which time the Parties will select an existing competent organization to perform the secretariat duties under this Convention and take other appropriate action. Consultative meetings of the Parties are to be convened at least every two years. Under Article XV, amendments to this Convention become effective for Parties accepting them sixty days after two-thirds of the Parties have deposited instruments of acceptance. An amendment to an annex becomes effective for any Party immediately on notification of its acceptance, and one hundred days after approval for all other Parties except for those which before that time declare they are not able to accept the amendment at that time.

"Annex I lists substances prohibited from dumping; organohalogen compounds, mercury and cadmium and their compounds; persistent plastics under certain conditions; specified oils; high-level radioactive wastes; and chemical and biological warfare agents. The list does not extend to substances rendered harmless when put in the sea or which contain only trace quantities of these substances, such as sewage sludge or dredged spoils.

"Annex II lists substances requiring a special permit to be dumped: wastes containing significant amounts of certain chemicals, such as arsenic, cyanides and pesticides, acids or alkalis of beryllium or vanadium; bulky wastes which may be a serious obstacle to fishing or navigation; and medium and low-level radioactive wastes.

"Regarding radioactive wastes in Annex I and II, the International Atomic Energy Agency is called upon to make appropriate recommendations available for use by the Parties.

"Annex III lists factors to be considered in issuing permits; the characteristics and composition of the matter; characteristics of the dumping site and method of deposit; and certain other general considerations and conditions."

THE CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES OF WILD FAUNA AND FLORA (EX. H, 93–1)

PURPOSE

The purpose of the Convention is to establish a system by which States may strictly control the international trade in specimens of species which are, or may be in danger of becoming extinct as a result of that trade.

* * * * *

MAJOR PROVISIONS

The Convention consists of a short preamble, 25 articles and four appendices.

The Convention is designed to protect only those species or specimens which participating States agree are, or may be, affected by international trade, and which:

(a) are threatened with extinction (Appendix I);

(b) may be threatened with extinction (Appendix II); or

(c) are listed by a participating State as subject to protection against exploitation within its jurisdiction (Appendix III).

The Convention is implemented through the application of an agreed system of export and import licenses. This system is to be administered by each contracting Party through a national Management Authority with the advise of a national Scientific Authority (Article IX).

The licensing system sets forth certain procedures regulating the trade of various species which require that both the exporting and importing States certify that specified criteria have been met which will assure that the survival of these species will not be further endangered (Articles III–VI).

The Convention also controls the trade in specimens of endangered species introduced from the sea. The introduction from the sea is itself treated as importation for the purposes of this Convention and can occur only after certification by the State of introduction that certain specified criteria have been met (Articles III (5), IV (6)).

There are a number of exemptions from this Convention Species and specimens—

(a) taken under existing international agreements;

(b) taken prior to the entry into force of this Convention;

(c) bred in captivity for commercial purposes;

(d) exchanged between scientists or scientific institutions; or

(e) transported by zoos and circuses,

are not covered by this Convention (Articles VII, XIV).

Each contracting party is required to take "appropriate measures" to enforce the Convention. These measures must penalize illicit trade and provide confiscation procedures designed to return endangered species to the State of export (Article VIII).

Provision is made for amendment of the Appendices by a mail vote or a meeting of a Conference of the Parties, which meeting will occur at least once every two years after entry into force of the present Convention. Provision is also made for amendment of the Convention itself at an extraordinary meeting of the Conference called for that purpose (Article XI, XV–XVII).

The new United Nations Environmental Programme has been asked to assume the Secretariat responsibilities (Article XIII), and it is expected that the Programme will accept. If the Programme declines, the Depository Government will be responsible for performance of the functions until the contracting parties can agree upon a different arrangement.

AMENDMENTS TO THE INTERNATIONAL CONVENTION ON LOAD LINES, 1966 (EX. D, 93–1)

PURPOSE

Load lines are placed on ships to mark the point beyond which a vessel may not be safely loaded and hence submerged.

The 1966 Load Lines Convention established uniform rules concerning the limits to which ships on international voyages may be loaded. It was designed to bring international load line regulations into accord with modern developments and techniques in ship construction. The purpose of the amendments is to correct a number of errors and ambiguities which have become apparent in such matters as technical terminology, geographic reference points and cross references.

THE SIX AMENDMENTS TO THE CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1960 (EX. I, 93–1)

PURPOSE

The amendments are the direct result of recommendations made by the Maritime Safety Committee of the Inter-governmental Maritime Consultative Organization (IMCO). They are designed to improve the safety of maritime navigation by providing for improved radiotelephone watch procedures, more modern radiotelephonic devices, more detailed procedures for the operation of radiotelephonic equipment, and new regulations concerning traffic separation schemes.

The PRESIDING OFFICER. If there be no objection, the conventions will be considered as having passed through the various parliamentary stages up to and including the presentation of the resolutions of ratification, which the clerk will read for the information of the Senate.

The assistant legislative clerk read as follows:

Resolved, (Two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the 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 Inter-Governmental Maritime Consultative Organization (IMCO) (Ex. D, 93–1).

Resolved, (Two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the 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 (Ex. C, 93–1).

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Six Amendments to the Convention for the Safety of Life at Sea, 1960, adopted at London on October 12, 1971, by the Assembly of the Inter-Governmental Maritime Consultative Organization (IMCO) (Ex. I, 93–1).

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention on International Trade in Endangered Species of Wild Fauna and Flora, signed at Washington on March 3, 1973 (Ex. H, 93–1).

The PRESIDING OFFICER (Mr. HELMS). The question is on agreeing to the resolutions of ratification.

Mr. MANSFIELD. Mr. President, for the information of the Senate, it has been agreed that the votes on these conventions and treaties will occur at the hour of 10:45 a.m. tomorrow. There will be one rollcall vote, but it will count, in reality, as four rollcall votes at one time. There is a reason for it at this time.

LEGISLATIVE SESSION

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

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

FOLLIES OF THE PENTAGON

Mr. McINTYRE. Mr. President, I rise today to express my own disappointment at what I regard as a most unfortunate statement by Secretary of Defense James R. Schlesinger, who recently assumed his duties at the Pentagon.

He was quoted this morning as having said at swearing-in ceremonies for Air Force Chief of Staff George S. Brown that—

> We are well into the period of post war follies, and it is now fashionable to attempt to dismantle the forces of the United States.

Of course, Mr. Schlesinger is new at the job and a certain tolerance must be extended to him, because of his inexperience in the complex and difficult debates on defense budgets.

Nevertheless, I would like to assure the Secretary of Defense that I know of no efforts in this Congress to "dismantle the forces of the United States." I have worked for nearly 10 years now as a member of the Senate Armed Services Committee, and for 5 years I have chaired the Subcommittee on Military Research and Development. I know how hard my colleagues work to meet their constitutional responsibilities for rendering legislative judgments on the defense budget. I know how hard my colleagues work to insure that this Nation will be unquestionably secure. I know how hard my colleagues in both Houses of the Congress have worked to support and defend the necessary funding so that our national defense is the finest in the world.

It, therefore, makes me indignant when a Secretary of Defense, only a few weeks on the job, chooses to speak in such an imprecise and inflammatory way.

I suggest that our new Secretary take this occasion to extract his foot from his mouth and reflect upon some simple hard truths about recent debates on our defense posture.

First, the "follies" which have most consistently hampered those of us in Congress who have tried to lead the cause of a responsible, national defense have been Pentagon follies.

Let me be specific. The Pentagon is currently asking the Congress to fund the Trident program, the most expensive, single weapons system ever proposed. This Senator, and I am sure most of the Members of the body, want to proceed to develop the Trident submarine as the next generation of our seabased deterrent.

Yet, the Pentagon does not offer to us an orderly, well-paced developmental program which inspires confidence. Instead, the Pentagon asks us to accept an acceleratiton of the program which even before we complete the construction of the first submarine would have us begin six more. This would violate one of the hardest, learned lessons of the last several years in defense procurement and that is that we should not develop a pro-

gram and go into production at the same time. There is no surer way to waste money or destroy confidence, public, and congressional, in a system than to proceed in such a helter-skelter, wasteful pace.

The Pentagon asks us to do this even though their own experts cannot even describe a Soviet threat that would degrade our present Polaris-Poseidon force; even though their own witnesses cannot conceive a Soviet threat that would degrade our Poseidon submarine fleet once it had completed its conversion; and even though their own witnesses do not even speak to a projected Soviet threat that could degrade our submarine fleet retrofitted with the new Trident I missile with its 4,000-mile range which could be deployed under a more orderly developmental program.

So it is the Pentagon's follies that hamper those of us who wish to proceed with an orderly development of the Trident.

And we have a similar case in the B–1 program. For years my subcommittee has monitored the B–1 and has supported an orderly development of that new generation of bomber. I have defended the B–1 on the floor of the Senate and so I was reassured in April when Air Force's most expert witnesses testified that the B–1 program was in good shape.

Yet, 3 months later the Secretary of Air Force tells us that there will be substantial delays and increased cost. It is the Pentagon's follies of not being able to manage their own program to meet the milestones which they themselves have set or to limit their costs to figures that they have themselves determined that creates a lack of confidence in the B–1 program.

It is the Pentagon's follies that disillusioned the public and the Congress when they asked us to support a B–1 last year at $35 million per copy—1970 dollars—and this year kites that figure higher and higher to $45 million per copy—$56 million with the R. & D. added in—and threatens delays and increases that could run the cost even higher, perhaps to $60 million per copy.

It is the Pentagon's follies when the Air Force's only answer to its mismanagement of the B–1 is to ask for more funds and more time and to reject any major revision of the program that might restore confidence.

It is the Pentagon's follies which damages their own case when they ask in effect for a blank check for B–1; when the Secretary of Air Force is not even willing to assure the Congress that these additional funds will be sufficient.

It is the Pentagon's follies in general that have been primarily responsible for the diminishing support for a responsible, national defense effort. Indeed, the prime causes of public and congressional skepticism about defense budget requests have been the Pentagon's incessant cry of wolf, their indiscriminate appeals to scare tactics, their unwillingness to do the difficult task of judging priorities, and their advocacy of ill-conceived, indefensible, extravagent, and redundant programs on the basis of testimony which often lacks candor, accuracy, or even a decent respect for the constitutional status of the Congress of the United States.

In sum, the Secretary of Defense might well turn his first days at the Pentagon to the rather substantial and prime task of cleaning up these Pentagon follies before proceeding elsewhere.

Finally, I appeal to our new Secretary of Defense to make every effort to help us restore a climate of civility, credibility, and mutual trust in the critical debates on our defense budgets.

I, for one, have been deeply saddened and frustrated in recent years by the intense polarization on questions of national defense which should have been models of national agreement. To be sure, the problem of military spending and national priorities is complex, but I continue to work in the faith that we ought to be able to find common ground from which most reasonable Americans can agree. The idea that defense questions must be answered yes or no, pro- or antidefense, pro- or anti-American, is a false and superficial fallacy. It is over simplification at its worst.

So I appeal to our new Secretary to work together with this body with mutual respect and open-mindedness. The spirit is at the heart of our constitutional system and is critical of restoration to public confidence in our defense spending. I, for one, offer my personal promise to the Secretary that I will join him in any such effort.

LAW ENFORCEMENT ASSISTANCE AMENDMENTS—CONFERENCE REPORT

Mr. McCLELLAN. Mr. President, I submit a report of the committee of conference on H.R. 8152, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. SCOTT of Virginia). The report will be stated by title.

The second assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 8152) to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to improve law enforcement and criminal justice, 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 House proceedings of the CONGRESSIONAL RECORD of July 26, 1973, at pp. 26123–26130.)

Mr. McCLELLAN. Mr. President, the primary purpose of H.R. 8152, as reported by the conference, is to make a variety of amendments to title I of the Omnibus Crime Control and Safe Streets Act of 1968 (Public Law 90–351, as amended by Public Law 91–644) that established the Law Enforcement Assistance Administration. The major provisions of title I of the amended bill cover:

First. Administration—The cumbersome and unwieldy "troika" system has been abolished. All policy and administrative authority is vested in the Administrator. The two Associate Administrators are replaced by a deputy administrator for policy and operations and a deputy for administrative management. The present administrator or associates as designated, may continue in the deputy positions as appropriate.

Second. Comprehensive plan—More specificity has been added to the definition of a "comprehensive State plan." A maximum of 90 days is provided for LEAA approval or disapproval of plans.

Third. Training—LEAA's research arm, the National Institute of Law Enforcement and Criminal Justice, would assist in the development of training programs and be responsible for supporting the agency's regional training efforts. But the present authority of the FBI in the police area would be left untouched.

Fourth. Authorization—A three-year authorization is provided with a provision for authorized funding from $1 billion to $1.25 billion over the 3 years.

Fifth. Civil rights—The provisions of title VI of the Civil Rights Act are incorporated along with optional remedies.

Sixth. Security and privacy—New confidentiality provisions have been added to protect statistical and research information received for research purposes as well as provisions related to criminal history information.

Seventh. Criminal penalties—New language relating to criminal endeavors as well as completed acts has been added.

I would also like the RECORD to show, Mr. President, that although the bill does not give LEAA express authority to transfer funds to other Federal agencies or the Bicentennial Commission to offset anticipated additional expenses relative to the forthcoming Bicentennial Celebration, there is no intent to disturb the present authority of law-enforcement agencies to apply for LEAA block and discretionary grants to use for bicentennial law enforcement expenses.

I ask unanimous consent to have printed in the RECORD a memorandum and a letter which will confirm our interpretation of existing past practices regarding LEAA funds for nonprofit organizations.

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

(See exhibits 1 and 2.)

Mr. McCLELLAN. Mr. President, on March 27, 1969, Justice William H. Rehnquist, who was then an Assistant Attorney General in the Department of Justice, wrote in a memorandum that States could grant limited portions of LEAA funds to nonprofit organizations. On February 28, 1973, Comptroller General Elmer B. Staats said in a letter that nonprofit organizations which received these LEAA matching funds could get their cash match requirement from a voluntary source like a foundation. Nothing that the conference did was designed to change these present practices.

Mr. President, this report was signed by all the conferees in both House and

Senate. We had three sessions of the conferees in the conference. The bill was thoroughly examined and each provision that was at all in disagreement was thoroughly discussed and decision arrived at on a give-and-take basis, with the stronger arguments, in most instances, the basic and sounder reasons, prevailing for what was ultimately agreed to by the conference.

I believe this a well-balanced bill that will make a significant contribution toward the continued success against crime the Nation has enjoyed in the last few years. This success, in my opinion, can be attributed in large part to the LEAA program.

I urge support for the conference report.

EXHIBIT 1

USE OF GRANT FUNDS

To: Gerald M. Caplan, General Counsel, Law Enforcement Assistance Administration.

In your memorandum of February 18, you request our opinion as to whether a State planning agency may grant Part C funds (1) to State owned and operated educational institutions; (2) to other types of educational institutions; (3) to non-profit organizations; and (4) to profit-making organizations.

The answers to all four questions are in the affirmative, assuming that the grants are for purposes enumerated in section 301 (b), and are consistent with the guidelines for comprehensive State plans prescribed in section 303.

Section 303(2) provides that a State planning agency must make available to local governments at least 75% of all Federal funds granted to it under Part C. But the Act imposes no limits on the possible range of persons or organizations to whom the agency may disburse the remaining 25% of its Part C funds.[1] Nor does the Act limit the forms of arrangement or agreement under which these funds may be disbursed. They may be paid out under contracts for goods or services or awarded as grants for activities in furtherance of the comprehensive plan.

For example, a State planning agency may make a grant to a public or private educational institution to facilitate the preparation of a report on "Public education relating to crime prevention" (section 301(b)(3)). Or the agency may make a grant to a nonprofit organization to support "research and development" (section 303(6)) for purposes of improving crime-fighting methods and equipment (section 301(b)(1)). There may be practical reasons for preferring a contract to a grant in such cases, but the Act does not foreclose a choice between these alternatives.

On the other hand, it will rarely be appropriate, as a matter of policy if not of law, to make grants to profitmaking organizations. If it is decided to employ the resources of such an organization in furthering some of the goals of a comprehensive plan, the more appropriate method of making funds available to it for that purpose will be a contract which establishes a clear and enforceable quid pro quo.

[1] With respect to any particular program or project, such funds would, of course, have to be combined with funds provided from State sources. See section 301(c).

Your memorandum assumes, correctly in our opinion, that a part of the 75% share earmarked for local governments could be disbursed instead under contracts or grants to other institutions or organizations, if local governments agreed to let the product of such contracts or grants stand in lieu of a direct distribution of funds to them.

USE OF GRANT FUNDS

To: Gerald M. Caplan, General Counsel.

From: Melvin T. Axilbund, Assistant to the Deputy Director, Office of Law Enforcement Programs.

Mr. Charles Lauer of Area D has propounded several excellent questions which have not, I believe, been answered definitely. They are set forth below for your consideration.

1. May an SPA grant Part C funds to a State owned and operated educational institution?

2. May an SPA grant Part C funds to other types of educational institutions?

3. May an SPA grant Part C funds to nonprofit organizations?

4. May an SPA grant Part C funds to a profit making organization?

I judge there is no problem in having an SPA contract with any or all of the foregoing since, in such a case, there is a clear and enforceable quid pro quo.

I assume, too, that any grant or contract made would be made from the 25% State share of action funds unless there was local government agreement to having the grant or contract product stand in lieu of a distribution of funds.

EXHIBIT 2

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C., February 28, 1973.

Hon. JERRIS LEONARD,
Administrator, Law Enforcement Assistance Administration, U.S. Department of Justice, Washington, D.C.

DEAR MR. LEONARD: Reference is made to your letter of October 16, 1972, presenting for decision four questions concerning the legality of certain grants proposed to be made by the Law Enforcement Assistant Administration (hereinafter referred to as LEAA or as the Administration). The grants in question would be made pursuant to title I of the Omnibus Crime Control and Safe Streets Act of 1968, approved June 19, 1968, Pub. L. 90-351, 82 Stat. 197, as amended by the Omnibus Crime Control and Safe Street Act of 1970, approved January 2, 1971, Pub. L. 91-644, 84 Stat. 1880, 42 U.S.C. 3701 *et seq.* The four questions presented all involve the application of the so-called "hard-match" requirement of the 1968 act, as amended.

LEAA was established by the above-cited 1968 act, and was given authority to grant Federal funds for the purposes of strengthening and improving law enforcement. A matching requirement was established as a condition for grants of funds by LEAA and each grant was to be limited in amount to a certain specified percentage of the total cost of the law enforcement program being assisted. See section 301(c). Although the remainder of the cost of the program had to come from sources other than LEAA, the 1968 act specified neither the source nor the character of the required "match." In addition to changing the percentages of matching funds required, the 1970 act added the "hard-match" requirement. Specifically, effective July 1, 1972:

"* * * at least 40 per centum of the non-Federal funding of the cost of any program or project to be funded by [a block grant under section 301 or a discretionary grant under section 306 of the act of 1968 as amended] * * * shall be of money appropriated in the aggregate, by State or individual unit of government, for the purpose of the shared funding of such programs or projects." See 42 U.S.C. 3731(c), 3736.

Your first question is whether so-called National Scope projects funded under section 306 of the 1968 act, as amended, 42 U.S.C. 3736, require governmentally appropriated funds for "hard-match" or whether funds from private sources can be used as "hard-match" for these projects.

Your letter explains the National Scope projects as follows:

"The Administration in some instances uses discretionary funds allocated under Section 306 to assist national programs of assistance to all State and local law enforcement. These projects generally impact on particularized agencies within the law enforcement area, such as prosecutor offices, all State courts, or juvenile courts. They are called "National Scope" projects because they affect the nation as a whole as opposed to individual States, cities, or regions. The discretionary grant is made to a State Planning Agency (SPA), with the funds generally subgranted to a non-governmental agency. The SPA is also handling the administration of the grant.

"Under the provisions of 306 at least 25 percent of the project cost must be from non-Federal sources. The grantee who receives a grant for a "National Scope" project is normally active in the law enforcement area and a part of the particularized agency group affected. * * *"

You state that there is no clear indication from the legislation or its history how the "hard-match" requirement is to affect National Scope projects. While it appears clear that Congress intended the Administration to continue to fund the National Scope projects which affect "combinations" of governmental units, you urge that to require governmentally appropriated funds in combination projects is an impossibility. In illustration, the Appellate Judges Conference with participants from many jurisdictions is discussed by you to the point that requiring the use of appropriated funds for matching would require each unit of government planning to send an appellate judge to pledge from locally appropriated funds a cash contribution to the National College of State Judiciary before LEAA could consider funding the program. Such a procedure, you state, would be unworkable.

It would serve good purpose to present here a summary of the legislative history of the "hard-match" requirement.

As already noted, the 1968 act placed no limitations on the manner in which that portion of the cost of an LEAA-assisted program not covered by the LEAA grant might be financed. Thus, the "match" might be from State, local or private sources, and might be in cash, or in the form of property or services. In 1970, Congress considered various proposed amendments to the 1968 act, ultimately resulting in the 1970 amendments which incorporate the "hard-match" requirement. As related in your letter:

"* * * The House passed the 1970 Amendments first in H.R. 17825. This amended the 1968 bill to allow 90 percent of the cost of a project to be Federal funds rather than the requirement of 60 percent in the Act. The Senate Amendment was included in Senate Report No. 91-1253, which first added the Hard Match requirement. That Committee report had a requirement that Federal funds could make up to 70 percent of the cost of a project and the requirement that at least 50 percent of the non-Federal portion be in money appropriated for the purposes of the program.

"The Senate Judiciary Committee Report accompanying the 1970 Amendments, Senate Report No. 91-1253, contained the following explanation of the change to Section 306 (page 35):

" 'The Committee has modified substantially the House amendment to Section 306 of the Act dealing with discretionary grants. The changes are designed to spell out expressly the authority of LEAA to make discretionary grants and the limitations applicable to them. In general, the same limitations would be made applicable to block grants under Section 301 that are made applicable to discretionary grants. Thus, the personnel compensation limtiations are made applicable, and the share of the cost of programs and projects that may be paid from Federal funds is limited to 70 percent, the limitation applicable to most block grant

programs. The Administration could make 100 percent grants only to Indian tribes and other aboriginal groups, including Eskimos, as is the case with block grants, noted above. And at least one-half of the non-Federal funding for all discretionary programs and projects would have to be of specifically appropriated money, as distinguished from donated goods or services. The requirement of "appropriated," of course, has reference to governmental units, not private individuals or organizations.' "

The Senate Judiciary Committee report also contained the following comment on the matching requirement:

"* * * Experience under the LEAA program has indicated that the local matching requirement will become a serious problem for most States should it remain at its present rate of 40 percent for most programs. Lowering the requirement to 30 percent will afford substantial relief and will diminish the extent to which the States must rely on counting the value of donated goods and services, rather than money, to make up the non-Federal share of program costs. In this regard, the Committee has included a requirement that at least one-half of the non-Federal share of the cost of any program or project shall be money appropriated expressly for the shared funding of such program or project. This provision should work to guarantee that these new Federal funds will, in fact, draw new State and local funds into the criminal justice system and avoid the real danger that Federal funds will merely replace State and local funds in financing the present system." S. Rep. No. 91–1253, 31 (1970).

Your letter further relates that:

"When the Judiciary Committee report was being debated, Senator McClellan, the Committee Chairman, submitted a sectional analysis of the bill, which included the following on Section 306 (116 Cong. Rec. 35692 (1970)):

" 'The Committee bill modifies substantially the House amendment to Section 306 of the Act dealing with discretionary grants. The changes are designed to spell out expressly the authority of LEAA to make discretionary grants and the limitations applicable to them. In general, the same limitations applicable to block grants under Section 301 are made applicable to discretionary grants. Thus, the personnel compensation limitations are made applicable, and the share of the cost of programs and projects that may be paid from Federal funds is limited to 70 percent, the limitation applicable to most block grant programs. The Administration could make 100 percent grants only to Indian tribes or other aboriginal groups, as is the case with block grants, noted above. And at least one-half of the non-Federal funding for all discretionary programs and projects would have to be of money, as distinguished from donated goods or services.' "

"Senator Hruska, the ranking minority member of the Judiciary Committee, made the following statement in his explanation of the bill (116 Cong. Rec. 35695 (1970)):

" 'The Senate provision is more desirable than the House amendment, I believe, because it recognizes that States and units of local government have difficulty supplying the needed matching funds but at the same time recognizes the need for the States and units of local government to make a substantial financial commitment to action programs.'

"The Senate then debated the two issues mentioned earlier, and amended 306 only to the extent of delaying the Hard Match requirement until July 1, 1972, and adding the phase of allowing the Hard Match to be met in the aggregate."

The House and Senate bills then went to conference and the conference adopted the "hard-match" requirement of the Senate bill without substantive comment, except to indicate that the cash requirement was reduced to 40 percent See pages 16 and 17, H.R. Rep. No. 91–1768 (1970). However, during consideration by the Senate and the House of the conference report, there was discussion on the floors of both chambers of the "hard-match" requirement. In the Senate, Senator Hruska, one of the managers of the bill in conference, described the purpose of that requirement:

"* * * The hard match would include any funds appropriated by a State or unit of local government which are specifically earmarked for matching LEAA action grants.

"LEAA experience in the past 2 years has found that the State and local share of action programs has frequently if not always been figured in donated property or services and it is hoped that the provision for hard match will stimulate the expenditure of new funds for law enforcement purposes." 116 Cong. Rec. 42149 (1970).

In the House, Mr. Poff, also a conference manager, explained the action of the conference committee with respect to "hard-match" as follows:

"The conference also adopted a provision which requires that beginning in fiscal year 1973, at least 40 percent of the Federal [sic] share of the funding of any program or project be from money expressly appropriated by the State or local government in the aggregate for such programs or projects—as opposed to donated services or property. This is the so-called hard-match requirements and it applies equally to block grants and discretionary grants. If a State or local government appropriates money to participate directly in an LEAA program, that is obviously a hard match. But what if the State or local government transfer personnel to participate in LEAA programs or projects? That is not a hard match. It can only be considered a hard match, if the State or local government were to appropriate money to fill the vacancies created by the transfer. The controlling purpose of the hard-match provision is the desire to stimulate new State and local money for imaginative and innovative State and local anticrime programs. This purpose is already ensconced in section 308 (10) of the law. The hard-match requirement puts teeth into that legislative purpose. * * *" 116 Cong. Rec. 42197 (1970).

(Section 303(10), of the 1968 act, referred to by Mr. Poff, provides that each State plan for participation in the LEAA action grant program shall:

"* * * set forth policies and procedures to assure that Federal funds made available under this title will be so used as not to supplant State or local funds, but to increase the amonut of such funds that would in the absence of such Federal funds be made available for law enforcement.)"

The purpose of the "hard-match" requirement is abundantly clear from the above-described legislative history; that being to assure that State and local governments not use Federal funds available under the act in order to supplant their own funds (section 303(10)). It had been found that State and local governments had been in some instances matching LEAA funds with property or services which had not been acquired for the purpose of the grant program but rather had been transferred from other activities of these governments. By this means, States or localities participating in an LEAA-assisted law enforcement project avoided committing any new resources to the project. Requiring these governmental units to match at least a portion of their shares of the cost of a project with money appropriated for that purpose would thus "work to guarantee that these new Federal funds will, in fact, draw new State and local funds into the criminal justice system and avoid the real danger that Federal funds will merely replace State and local funds." S. Rept. No. 91–1253, 31 (1970).

In essence then, the Congressional purpose for "hard-match" is to regulate the conditions of financial participation by State and local governments in LEAA programs; it is not, by the same token, to limit participation in those programs by private organizations. There is support in the language of the Senate Judiciary Committee Report previously cited for the conclusion that the "hard-match" requirement was not intended to prevent the use in LEAA-sponsored National Scope projects of matching funds supplied from private sources. The specific language in the Report reads:

"* * * And at least one-half of the non-Federal funding for all discretionary programs and projects would have to be of specifically appropriated money, as distinguished from donated goods or services. *The requirement of "appropriated," of course, has reference to governmental units, not private individuals or organizations."* S. Rept. No. 91–1253, 36. (Emphasis supplied.)

To read the "hard-match" requirement so as to preclude the use of private funds for "hard-match" in National Scope projects would thus be in derogation of the overall purpose of the act and would also be inconsistent with the specific purpose for which the "hard-match" requirement was added.

We conclude therefore that the "hard-match" requirement is satisfied when 40 percent of the non-Federal funding of an LEAA-sponsored project is in the form of money rather than goods or services, and that the source of the cash may be either private or governmental. As we interpret the "hard-match" requirement, the import of section 306(a) of the act is essentially that 40 percent of non-Federal funding of a program or project shall be money rather than property or services. The further requirement in the statutory language that the money be appropriated for the purpose of the shared funding of the program or project, by its terms, applies only when the non-Federal money comes from a State or individual unit of government. When, on the other hand, "hard-match" is to be provided in the form of donated money from a private source, the requirement of the "hard-match" provision that non-Federal fundings be appropriated by governmental units for the purpose of the shared funding of the program is inapplicable, since the goal of that requirement—to insure the commitment of new funds by State and local governments—is not relevant when private funds are the source of the "hard-match." Matching funds, whether governmental or donated, must still of course satisfy the statutory requirement that at least 40 percent thereof be money. Your first question is answered accordingly.

Your second question is whether funds received by cities from the Department of Housing and Urban Development under title I of the Demonstration Cities and Metropolitan Development Act of 1966, approved November 3, 1966, Pub. L. 89–754, 80 Stat. 1255, may be used as "hard-match" for LEAA projects.

You explain that:

"To aid in the solution of urban problems, Congress established the Model Cities program by passing the Demonstration Cities and Metropolitan Development Act of 1966. The purpose of the Act is to (Section 101) 'provide additional financial and technical assistance to enable cities of all sizes . . . to plan, develop and carry out locally prepared and scheduled comprehensive city demonstration projects containing new and imaginative proposals to rebuild or revitalize large slum and blighted areas . . . to reduce the incidence of crime and delinquency . . . and to accomplish these objectives through the most effective and economical concentration and coordination of Federal, State, and local public and private efforts to improve the quality of urban life.' In its implementation of this act, Congress provided a novel fea-

ture in the authority of local government to use these funds in Section 105(d). It states that those funds "may be used and credited as part or all of the required non-Federal contribution to projects or activities, assisted under a Federal grant-in-aid program . . ."

"In its sectional analysis of this section, the House report explains that (1966 U.S. Code, Cong. & Admin. News, p. 4045) ". . . such funds shall be credited toward the required non-Federal contribution to such projects or activities" and to participate in this program, the city must submit a "comprehensive city demonstration program" which must meet various criteria. * * *

"Prior to July 1, 1972, the Law Enforcement Assistance Administration funds were matched by 'model cities' funds in programs where co-existing responsibility occurred. The 1970 amendments included the Hard Match requirement in Section 301(c). This sentence is exactly the same as that in 306 mentioned earlier, and requires that ". . . at least 40 per centum of the non-Federal share . . . shall be of money appropriated in the aggregate, by State or individual unit of government. . . '* * *"

Your Administration has "made an interim decision pending clarification, that model cities funds may not be used as LEAA Hard Match." The specific question presented is therefore whether LEAA may, subsequent to July 1, 1972, continue to fund projects in conjunction with cities under section 301 of the 1968 act, as amended, when some or all of the local matching funds required of these cities by section 301(c) would consist of moneys granted to them under the Demonstration Cities Act.

As noted above, section 105(d) of the Demonstration Cities Act explicitly allows funds granted thereunder to the cities to be "used and credited as part or all of the required non-Federal contribution to projects or activities, assisted under a Federal grant-in-aid program," subject to certain qualifications which apparently are not here relevant. LEAA programs under section 301(c), as amended, are Federal grant-in-aid programs, as that term is defined by section 112 of the Demonstration Cities Act. Prior to July 1, 1972, the effective date of the "hard-match" provision, there was no question but that Model Cities funds might be used by cities to match LEAA grants. Since July 1, 1972, however, at least 40 percent of the non-Federal share of the funding must be "money appropriated" for the purpose of matching the grant. Since that date, whether Model Cities funds can be used by cities to match LEAA grants depends on a determination whether the allocation of Model Cities funds by the recipient cities as matching funds for LEAA-assisted projects constitutes an "appropriation" of such funds, within the meaning of section 301(c), as amended.

Enclosed with the request for our decision on this question was a letter of October 10, 1972, to LEAA from the Assistant Secretary for Community Development of the Department of Housing and Urban Development (HUD) explaining the nature of the Model Cities program and the basic features of the funding process used therein. That letter reads, in pertinent part, as follows:

"The primary intent of Title I of the *Demonstration Cities and Metropolitan Development Act of 1966* (Model Cities Program) is to bring about a concentration and coordination of Federal, State and local public and private efforts and resources in a broad, comprehensive attack on social, economic and physical problems in selected slum and blighted areas. The idea is to demonstrate in these relatively few (147) yet broadly representative cities how blighted neighborhoods can be renewed both physically and in terms of the quality of life, through a concentration and coordination of Federal, State and local efforts and resources.

* * * * *

"The statute provides for financial and technical assistance to be provided by HUD to the selected cities to enable those cities to plan, develop and carry out comprehensive local programs to improve locally identified social, economic and physical defects in the community. No such program could be truly *comprehensive* unless it addressed problems relating to criminal justice and each of the Model Cities comprehensive city demonstration programs contains a component dealing with criminal justice.

"The funding philosophy of the statute is, basically, quite simple, yet it is at the same time unique. The statute does not intend for the Model Cities Program to be or to become another Federal categorical grant-in-aid program. *The idea is, instead, to use it as a vehicle to encourage and assist the selected cities to make use of other existing Federal, State and local resources, but in a more efficient and effective manner.*

"The principal source of Federal funding contemplated by the statute is not Model Cities supplemental funds, but Federal grant-in-aid funds from programs other than Model Cities Program—such as LEAA. It was recognized that one reason why local units of government fail to seek and receive the full benefits of some Federal grant programs is that they cannot afford to put up the required 'match' for these programs in every instance.

"Congress recognized that a major purpose of the Model Cities experiment (i.e., more effective use of Federal grant programs by cities) was likely to be defeated unless the participating cities were able to obtain grants from other programs such as LEAA. *Accordingly, both to encourage and assist the cities in this respect, Section 105(d) of the statute expressly provides that Model Cities supplemental funds can be used to supply the required 'match' for other Federal grant-in-aid programs.*

* * * * *

"Each of the 147 Model Cities receives an annual block grant from HUD. This money is not earmarked by HUD for any particular projects or program areas. It is granted to the cities to assist them in carrying out their own locally devised comprehensive city demonstration programs. These programs consist of numerous projects in any number of program areas, including criminal justice.

* * * * *

"* * * Out of its block grant from HUD, each city determines for itself how the funds shall be allocated. The governing body of the city (i.e., City Council) must take formal action to approve the city's comprehensive program and, where appropriate, any applications for assistance under the program. Thus, in the case where the comprehensive program includes criminal justice projects to be funded with LEAA funds and the 'match' is to consist in whole or in part of Model Cities funds, these Model Cities funds are appropriated by the City Council for that purpose. This action by the local governing body is a requirement of Section 103(a)(4) of our statute." (Emphasis supplied.)

Under the foregoing circumstances the express language of section 105(d) of the Model Cities Act, that Model Cities funds "may be used and credited as part or all of the required non-Federal contribution to projects or activities, assisted under a Federal grant-in-aid program," is, we conclude, dispositive of your question. Accordingly, Model Cities funds allotted by the grantees thereof to LEAA grant projects may be considered "money appropriated" for the purposes of the "hard-match" requirement of section 301(c), as amended.

Your third question is whether, when State and local units of government receive LEAA funds, and in turn subgrant them to non-governmental units for law enforcement projects, cash contributed by the non-governmental units may be counted as "hard-match" for these projects.

You explain that action grants to the States under part C of title I of the 1968 act, as amended:

"* * * must be spent for programs listed in Section 301(b). Generally, most of the funds spent in this manner go to local governmental units. [Section 303(2).] Of the portion which need not be granted to local units, an option exists for the State to make grants to private organizations. For programs related to Section 301(b)(9), and to some extent (3), there are non-profit non-governmental units providing important public services to the community (i.e., YMCA's, church groups, charitable foundations, and others). Section 301(b)(9) reads as follows:

"'(9) The development and operation of community based delinquent prevention and correctional programs, emphasizing halfway houses and other community based rehabilitation centers for initial preconviction or postconviction referral of offenders; expanded probationary programs, including paraprofessional and volunteer participation; and community service centers for the guidance and supervision of potential repeat youthful offenders.'

"In this area, LEAA funds are subgranted, by the State, to the non-governmental units, for improving and expanding the services that they offer. These non-profit groups have some cash available for the projects that they are involved in. The Congressional reports explained 301(b)(9) as follows, Senate Report 91–1253, page 30: "The Committee has added a new subparagraph (9) to Section 301(b) authorizing the use of Part C funds for the development of community-based delinquency prevention and correctional programs as an alternative to institutional confinement. The funding of such programs under the present law is permissible, but it is hoped that express authority will provide an incentive for the States and cities to develop and fund such programs. Nothing more was said of the provision."

Grants under section 301(b)(9) of the 1968 act, as amended, 42 U.S.C. 3731(b)(9), are governed by the "hard-match" requirement incorporated in section 301(c), 41 U.S.C. 3731(c). As indicated above, that requirement was enacted concurrently with, in words identical to, and for the same purposes as, the "hard-match" requirement of section 306 of the Act, 41 U.S.C. 3736, and is therefore to be interperted in the same way as section 306. Our explanation above of the meaning of the "hard-match" requirement of section 306 with respect to discretionary grants is consequently dispositive of the question now raised concerning the meaning of the "hard-match" requirement of section 301(c) with respect to block grants. That is to say, the "hard-match" requirement of section 301 is met when at least 40 percent of the cost of the non-Federal share thereof is in money, whether from private or public sources.

In reaching this conclusion, we find it particularly persuasive that, as you point out, if the "hard-match" requirement were interpreted so narrowlythat only governmentally-appropriated funds could satisfy it, the requirement could be met by private donors donating funds to a governmental unit which could then appropriate those same funds for the project. We do not believe that Congress intended that the "hard-match" requirement be met by such a cumbersonme procedure and our holding herein avoids the need to resort to such procedure.

Finally, you ask whether funds appropriated by the Congress for expenses necessary

for the administration of the Territory of American Samoa can be used by that territory to meet the "hard-match" requirements of the 1970 act.

You explain that:

"The Administration is authorized to fund Law Enforcement projects in territories by the definition of States in Section 601(c). We are currently funding projects in Puerto Rico, Guam, Virgin Islands and American Samoa. Because of the unique character of funding structures the problem of using Federal territorial funds as Hard Match has presented a problem only in American Samoa.

"The statutory authority governing American Samoa is 48 USC 1661. Subject to this authority, the Secretary of Interior is responsible for the Administration of the territory. The current appropriation for the territory is found in P.L. 92-369, 1872 U.S. Code, Cong. and Admin. News, p. 3303. This law appropriates funds 'For expenses necessary for the Administration of territories . . . including expenses of the office of the Governor of American Samoa . . . compensation and expenses of the judiciary in American Samoa as authorized by law (48 USC 1661(c)); and grants to American Samoa, in addition to local revenues for support of local governmental functions . . .' The Secretary of Interior promulgated regulations which describe the operation of the territory. These regulations are found in Department of Interior Manual 575 DM 1-3, dated October 8, 1971.

"This manual describes the territorial procedure as follows. 575 DM 1-3.3A: 'The legislature has appropriation authority with respect to local revenues and authority to review and make recommendations with respect to the budget submitted to the United States Congress for grant funds.'"

"As indicated above, funds appropriated to the Department of the Interior to be granted by that Department to American Samoa are to be used by the government of American Samoa for support of local governmental functions as a supplement to local revenues. Under the circumstances these grants may be considered unconditional grants and when paid over to American Samoa and commingled with local revenues lose their character as Federal funds. See B-131569, June 11, 1957, and B-173589, September 30, 1971. Such funds may therefore be used by the territorial government to provide "hard-match" for LEAA grants, since improvement of law enforcement is unquestionably a "local government function."

Sincerely yours,

ELMER B. STAATS,
Comptroller General of the United States.

Mr. HRUSKA. Mr. President, on June 25, 1973, the Senate overwhelmingly passed the Crime Control Act of 1973, H.R. 8152. The primary purpose of the bill was to authorize continued appropriations for the Law Enforcement Assistance Administration. The bill also made a number of amendments to the Omnibus Crime Control and Safe Streets Act.

The Senate bill did not differ dramatically from the bill passed by the House. By and large, the basic structure and authority of the LEAA was retained. We attempted to streamline the agency's block grant funding mechanism and to emphasize LEAA's responsibility for administering the programs and assisting the States in comprehensive planning.

While the Senate amendment contained approximately 35 points of difference with the House bill, the results of the conference cannot reflect the significant agreements in both Houses on approximately 25 other changes which appeared in both the House and Senate bills. The report submitted along with this bill reflects a compromise on a number of issues.

For the most part, I believe this compromise to be better than either the House bill or the Senate amendment. Some unworkable provisions have been made workable; some provisions have been changed to reflect the most feasible alternative.

It is significant that the efforts of the conference were of a bipartisan nature. During the 3 days of conference this fact was repeated time and again. The goal of the conferees was an obvious commitment to devise the most effective legislation for LEAA.

I believe that the beliefs and points of view by all those who testified and all those who offered amendments to these bills were fully addressed and that the result is a bill which will enable LEAA to continue its invaluable service.

I would like to fully endorse and concur with the major features of the conference which the Senator from Arkansas (Mr. MCCLELLAN) has brought to the attention of the Senate. Additionally, I would like to add several other items which merit notice.

With respect to the compromise reached by the conferees in the area of juvenile justice, there was no intention to denigrate the activities of the Interdepartmental Council To Coordinate All Federal Juvenile Delinquency Programs or the individual activities of Federal agencies in the juvenile delinquency area. It was recognized that the Federal effort to reduce juvenile delinquency grew from a handful of Federal programs in 1961 to an effort involving 16 Federal agencies with 197 programs and annual grew from a handful of Federal programs in 1961 to an effort involving 16 Federal expenditures of approximately $13 billion by 1971.

With respect to the training programs for police, the conferees recognized that as to those programs outside the bailiwick of the FBI, the administration necessarily shared the national institute's training role as a parent organization and in keeping with sound management concepts.

With respect to the liberalized hard-match features, I would like to observe that in applying these requirements to situations involving transferred personnel, it would be wise for LEAA to require equivalent State-appropriated dollars to cover salaries for the required hard match. The burden of matching has been so lightened, that it would be inappropriate to do otherwise.

Another amendment in this bill will provide the Administrator of LEAA with full authority to donate, through the General Services Administration, surplus property to State agencies for use in the criminal justice system. There may be some technical questions about this provision, but in my judgment, it is adequate to authorize such donations.

There are large inventories of helicopters, light aircraft, rescue and patrol boats, rough terrain and special purpose vehicles, and special communications equipment which are available to improve and extend the capabilities of police agencies. This is all surplus Federal property.

Scientific and laboratory equipment is also available for use in drug abuse and forensic crime laboratories. Significant quantities of machine-shop tools and skilled occupational machinery, as well as training equipment, is available for use in rehabilitation facilities and programs. Correctional facilities have a need for all types of surplus Federal property. This is especially true today with the great unrest in State prisons.

Notwithstanding any other provisions of law and extensive administrative regulations in this area, the surplus property amendment, as presently drafted, gives such full authority to the Administrator of LEAA.

Finally, I wish to assure Senators that with respect to the new technical assistance provisions, the conferees recognized the international scope of many law enforcement and criminal justice problems. Thus, we intended to give LEAA authority to provide technical assistance abroad in traditional police areas of international concern such as narcotics interdiction, skyjacking, and terrorism. However, these specific references are only intended to be illustrative and it would, therefore, be entirely appropriate for technical assistance to be provided in other criminal justice areas, including corrections, where there were particular benefits in terms of expertise that could only be derived abroad.

Mr. President, on March 14 of this year, I introduced S. 1234, a bill to provide for special law enforcement revenue sharing, at the request of the administration. Although that bill did not finally emerge as the vehicle for the extension of LEAA's authority, there are so many conceptual similarities between it and H.R. 8152 that I view the bill at hand as a prototype of special revenue sharing in substance, in the area of law enforcement. Thus, by approving the instant legislation we will confirm the belief that crime is essentially a local problem, to be solved by local controls and initiatives. This has long been a goal of President Nixon which is shared by this Senator and many of my colleagues.

The changes we now propose for LEAA will do much to strengthen and improve what is now a very effective anticrime effort. They deserve the support of the Senate.

Mr. ERVIN. Mr. President, I am pleased that the House-Senate conference committee on H.R. 8152, the LEAA authorization bill has retained the Kennedy-McClellan arrest records amendment. That amendment represents an important first step by the Congress to place interim restrictions upon the operations of criminal justice information systems funded by LEAA.

The purpose of this amendment is to direct LEAA and the criminal justice information systems which it funds to adopt privacy and security guidelines. Senator KENNEDY says that it is the objective of his amendment that LEAA consider requiring the systems to adopt the safeguards set out in technical report No. 2 of Project Search and the mo-

del administrative regulations also prepared by Search. Other excellent privacy and security guidelines which LEAA should look to in preparing these regulations include LEAA's own comprehensive data systems program guidelines, the recommendations of the Information Systems and Statistics Task Force of the National Advisory Commission on Criminal Justice Standards and Goals and the model rules for release of arrest and conviction records prepared by Gerald Caplan, formerly general counsel for the Distict of Columbia Police Department.

In a statement on June 29, immediately after the Senate enacted the amendment, I pointed out that the amendment should be strictly construed and vigorously enforced. The amendment speaks in terms of local systems complying with restrictions on use of criminal records "to the maximum extent feasible." However, the legislative history makes it abundantly clear that the LEAA must force the local information systems to adopt privacy and confidentiality guidelines immediately or as soon as humanly possible, and that bureaucratic complications and cost should not be accepted as excuses for noncompliance.

Furthermore, the amendment as adopted by the Senate and ratified by the conference committee allows criminal justice information to be disseminated for law enforcement and "other lawful purposes." The inclusion of this language would appear to allow the continued dissemination of arrest records for civil service and other employment screening. Of course, this is exactly the kind of use of criminal justice records, in particular arrests records not followed by conviction, which should be halted as soon as possible. The Attorney General should take these abuses into consideration in promulgating privacy and security guidelines. LEAA and the Department could and, under the Kennedy-McClellan amendment should condition any Federal funds it provides on the requirement that the systems avoid most noncriminal justice use of records. It is incumbent upon the Justice Department to conduct a complete review of all State statutes which permit noncriminal justice use of criminal justice records and include restrictions and safeguards in the rules it promulgates pursuant to this amendment.

Finally, it is clear from the legislative history of this provision that Senators KENNEDY, MCCLELLAN, and HRUSKA believe that the Kennedy-McClellan amendment is only an interim stop-gap measure and not a final comprehensive solution to this problem. As Senator HRUSKA stated at the time that amendment was adopted by the Senate:

> The language in this amendment is not dispositive of the entire problem but additional legislation will be forthcoming soon on that subject, and it will supplement and complement this measure.

The Subcommittee on Constitutional Rights on which Senators HRUSKA, MCCLELLAN, and KENNEDY sit and which I chair, shares jurisdiction over this matter with the Subcommittee on Criminal Laws and Procedures. I have instructed my staff to prepare comprehensive legislation on this question and I understand that the administration is doing the same. Therefore, I hope we will have a bill introduced within the next few weeks. The Subcommittee on Constitutional Rights will hold hearings in the near future on that legislation and on the progress of LEAA in enforcing the Kennedy-McClellan amendment.

Mr. McCLELLAN. Mr. President, I move the adoption of the report.

The PRESIDING OFFICER (Mr. SCOTT of Virginia). The question is on agreeing to the conference report.

The report was agreed to.

Mr. MANSFIELD. 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. McCLELLAN. 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. McCLELLAN. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

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

The motion to lay on the table was agreed to.

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

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

FULL OPPORTUNITY AND NATIONAL GOALS AND PRIORITIES ACT

The Senate resumed the consideration of the bill (S. 5) to promote the general welfare.

Mr. BEALL. Mr. President, I rise to speak in opposition to S. 5.

Mr. President, while I agree that we in the Congress and, indeed, the country must do a better job in determining priorities and evaluating social programs, I do not believe that the Senate should enact S. 5.

While I might support this measure at the appropriate time, and after consideration has been given to various other alternatives, I believe that the Senate would be making a serious mistake in passing S. 5 today. It is the wrong bill and it comes at the wrong time. We in the Congress are not going to effectively evaluate programs and determine Federal priorities until we force ourselves to exercise the needed discipline to live within a budget that is appropriate for the economic conditions at that time. It is easy to be for everything if we do not disclose the cost or do not have to make what Secretary Richardson has referred to as cruel choices.

Our failure in this regard has helped to create some of the problems that we as a nation confront today, such as—

Inflation, initially caused by a Government that attempted to have both guns and butter.

Program perpetuation, caused by the fact that once a program is enacted, we never seem to be able to discard it no matter what circumstances have changed or what new priorities have surfaced. Promising more than we can deliver has added to public disillusionment with Government.

Now both the Joint Committee on Budget and the Government Operations Subcommittee on Budget, Management, and Expenditures have been considering budget control and oversight legislation. The former committee has issued a report containing its recommendations to improve the operations of the Congress and the Government Operations Subcommittee on July 25 reported the Federal Act to Control Expenditures and Establish National Priorities to the full committee. Included within the recommendations of the subcommittee is for the establishment of a Congressional Office of Budget, equivalent in status to the General Accounting Office. How would this mesh with the Office of Goals and Priorities established within the Congress under title 2 of S. 5?

The other major provision of S. 5 would establish a Council of Social Advisers in the Executive Office of the President and require annual social report by the President to the Congress. I personally am not convinced that we need to beef-up the Executive Office of the President. It seems to me with the Domestic Council, which functions to assist the President in the coordination and overview of domestic policies, and the Office of Government and Budget, which already exercises considerable influence or appear to be adequate for the executive branch.

In my judgment it is the ability of the Congress in this regard that needs to be strengthened. I, therefore, strongly urge this bill be defeated or preferably deferred until we consider the total problem and establish a procedure for improving the budgetary process.

While I am very sympathetic to proposals to upgrade and improve the ability of Congress to evaluate the program and determine Federal priorities, realistically I do not believe that we will do so unless we put in place the machinery and mechanisms that will force us to live within our means and make the difficult choices.

Action on a piecemeal basis, such as S. 5, may serve to slow the momentum in the Congress for real reform in both improving our budgetary process and our ability to evaluate programs to determine national priorities.

For all of these reasons, I hope that S. 5 will be defeated this time or delayed.

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 RECOGNITION OF SENATORS AND FOR A PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders or their designees have been recognized under the standing order, the distinguished junior Senator from North Carolina (Mr. HELMS) and the Senator from Virginia (Mr. HARRY F. BYRD, JR.), each be recognized for not to exceed 15 minutes, after which there be a period for the transaction of routine morning business, the hour not to extend beyond 10:45 a.m., with statements limited therein to 3 minutes.

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

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum. It may be the last quorum call of the day.

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 (Mr. SCOTT of Virginia). Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, what is the pending business before the Senate?

The PRESIDING OFICER. The pending business is S. 5, the proposed Full Opportunity and National Goals and Priorities Act.

SENATOR INOUYE

Mr. FONG. Mr. President, I rise to express my indignation at the ethnic slur cast yesterday against my distinguished colleague from Hawaii (Mr. INOUYE), who is serving as a member of the Senate Select Committee on Presidential Campaign Activities.

There is only one way to characterize such a remark. It was shameful.

I would remind my fellow Americans and the people of the world that Senator DANIEL K. INOUYE is, and always has been, an American.

In the spirit of fairplay and good Americanism, I do hope an apology will be tendered to Senator INOUYE.

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

Mr. FONG. I yield.

Mr. TUNNEY. I would like to associate myself with the remarks my distinguished friend and colleague just made. I was deeply shocked to read in the newspapers this morning that this racial slur had been made against Senator INOUYE, who is one of the finest Americans that I have ever had the privilege of knowing, a man who has given so much for his country in war and peace, a man who is of constantly high character, and one who has demonstrated in the Senate that he not only is very effective as a legislator, but that he is a great friend.

I am shocked, as I have said, by the comment that was made, but perhaps even more troublesome is the fact that the perpetrator of those remarks has yet to apologize to our very dear friend and colleague.

Mr. FONG. Mr. President, I do hope that the individual who made this unfortunate remark will apologize to Senator INOUYE. It was an uncalled-for slur. It should not happen in America. The record of Senator INOUYE's life and career shows he is first and foremost a good American.

I wish to thank the distinguished Senator from California for his remarks.

ORDER FOR THE SENATE TO RETURN TO THE CONSIDERATION OF LEGISLATIVE BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its votes on the treaties tomorrow, it return to the consideration of legislative business.

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

ORDER FOR THE CONSIDERATION OF THE FULL OPPORTUNITY AND NATIONAL GOALS AND PRIORITIES ACT, TOMORROW, S. 5

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate returns to the consideration of legislative business following the votes on the treaties tomorrow, the Chair lay before the Senate the unfinished business, S. 5.

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene tomorrow at the hour of 10 a.m. Following the recognition of the two leaders or their designees, the distinguished junior Senator from North Carolina (Mr. HELMS) will be recognized for not to exceed 15 minutes to be followed by the senior Senator from Virginia (Mr. HARRY F. BYRD, JR.) after which there will be a period for the transaction of routine morning business, with the usual 3-minute limitation on statements therein, the period not to extend beyond the hour of 10:45 a.m.

At 10:45 a.m. the Senate will go into executive session to consider Executive Calendar Orders Nos. 8, 9, 10, and 11 on the Executive Calendar. Under the order previously entered, there will immediately be one rollcall vote, which will count for four, in actuality. Following this vote, the Senate will return to the consideration, in legislative session, of S. 5.

Aside from what I have just stated, the leadership would want to express the hope that Senators will remain available throughout the day tomorrow, or at least until such time as the leadership feels that no critical votes will occur. The reason I say this is that rollcall votes can occur unexpectedly on calendar matters cleared for action, and, more particularly, rollcall votes could occur on conference reports and other messages coming from the House.

We have no control over the timing of the receipt in the Senate of House messages, such timing necessarily depending on the actions of the other body. Inasmuch as the Senate faces a recess of slightly over a month, the leadership appreciates the understanding of all Senators in connection with the usual possible exigencies that may arise on the last day preceding a recess.

Moreover, looking down the road, and in order that Senators will be alerted in ample time to make plans accordingly, I would be willing to bet my shirt, at least, that there will be rollcall votes on September 5, the first day the Senate is expected to convene following the August recess. And my reference to votes is no idle suggestion; it is a commitment.

ADJOURNMENT TO 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move in accordance with the previous order that the Senate stand in adjournment until the hour of 10 a.m. tomorrow.

The motion was agreed to; and at 4:44 p.m., the Senate adjourned until tomorrow, August 3, 1973, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate August 2, 1973:

DEPARTMENT OF STATE

Ellsworth Bunker, of Vermont, to be Ambassador at Large.

Carol C. Laise, of Vermont, a Foreign Service Officer of the class of career minister, to be an Assistant Secretary of State.

DEPARTMENT OF JUSTICE

Thomas P. McNamara, of North Carolina, to be U.S. attorney for the eastern district of North Carolina for the term of 4 years, vice Warren H. Coolidge, resigned.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

James B. Cardwell, of Maryland, to be Commissioner of Social Security of the Department of Health, Education, and Welfare, vice Robert M. Ball, resigned.

CONFIRMATIONS

Executive nominations confirmed by the Senate August 2, 1973:

U.S. POSTAL SERVICE

John Y. Ing, of Hawaii, to be a Governor of the U.S. Postal Service for the term expiring December 8, 1981.

ATOMIC ENERGY COMMISSION

William A. Anders, of Virginia, to be a member of the Atomic Energy Commission for a term of 5 years expiring June 30, 1978.

DEPARTMENT OF STATE

Thomas R. Byrne, of Pennsylvania, a Foreign Service officer of class 1, to be Ambas-

sador Extraordinary and Plenipotentiary of the United States of America to Norway.

DIPLOMATIC AND FOREIGN SERVICE

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.

(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.)

U.S. AIR FORCE

Brig. Gen. Harold R. Vague, [redacted] FR, for promotion to the grade of major general and for appointment as the Judge Advocate General, U.S. Air Force, under the provisions of chapter 839 and section 8072, title 10, of the United States Code.

U.S. ARMY

1. The following-named person for reappointment to the active list of the Regular Army and Army of the United States with grades as indicated, from the temporary disability retired list, for a period of 1 day, under the provisions of title 10, United States Code, sections 1211 and 3447:

To be major general, Regular Army, and lieutenant general, Army of the United States

Lawrence J. Lincoln, [redacted].

2. The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. Lawrence J. Lincoln, [redacted], Army of the United States (major general, U.S. Army).

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. William Edward Potts, [redacted] U.S. Army.

U.S. NAVY

Vice Adm. C. Edwin Bell, U.S. Navy, for appointment to the grade of vice admiral, when retired, pursuant to the provisions of title 10, United States Code, section 5233.

Comdr. Grace Murray Hopper, U.S. Naval Reserve (retired), for permanent promotion to the grade of captain on the retired list of the U.S. Naval Reserve, in accordance with article II, section 2, clause 2, of the Constitution.

IN THE AIR FORCE AND MARINE CORPS

Air Force nominations beginning Robert Z. Bothe, to be colonel, and ending Howard W. Vanscoy, Jr., to be lieutenant colonel, which nominations were received by the Senate and appeared in the Congressional Record on July 24, 1973.

Marine Corps nominations beginning Harold J. Alwan, to be lieutenant colonel, and ending George P. Wuerch, to be lieutenant colonel, which nominations were received by the Senate and appeared in the Congressional Record on July 24, 1973.

HOUSE OF REPRESENTATIVES—*Thursday, August 2, 1973*

The House met at 11 o'clock a.m.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Let us hear the conclusion of the whole matter: fear God and keep his commandments for this is the whole duty of man.—Ecclesiastes 12: 13.

Almighty God and Father of us all, whose ways are truth and love, at this altar of prayer established by our fathers, we kneel in spirit praying that Thy strength may undergird us in our labors on behalf of our beloved country.

During these disturbing days deepen in us a sense of personal responsibility together with a realization that Thy call to each one of us is not so much to contribute to the world's goods as to contribute to the world's good and the best contributions we can make in an honest, clean, trustworthy life filled with goodwill.

Guide us with Thy spirit that we may be faithful stewards of our national life. May our decisions bridge the gulfs between people and unify us in our desire for life, liberty, and the pursuit of happiness for all.

We pray in the spirit of Christ, our Lord. 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 agrees to the amendment of the House to a bill of the Senate of the following title:

S. 2120. An act to amend the Federal Railroad Safety Act of 1970 and other related acts to authorize additional appropriations, and for other purposes.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 502) entitled "An act to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes."

The message also announced that the Senate had passed a bill and a joint resolution of the following titles, in which the concurrence of the House is requested:

S. 372. An act to amend the Communications Act of 1934 to relieve broadcasters of the equal time requirement of section 315 with respect to candidates for Federal office, to repeal the Campaign Communications Reform Act, to amend the Federal Election Campaign Act of 1971, and for other purposes, and

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.

INSULT TO A JAPANESE-AMERICAN HERO

(Mr. KOCH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOCH. Mr. Speaker, I was shocked to see John J. Wilson, attorney for H. R. Haldeman, state that while he did not oppose the questioning of his client by Senator LOWELL WEICKER, he was upset by the questions of Senator DANIEL INOUYE and went on to state "what I mind is that little Jap." When reporters indicated their surprise at what could only be described as a racist statement, he went on to say:

That's just the way I speak. I consider it a description of the man—I wouldn't mind being called a little American.

John J. Wilson's action has made many Americans, myself included, ashamed. It is particularly distressing that this remark was made while our country was being visited by Japan's distinguished Prime Minister Kakuei Tanaka. Senator DANIEL INOUYE, the U.S. Senator from Hawaii of Japanese-American extraction, served our country in World War II; indeed, he lost his arm in its defense. I do not propose to debate the subject of who is or who is not an American. The Constitution disposed of that issue a long time ago. But I can tell you what I think being a great American requires. It takes more than a particular skin color or ethnic background—it takes an inner decency and courage, exhibited by Senator DANIEL INOUYE and seemingly lacking in John J. Wilson.

MAJORITY LEADER THOMAS P. O'NEILL, JR., BLAMES ADMINISTRATION FOR BEEF SHORTAGE

(Mr. O'NEILL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. O'NEILL. Mr. Speaker, we ought to put the blame for the beef shortage right where it belongs—at the door of President Nixon and this Republican administration.

The people of this Nation want beef and there has been virtually none this past week. I have been informed by one company that only two carloads of beef have gone into Boston these past few days. Usually, the city gets 40 carloads a week.

Supermarket shelves everywhere are empty. Meatcutters everywhere are being laid off or are taking off for lack of work. If this keeps up, this thing is going to develop into a serious labor problem as well as a major consumer matter.

Mr. Speaker, this is the fruit of the policy of scarcity practiced by President Nixon and his Secretary of Agriculture.

The Congress extended the economic stabilization legislation last April. We have already given him all the authority he needs to deal with this beef shortage. He is responsible for this shortage, and it is equally his responsibility to get us out of it.