passengers favor individual means of transportation (taxi, rental car, etc.) which consume more fuel than would flying directly into city airports.[133] These savings, as well as the other modes of fuel conservation discussed above are calculated to meet the rising demand until such time as the long-term sources may affect the shortage.

VI. CONCLUSION

Any precise directives concerning an area of the economy as vastly complex as the petroleum industry would be of questionable validity. A two-fold policy approach offers a better possibility for success. First, on the mass scale a free market system would be most advantageous to the economy and conservative of our energy sources. Secondly, on the individual level there are various practices that can be followed to increase gasoline mileage. In any event, the successful perpetuation of our economy depends on freedom from controls rather than artificial constraints by the government.

FOOTNOTES

[97] Interview with Patricia Hanahan, Liaison Officer of the Federal Trade Commission, in Washington, D.C., July 18, 1973.
[98] Interview with Ben Tafoya, Chief of the Emergency Advisory Committee to the Office of Oil and Gas of the Department of the Interior, in Washington, D.C., July 26, 1973.
[99] *Supra* note 97.
[100] *Id.*
[101] *Id.*
[102] Trend line: is the projected growth rate at which the demand for fuel will rise over a measured period of years.
[103] *Supra* note 12.
[104] *Id.*
[105] *Id.*
[106] Interview with McKie, *supra* note 13.
[107] *Supra* note 97.
[108] Crude Oil Hearings, *supra* note 9.
[109] *Supra* note 98.
[110] Crude Oil Hearings, *supra* note 9.
[111] *Id.*
[112] *Id.*
[113] Interview with McKie, *supra* note 13.
[114] *Id.*
[115] *Id.*
[116] *Id.*
[117] *Id.*
[118] *Id.*
[119] *Id.*
[120] Interview with Johnson, *supra* note 12.
[121] *Id.*
[122] Interview with Johnson, *supra* note 12; Interview with Brozen, *supra* note 13.
[123] *Id.*
[124] *Id.*
[125] *Id.*
[126] *Id.*
[127] Deadheading: truckers' practice of traveling from their destination without a full cargo.
[128] *Supra* note 122.
[129] *Id.*
[130] *Id.*
[131] *Id.*
[132] *Id.*
[133] *Id.*

INTERIOR APPROPRIATIONS CONFERENCE

HON. GUNN McKAY

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 20, 1973

Mr. McKAY. Mr. Speaker, under the able chairmanship of the Honorable JULIA HANSEN, the Conference Committee on H.R. 8917—the appropriation for the Interior and related agencies—came forth with a report which shows foresight and commonsense. By realistically evaluating competing interests, including the need to contain expenditure levels, the report recommended funding consistent with necessary priorities. For example, the committee took a realistic and long-range look at the need for coal research and reforestation programs. The committee emphasized vital Indian education programs. I extend my appreciation to the chairman and the rest of the conferees for a diligent and commendable job.

SENATE—*Friday, September 21, 1973*

The Senate met at 9 a.m. and was called to order by Hon. PETE V. DOMENICI, a Senator from the State of New Mexico.

PRAYER

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

O Thou who art more ready to hear than we to pray, who knows our needs before we ask, and our longings before we speak, hear our prayer, answer us according to our needs, and give us the peace which the world cannot take away. Thou hast promised that where 2 or 3 or 10,000 are gathered in Thy name Thou wilt be in the midst of them. So be with us now and with all who enter and depart from this Chamber. Be with all who labor in the service of the Government beyond these doors that the highest and best may be achieved for the Nation and for all mankind.

We ask it in the name of Him who is Lord of creation and of life. 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., September 21, 1973.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. PETE V. DOMENICI, a Senator from the State of New Mexico, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. DOMENICI 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 Thursday, September 20, 1973, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of calendar Nos. 374, 375, and 376.

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

ENLARGEMENT OF CLASS OF PERSONS TO RECEIVE BENEFITS UNDER MICRONESIAN CLAIMS ACT OF 1971

The Senate proceeded to consider the bill (H.R. 6628) to amend section 101(b) of the Micronesian Claims Act of 1971 to enlarge the class of persons eligible to receive benefits under the claims program established by that act, which had been reported from the Committee on Interior and Insular Affairs with an amendment, on page 2, line 5, after the figure "18," strike out "1974;" and insert "1947;".

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 93-400), explaining the purposes of the measure.

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

PURPOSE OF BILL

The purpose of H.R. 6628 is to enlarge the class of persons eligible to receive benefits under the Micronesian Claims Act of 1971 (Public Law 92-39) by including not only citizens of the Trust Territory but also certain citizens of the United States and would permit the Secretary of the Interior to make some payments prior to the adjudication of all claims and their certification by the Foreign Claims Settlement Commission of the United States. This change in the existing law is to benefit Micronesians who have left Micronesia and taken up permanent residency in Guam, Hawaii, or elsewhere, and have become United States citizens.

The provision providing for payment of adjudicated claims prior to final completion of certification of all claims by the Commission is designed to prevent the delay of any claims for another three or four years until all claims are adjudicated (excepting $1,000 initial payments on death claims), and to avoid the inflationary effect within Micronesia which would likely occur if all claims payments were to be made at one time. Micronesia's economy cannot easily absorb an unstructured input of $25 to $30 million in a short period.

BACKGROUND

Congress enacted the Micronesian Claims Act of 1971 to compensate the people of the Trust Territory of the Pacific Islands for damages incurred during the hostilities of

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

World War II and for noncombat damages after the islands were secured but prior to July 1, 1951. The 1971 act was passed subsequent to the conclusion of an executive agreement with Japan in 1969 which provided for ex gratia contributions valued at $5 million from each of the two governments in response to war damage claims of the people of the Trust Territory of the Pacific Islands (Micronesia). The agreement further provided that the U.S. contribution would be in cash while the Japanese contribution would be in goods and services. These provisions, pursuant to the executive agreement with Japan, were included in title I of the 1971 act. Title II provides for the adjudication, certification and payment of claims arising during the post-seizure period in the islands before July 1, 1951, attributable to actions of members of the Armed Forces or civilian employees of the U.S. Government or the government of the Trust Territory; an additional $20 million was authorized to be appropriated for use by the Secretary of the Interior in making payments for this purpose.

The Micronesian Claims Act of 1971 provides that only Micronesian citizens are eligible to file for claims, and allows no opportunity for benefits under the claims program for Micronesians who have left Micronesia and have taken up permanent residency elsewhere (such as Guam and Hawaii), and have become U.S. citizens. The number of persons in this category is estimated by the Department of the Interior to be not more than 100.

COST

Passage of H.R. 6628 would authorize no additional expenditure of funds by the U.S. Government. The cost ceilings established under the Micronesian Claims Act of 1971 would remain as follows:

$10 million under title I jointly provided by the United States and Japan ($5 million each); $20 million under title II for postwar claims. H.R. 6628 gives the Secretary of the Interior the discretionary power to make some payments prior to adjudication of all claims and certification by the Foreign Claims Settlement Commission, but without exceeding the authorized ceilings on the Micronesian Claims Act of 1971.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

POTENTIAL ADDITION TO NATIONAL WILD AND SCENIC RIVERS SYSTEM

The bill (S. 1391) to amend the Wild and Scenic Rivers Act by designating a segment of the Wisconsin River for potential addition to the National Wild and Scenic Rivers System, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)) is amended by adding at the end thereof the following:

"(28) Wisconsin River, Wisconsin: The segment from Prairie du Sac to its confluence with the Mississippi River at Prairie du Chien."

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 93-399), explaining the purposes of the measure.

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

PURPOSE AND SUMMARY OF THE ACT

S. 1391 would designate for study for possible inclusion in the national wild and scenic rivers system a seventy-four mile segment of the lower Wisconsin River.

The study would be authorized by amending subsection (a) of section 5 of the Wild and Scenic Rivers Act (82 Stat. 906). This subsection contains a listing of rivers designated for study. Under the Wild and Scenic Rivers Act, a river so designated is to be studied by either the Bureau of Outdoor Recreation of the Department of the Interior or the Forest Service of the Department of Agriculture to determine its suitability for inclusion in the national wild and scenic rivers system; whether administration should be undertaken by the State or Federal government, and if the latter, which agency should be given the administrative task; and in which of the three categories established by the Act—wild, scenic, or recreational—the entire segment of the river or portions thereof should be classified. The study, once completed, is submitted to Congress. Congress must then enact further legislation should it wish to designate the river as a component of the wild and scenic rivers system. (An exception to this procedure allows the Secretary of the Interior to designate a river without Congressional action if the relevant State or States assume responsibility for its management and recommend it to the Secretary for inclusion in the system). During the period of study, the Wild and Scenic Rivers Act affords certain protection to a river, including the prohibition of water recourse projects. To date, 27 rivers have been designated for study and 11 rivers (9 federally administered and 2 state administered) have been added to the system.

The seventy-four mile segment of the lower Wisconsin designated for study is situated in the southwestern portion of the State of Wisconsin, beginning at Prairie du Sac and flowing west to its confluence with Mississippi River at Prairie du Chien. The river corridor contains some 98,500 acres, of which about 16,000 acres are public lands, 3,603 acres are public utilities land, 55,000 acres are private land, and approximately 21,000 acres are covered by water. At the hearing on S. 1391 before the Subcommittee on Public Lands, Senator Gaylord Nelson, author of S. 1391, described the proposed study river, as follows:

"The lower Wisconsin is one of the most beautiful and unspoiled rivers in the nation. It was first discovered in 1673, during the travels of two French explorers. The travels of Father Jacques Marquette and Louis Joliet from Green Bay to the mouth of the Mississippi River led them to travel down the length of the Wisconsin River, and to note the vast and varied resources which grace the shoreline.

"The discovery of the Mississippi River by Marquette and Joliet enhanced the use of that river as a means of transportation for material from the heartland of the nation to the port at New Orleans. But the Wisconsin River, although a tributary of the Mississippi, did not fit into the pattern of transportation, because of its west to southwest direction. . . .

"So while the Mississippi River, over the past 300 years, has been substantially developed as a major transportation resource the Wisconsin River has remained in its natural state, presenting to the people a unique recreational and environmental resource.

"The value of the lower Wisconsin as an asset to the nation has been recognized by both government and the public. Those who own private property along the river have worked hard to prevent the kind of development which leads to the ultimate destruction of a shoreline, and the State of Wisconsin owns some 16,000 acres of land along the river, utilizing the area in four state parks and a number of smaller state-owned recreational and hunting areas.

"16 communities dot the shore line of the river, although only four actually touch the river. There are no impoundments at present on the river, and development by private citizens has not gone beyond the construction of simple cottages, of which there are few.

"Thus . . . the addition of the lower Wisconsin River to the Wild and Scenic River study list would afford an excellent opportunity for a full-scale study of the river, and of the most effective means to protect its valuable resources for the enjoyment and benefit of future generations."

Witnesses representing the Administration and a number of environmental organizations concurred in the judgment that this segment of the lower Wisconsin River is deserving of study for possible inclusion in the wild and scenic rivers system. No opposition to the proposal was communicated to the Committee.

Mr. MANSFIELD. Mr. President, I move that the vote by which the bill was passed be reconsidered.

Mr. SCOTT of Pennsylvania. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

POTENTIAL ADDITIONS TO THE NATIONAL WILD AND SCENIC RIVERS SYSTEM

The bill (S. 1101) to amend the Wild and Scenic Rivers Act by designating certain rivers in the State of Michigan for potential additions to the National Wild and Scenic Rivers System, was announced as next in order.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 93-398), explaining the purposes of the measure.

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

PURPOSE AND SUMMARY OF THE ACT

S. 1101 would designate for study for possible inclusion in the National Wild and Scenic Rivers System segments of the Au Sable and Manistee Rivers in the State of Michigan.

The study would be authorized by amending subsection (a) of section 5 of the Wild and Scenic Rivers Act (82 Stat. 906). This subsection contains a listing of rivers designated for study. Under the Wild and Scenic Rivers Act, a river so designated is to be studied by either the Bureau of Outdoor Recreation of the Department of the Interior or the Forest Service of the Department of Agriculture to determine its suitability for inclusion in the National Wild and Scenic Rivers System; whether administration should be undertaken by the State or Federal Government, and if the latter, which agency should be given the administrative task; and in which of the three categories established by the act—wild, scenic, or recreation—the entire segment of the river or portions thereof should be classified. The study, once completed, is submitted to Congress. Congress must then enact further legislation should it wish to designate the river

as a component of the wild and scenic rivers system. (An exception to this procedure allows the Secretary of the Interior to designate a river without congressional action if the relevant State or States assume responsibility for its management and recommend it to the Secretary for inclusion in the system). During the period of study, the Wild and Scenic Rivers Act affords certain protection to a river, including the prohibition of water resource projects. To date, 27 rivers have been designated for study and 11 rivers (9 federally administered and 2 State administered) have been added to the system.

Together the Au Sable and Manistee Rivers span nearly the entire State of Michigan. Each river is approximately 75 miles in length and has its headwaters in the north central portion of Michigan's lower peninsula.

The Au Sable River has its source in the Gaylord-Grayling area and flows halfway across the lower peninsula to its mouth on Lake Huron at the city of Oscoda. The entire river is proposed for study with the exception of the reach between Foote Dam and Loud Reservoir and the Banfield and Mio Reservoirs. A major portion of the river is within the Huron National Forest.

Conditions vary widely along the various segments of the river dependent on land ownership and topography. Segments of the river are relatively remote with limited access, while other areas have easy access with roads paralleling portions of the river. The Au Sable River and adjacent areas support a good fishery and diversified wildlife population. Brown, rainbow, and brook trout predominate in the main river area and northern pike, walleye, small and largemouth bass, and panfish are present in the impounded areas.

The Manistee River flows west from north central Michigan through the Manistee National Forest before emptying into Manistee Lake, which in turn drains into Lake Michigan at the city of Manistee. The entire river is proposed for study with the exception of Tippy and Hodenpyl Reservoirs. Between the reservoirs and below the lowest dam, the river flows through some ruggedly glaciated areas, offering a spectacular view of varied land forms and vegetation. The drainage is served by an excellent system of roads which provide access to river areas from the downstate population centers. The Manistee River offers one of the best combinations of cold and warm water fisheries which exist in the State of Michigan. The free flowing segments provide quality cold water fishing.

At the July 16, 1973, hearing on S. 1101, all witnesses, including representatives of the administration and a number of environmental organizations, concurred in the judgment that the Manistee and Au Sable Rivers are deserving of study for possible inclusion in the national wild and scenic rivers system. In fact, these rivers had already been identified by the administration in 1970 as appropriate for study (see below in "Legislative History and Departmental Reports"). No opposition to S. 1101 was communicated to the committee.

Mr. GRIFFIN. Mr. President, with much justification, the slogan "water wonderland" is often used to describe the State of Michigan. Unfortunately, pollution has so fouled some of our beautiful lakes, rivers, and streams that parts of the State could more appropriately be referred to as "a water wasteland."

Of the Great Lakes, Lake Erie has been termed a "dead lake" and beautiful Lake Michigan is facing serious pollution problems from industrial and municipal sewage. Unfortunately, many of the small inland lakes, rivers, and streams that pour into the Great Lakes are unfit for human use.

It is in this context of concern that, along with my distinguished senior colleague, Senator HART, I call upon the Senate to take positive action on S. 1101.

Mr. President, this bill would add the entire system of the Manistee River and most of the system of the Au Sable River to the list of rivers being studied for inclusion in the National Wild and Scenic Rivers System.

It is my sincere belief that passage of this legislation is essential to help preserve the unique character and beauty of these Michigan rivers.

These two rivers have their origin at the center of Michigan's lower peninsula. The Manistee flows west and the Au Sable flows east. Their scenic beauty is unsurpassed. However, the rivers and the adjacent shores are being threatened.

Pure luck more than anything else has kept these streams in their natural state for the most part. Great lengths of the banks were acquired and held for hydroelectric projects. But these projects have been abandoned.

With abandonment of hydroelectric plans the river banks are now ripe and very attractive for commercial and residential development now. And there is no lack of potential developers.

One developer proposes to locate as many as 3,000 cottages within a few feet of the headwaters of the Au Sable. Each cottage would have its own septic tank, of course.

Development of another variety is already underway. Oil wells have been drilled within 900 feet of the Au Sable's north branch. I could go on with other examples.

Pressures for development along the banks of these beautiful rivers pose a clear and present danger. But passage of this bill will serve as a "finger in the dike," and make preservation possible as part of the wild and scenic rivers system.

It should be noted that enactment of S. 1101 would not guarantee protection—that could come only by following the proper procedure called for in the act and by a subsequent determination that the rivers should be made a permanent part of the system. Enactment of S. 1101, however, will serve to delay commercial and residential development of the river areas until such a study can be completed.

The State of Michigan and its department of natural resources fully support this legislation. The position of our State is supported by virtually every major conservation and citizen organization in Michigan. The State of Michigan through its various agencies is ready and eager to cooperate with Federal agencies to preserve these rivers.

The beauty of a river cannot be created by man. But a river can be preserved or destroyed by man. We still have a chance—our last chance—to preserve the beauty of the Manistee and Au Sable Rivers. To do so will serve not only the people of Michigan but millions from all over the country and the world who come to Michigan to enjoy our beautiful "water wonderland."

Along with Senator HART, I urge the Senate to pass this bill.

Mr. HART. Mr. President, needless to say I support S. 1101, which will add portions of Michigan's Au Sable and Manistee Rivers to the list of rivers to be studied as potential additions to the wild and scenic rivers system.

Before discussing the merits of the bill, I would like to thank Senator HASKELL, chairman of the Subcommittee on Public Lands, and Senator JACKSON, chairman of the Senate Interior Committee, for giving this bill prompt and affirmative consideration. I know that in doing so, I also speak for the many persons and groups who have worked so hard to whom credit for passage of this bill should go.

In passing the Wild and Scenic Rivers Act of 1968, Congress declared that—

> Selected rivers . . . which . . . possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values, shall be preserved in free-flowing condition, and . . . shall be protected for the benefit and enjoyment of present and future generations.

A visit to the wild stretches of these rivers shows beyond doubt that they belong in our scenic rivers system.

As a matter of fact, as long ago as June 5, 1970, the Interior Department in a letter to me, noted:

> As you may recall, the Manistee was one of the 67 rivers investigated while formulating the various bills which culminated in the Wild and Scenic Rivers Act. Our knowledge of both rivers suggests that both may merit inclusion in the National Wild and Scenic Rivers System.

Later that year, acting on that suggestion, the Department of the Interior and the Department of Agriculture announced that the Manistee and Au Sable had been added to the list of rivers to be studied for inclusion in the wild rivers system under section 5(d) of the act.

That, of course, was a step in the right direction, but the action does not insure protection against Federal construction on the rivers or insure that the study required for official designation under the act, will be carried out promptly.

And that is why speedy action on S. 1101 is important. Not only will passage of the bill temporarily protect the rivers against certain types of projects, but it should also mean the studies will be undertaken sooner.

As is too often the case with efforts to preserve wild areas, time is of great importance, for those who would protect these areas are running a race with developers.

Oil wells are being drilled—as close as 500 feet to the Au Sable's north branch. Leases have been let and large parcels sold for private development.

Perhaps, a word about the history of the Au Sable will help explain why so many persons believe the river should be preserved as a scenic area.

The Au Sable River, a tributary to Lake Huron, drains an estimated 1,800 square miles of northern Michigan, an area equal to half again the size of the State of Rhode Island—1,214 square miles.

The Au Sable first began to flow after the last ice age, 10,000 years ago. The Indians associated themselves with the river for food, drink, and transportation. The early white settlers, probably French, were fur trappers. The French gave the river its name "Au Sable" meaning "the River of Sand."

The loggers followed in the late 1800's to take the timber. They made it a commercial thoroughfare by their log drives to the sawmills on Lake Huron. Recreational fishing came to the Au Sable River before the turn of the century. The grayling was the top prize for these early anglers.

Au Sable River history has come down in various forms of legend, print, artifact, and rumor. It includes the names of Chief Shoppenagon, Rube Babbitt, Paramalee, Stephan, Wakely, and McMaster. Today, some of these names are book titles, names of hotels, and dedicated roads and bridges in the Au Sable River country.

Perhaps the feeling of those who have had the good fortune to fish or canoe rivers is best expressed in the words of Henry Stephan, a pioneer whose memories were recalled in "The Old Au Sable," by Hazen Miller.

Mr. Stephan said:

I have no great desire to catch a lot of trout now, being satisfied if I get a few to eat and being out fishing, enjoying wildlife and the peacefulness of it all. When the time comes for me . . . I would like to have a resting place on the bank of the beautiful, beloved Au Sable.

Our plea to this subcommittee and to torial in the North Woods Call, a weekly newspaper of excellence.

Warning of the threats closing in on these rivers, the editorial asks:

Are we willing to continue our retreat? Can we rebury Henry Stephan along another stream?

The end of our retreat can begin with prompt action on this bill.

And today, sections of these rivers remain unspoiled wild areas, the water still runs clear, and fish still bite in abundance.

Little wonder then that conservation-minded groups and individuals throughout Michigan support S. 1101, but concern for these unique natural resources extends even to the chamber of commerce of the city of Mio.

The word "even" was selected not to criticize other chambers of commerce, but to emphasize the action of the Mio Chamber.

Admitting that "it is unusual for a chamber of commerce to oppose a developmental proposal," the Mio Chamber several years ago passed this resolution:

The Au Sable River frontage between Mio and Alcona Pond should be retained in its natural state and made available for public use. No further development should be permitted until some equitable means of carrying out the above objectives can be arrived at.

In addition, the bill is supported by Michigan Congressmen ELFORD A. CEDERBERG and PHILIP E. RUPPE, who have introduced a similar bill in the House, Michigan Gov. William G. Milliken, the Michigan Department of Natural Resources, and, of course, Senator GRIFFIN and me, who introduced the bill in the Senate.

The bill was considered, ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1101

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) of section 5 of the Wild and Scenic Rivers Act (16 U.S.C. 1276) is amended by adding at the end thereof the following:

"(28) Au Sable, Michigan: the segment downstream from Foot Dam to Oscoda; upstream from Loud Reservoir to the river's source and including its principal tributaries and excluding Mio and Bamfield Reservoirs.

"(29) Manistee, Michigan: the segment upstream from Manistee Lake to the river's source and including its principal tributaries and excluding Tippy and Hodenpyl Reservoir."

Mr. MANSFIELD. Mr. President, I move that the vote by which the bill was passed be reconsidered.

Mr. GRIFFIN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BILLIE JEAN KING

Mr. MANSFIELD. Mr. President, there has to be some good news once in a while which is given prominence in the news media of this country. One of those occasions occurred last night when Billie Jean King, in unquestionable fashion, defeated Mr. Bobby Riggs.

I am delighted with the results, and I hope that this is a harbinger of things to come.

I repeat, this is one occasion when good news is news so far as the press, TV, and the radio of this country are concerned.

Mr. SCOTT of Pennsylvania. Mr. President, will the distinguished majority leader yield?

The PRESIDING OFFICER (Mr. BURDICK). Does the Senator from Montana yield to the Senator from Pennsylvania?

Mr. MANSFIELD. I am delighted to yield.

Mr. SCOTT of Pennsylvania. Mr. President, I would echo the Senator's sentiments and mention that every time the call was made an advantage to Mrs. King, I thought to myself for how many millenia women have had many advantages over us.

On the other hand, there are some disadvantages, many of them legal, and we have passed a constitutional amendment for that purpose. I would say that yesterday Billie Jean King ratified that constitutional amendment.

Mr. MANSFIELD. I would agree. I think that she has done more for the 26th amendment than any of us can do from back here. I hope that the State legislatures which have not yet approved that constitutional amendment will take note. I think the best word for Billie Jean King's victory is "love."

Mr. SCOTT of Pennsylvania. I surely cannot top that.

Mr. ABOUREZK. Mr. President, I should like to make an observation about the tennis match we saw last night.

The only comment I have is this: Is it not just like a woman to lure a man to a meeting at night, to exhaust him physically, to take his money, and then to humiliate him in front of his friends? [Laughter.]

In all seriousness, Mrs. King is to be congratulated on a splendid performance.

THE LEGISLATIVE RECORD

Mr. SCOTT of Pennsylvania. Mr. President, today is Friday. This week we have done some good. Already, in this brief time this morning, we have extended certain benefits from an ever-loving government to the people of Micronesia. We have gone firmly on record in an effort to further ecological and environmental advantages. So whether by intention or by inadvertence, we have done some good things. So far as I can figure out, we have hurt nobody this week.

Mr. MANSFIELD. Mr. President, I take it that the approval of the distinguished Republican leader of the three bills just passed is a further mark of approval of the exceedingly good record which Congress has made this year.

Mr. SCOTT of Pennsylvania. I may and will gladly say to the distinguished majority leader that I think Congress—and I may say particularly this body—has done a great many good things, and we are very proud of them. We have passed a great deal of good legislation, I am very happy to say. I would also like the President to be more happy if we could pass more of his proposed legislation.

Mr. MANSFIELD. Well, we have a good record.

Mr. SCOTT of Pennsylvania. Yes.

EVENTS IN CHILE

Mr. MANSFIELD. Mr. President, I have been somewhat disturbed in reading the newspapers about events which have occurred in Chile over the past week or 10 days. Without in any way becoming involved in the matter of the regularly constituted government which was overthrown by a coup d'etat or a government of generals which has taken its place, I must say that some of the reports relating to our credibility have caused me to raise questions in my own mind. I refer to the allegations—and I note that they are allegations only—that the CIA may have been involved; that certain multinational corporations may have been involved; and that our government, according to allegations, may have been involved through contributions to the bus strike, which lasted some 40 days.

These things make it imperative, I think, that the appropriate committee of the Senate look into this matter, so that if the allegations are false—as I believe they are—they can be laid at rest. The question of credibility as to what has happened in Chile goes far beyond the confines of that country, and such allegations could, if not knocked down, create a difficult situation in our relations with other countries of Latin America.

So at this time I simply suggest that these allegations be gone into thoroughly, so that the credibility of our Government can be reestablished and on that basis a better relationship developed between this Nation and the nations

which are our neighbors, especially the nations south of the border.

Mr. SCOTT of Pennsylvania. Mr. President, I agree that any genuine question with respect to alleged U.S. involvement ought to be investigated. I have been willing to accept the statement of Mr. Kubisch of the State Department that we are not involved.

What happened in this coup d'etat and what may happen in some future coup d'etat is that somebody may say we were involved, and then we go to the Alice in Wonderland tactic of verdict first and trial afterward. I do not think that is quite fair to the Government or to the State Department.

I know that the distinguished majority leader has been very careful to make that point already. But if a committee makes an investigation, I would expect—and I will insist—that if they find there is no involvement, they make just as much fuss about our not being involved as they would make if we were.

I do not think it is right for newspapers to create a story to the general effect that we must have been involved, and then everybody denies it. If they are not telling us the truth, I will certainly denounce them, and I will be the first to go after them. But if we are going to investigate everything that comes up like this, let us get maximum publicity for the fact that people are innocent, rather than find them guilty first and try them afterward.

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

Mr. SCOTT of Pennsylvania. I yield.

Mr. MANSFIELD. I am in wholehearted accord with what the distinguished Republican leader has just said.

The purpose of my speaking of this matter on the floor of the Senate this morning was to endeavor to suggest a way by means of which these allegations—and I stress the word "allegation"—can be proved or disproved. To the best of my knowledge, they are not accurate. But I think the only way to disprove them is to conduct a hearing and lay the facts out. If the allegations are disproved, I hope the press, the TV, and the radio will give that factor just as much publicity on the front page as they are giving now to the allegations.

Mr. SCOTT of Pennsylvania. That is the point I was getting at, because the denial came in executive session. The allegations are coming publicly and are being so advertised.

EXECUTIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session to consider the nomination of Dr. Henry Kissinger to be Secretary of State.

The nomination will be stated.

DEPARTMENT OF STATE

The second assistant legislative clerk read the nomination of Henry A. Kissinger, of the District of Columbia, to be Secretary of State.

The PRESIDING OFFICER. Debate on this nomination is limited to 2½ hours: 1 hour for the Senator from Arkansas (Mr. FULBRIGHT), 1 hour for the Senator from Vermont (Mr. AIKEN), and 30 minutes for the Senator from Virginia (Mr. HARRY F. BYRD, JR.).

Who yields time?

Mr. FULBRIGHT. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. FULBRIGHT. Are we permitted to have a quorum call this morning?

The PRESIDING OFFICER. It would have to come out of the time, unless the Senator has unanimous consent.

Mr. FULBRIGHT. It is not anticipated that there will be a quorum call?

The PRESIDING OFFICER. There could be a quorum call, after the debate has concluded.

Mr. FULBRIGHT. I yield myself 5 minutes.

Mr. President, I regret very much that both the Senate committee and the Senate are now—I suppose for overriding reasons—no longer interested in debate on foreign policy or on such an important nomination.

I had hoped, when Mr. Kissinger was nominated, and now that the committee has reported his nomination, that it might be an occasion for some discussion of our foreign policy, which I think is of considerable importance to the country and to the world. But here we are on a Friday morning, at 9:15, with five or six Senators on the floor, and no interest whatever in the debate on this important nomination.

The committee voted 16 to 1 for Mr. Kissinger. There is not the slightest doubt—there never has been the slightest doubt—about the confirmation of the nomination. He is an able man. He already occupies, substantively, the position entailed in this nomination, and there really was no alternative and no point in any prolongation of the hearings insofar as confirmation of the nomination is concerned.

However, I had hoped that there would be some discussion of substantive foreign policy, simply because the occasion is appropriate for that.

I detect in the recent press reports, especially one by one of the more prominent puppets of the Pentagon, that there is a breakdown of the policy of détente of the present administration. I have approved of the policy that was initiated by President Nixon, which I think was largely inspired, or at least supported, by Mr. Kissinger. That was the policy of détente with Rusia.

In the committee, every time I or others attempted to discuss matters beyond the 10-minute rule, we were under great pressure from the other members to proceed under the 10-minute rule. This morning, with a 1-hour limitation on debate, it will be a similar situation with respect to lack of depth and perception.

All I can do at the moment is call attention to the fact that I think there are indications that our present Government policy is breaking down with regard to shifting from the old policy of the balance of power, involving the carrot and the stick and threats of military action in the arms race, and what I call détente, as marked by the ABM Treaty and the Interim Treaty of last fall. I thoroughly approve of the President's policy culminating in the ABM Treaty and the interim agreement.

The first sign of backing away from that policy—and I do not attribute this to the administration; it arose in the Senate—was the Jackson amendment to the interim agreement. Now, as we read the press, we see further signs that the détente policy is coming unraveled.

This is the type of subject on which I would like to have had a debate, a discussion, in this body, as well as in the committee; but that is not to be, of course, under the strictures of the time limitation. I only call attention to the matter.

The recent speech by Mr. Brezhnev—there have been two speeches, actually—would indicate that he is coming under great pressure from the dissidents in his own country, those who disapprove of the policy of détente, just as in this country the same policy is coming under ever-increasing criticism. I think this is a great tragedy. It is very similar to what happened when Khrushchev visited this country in 1959. There was hope then that there would be movement toward a reconciliation between Russia and this country. That broke down because of the negative attitude that developed—partially at least in this country—and then so much so in Russia that he was removed from office.

So I am very fearful that we are moving back again to the revival of the cold war and that we will not proceed to the development of a cooperative policy with Russia.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. FULBRIGHT. I yield myself 1 more minute.

If that is so with Russia, this will inevitably affect our relations with China. The trade bill, of which the Jackson amendment is still a part—and according to the morning paper has overwhelming support—I believe will affect our trade prospects with China as it will with Russia.

So, Mr. President, although I voted for Mr. Kissinger in committee—and I expect to vote for him on the floor—and although I think Mr. Kissinger, with proper support from the Senate and the President, might have been able to do something in this area, the indications are not at all favorable that we are really and genuinely moving toward a period of conciliation and détente in negotiation with the principal countries of the world.

I would have hoped the Senate might have discussed this matter at some length but obviously that is not to be.

Mr. AIKEN. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. AIKEN. Mr. President, I support the confirmation of Dr. Henry Kissinger for the post of Secretary of State.

But I intend to continue to hold President Nixon responsible for the conduct of foreign policy.

Dr. Kissinger has received fulsome and merited praise for his skill and stamina

during the past 4 years, even from some who aim, not to praise him, but to bury him.

I, too, wish to be numbered among his supporters, but I will not encumber the record with points made quite ably by others.

Much significance, much hope has been read into this appointment.

Some see in the appointment an end to what a British observer of our politics has called the time of "President-Kings."

That was the time from the late Eisenhower years down to the present when the President and his White House advisers came to believe that foreign policy was too important a matter to be shared by anybody else, even the State Department, much less the Congress.

Dr. Kissinger himself in his testimony before the Foreign Relations Committee, thought this situation "not necessarily a bad thing," but he admitted it did give rise to certain ambiguities in the relationship between the White House, the Secretary of State, and the Congress.

He then proclaimed an end to those ambiguities—an end to the time of President-Kings in foreign policy.

I think he means it. He says he wants to institutionalize his foreign policy in the State Department and with the Congress. That is quite an undertaking.

If he can persuade future Presidential candidates to seek to be something less than President-King, he will indeed merit a special chapter in the history books.

The trouble is that foreign policy is not just made up of national interest or rational argument. It is also made up of moral arguments, and the two are very often in conflict.

Sometimes it is the President who sounds the moral note most loudly; sometimes it is the Congress.

In the early days of the Vietnam war it was the Presidents who took the high, moral road. In the latter days, it was the Congress. Indeed, there are some in Congress still who believe that the future control of foreign policy lies with those who look back in moral anger at the recent past.

Dr. Kissinger made this point in his testimony before the Foreign Relations Committee only in a different manner.

He deplored the "shifting assumptions" that underlay our Vietnam policy under Presidents Kennedy and Johnson. One set of assumptions justified the sending of troops; another set justified keeping them there.

Dr. Kissinger suggests that the United States should not let material commitments in men or money determine our national interest, but rather let our national interest determine our material commitments.

I have argued many times that it was U.S. commitments that made Southeast Asia a matter of high national importance, not the indigenous politics there.

However, unless we come to terms with our moral aspirations, we can be sure that it will all happen again.

The reason we have had President-Kings in the past, and may well have again, is that Americans will not accept a foreign policy devoid of a moral dimension.

This is true of isolationist and internationalist alike. The former seeks moral salvation through a withdrawal from world affairs. Just this summer no less a voice than the editors of the New Yorker magazine speculated that:

> A return to some form of isolationism is . . . the only way for us to regain our traditional democratic values . . .

Here we have the modern echo of George Washington's warning against the dangers of "foreign entanglements."

Internationalists, of course, have always sought in foreign policy a dimension through which to express the moral design of our own society.

An example is the Jackson amendment to the forthcoming trade legislation, which would condition the extension of most-favored-nation tariff concessions to the Soviet Union on some pledge by the Russians to allow free emigration from their country.

Dr. Kissinger opposes this amendment. So do I. But our reasons differ.

He warns rightly about using commercial agreements to meddle in the internal affairs of countries like Russia, however strong the moral case, which he fully appreciates.

To me a different argument is more persuasive. Who can say that passage of this amendment will mean more, rather than less exit visas for those wishing to escape Russia? Commonsense suggests to me that passage of this amendment will almost certainly produce the opposite effect from that sought by its sponsors.

But I know that 77 Senators and 280 Congressmen, the sponsors of this amendment, cannot be entirely wrong.

I agree that several thousand Russians have escaped their country in recent months as a result of this show of moral strength within the U.S. Congress.

The task of foreign policy must always include reconciling the moral and the national interest, or rational, arguments.

No "institutionalization" of foreign policy, Dr. Kissinger's or anybody else's, will succeed unless such a reconciliation is made possible.

Either it will be done by the Executive or it will be done through open discussion and debate between the Congress and the Executive.

Dr. Kissinger for now has chosen the latter course. It means he will have to tolerate a lot of silly arguments from the Congress, and others, just as we have had to tolerate a lot of silly arguments from the recent spokesmen of the executive department. His stamina will be tested anew.

I have in recent months on several occasions urged that President Nixon try this course, and urged my colleagues to invite it.

Secretary Rogers paved the way with skill and kindness. If we were not always sure that he knew the answers to the questions we asked, we never doubted his sincerity.

Dr. Kissinger has much to be thankful for in what Secretary Rogers did in keeping open civil discussions with the Congress.

Now we can be sure that the Secretary of State will have the President's ear and confidence in the highest matters of foreign policy.

Nor does this new Secretary of State have to carry the stigma of political failure which so many of President Nixon's former close advisers will have to wear for the future.

The time has come to stop moralizing, and start trying to reconcile the moral and rational dimensions without which no foreign policy—or domestic policy for that matter—can be "institutionalized".

It is a very difficult job. It is a year-round job.

It is not possible if civil debate gives way to moralizing or threats on one side or the other.

It is not possible if suspicions about motives prevent debate about methods.

These are the terms Dr. Kissinger used—not motives, but methods—in his pleas for a new bipartisanship.

I, for one, accept his invitation, on the assumption that it is the President's invitation, too. I urge my colleagues to do likewise.

What is at stake here is the health of American politics.

It is not what the politician hides, but what he discloses that determines the health of American politics.

Only new born babies have nothing to hide. Smart politicians know that the more they disclose, the more they can hope to stay in office.

The more they disclose about their methods, the more their motives will be taken for granted, even by those in opposition.

This is what has been missing during recent years. This is what can be restored if Dr. Kissinger's appointment is fruitful, and is imitated in other parts of government.

Mr. FULBRIGHT. Mr. President, I yield 10 minutes to the Senator from South Dakota.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. McGOVERN. Mr. President, I voted against the confirmation of Dr. Kissinger in the Committee on Foreign Relations and I oppose it today on the floor of the Senate.

Despite assurances that were given during the hearings, I remain deeply troubled, as I think other Members of the Senate do, over many aspects on past and projected foreign policy that Dr. Kissinger has been associated with.

Both in his extensive writings and in his record, Dr. Kissinger has posed essentially the same view of the world and the same range of international priorities we have followed since World War II. Our deployment and our diplomacy still reflect, even if some of our words do not, an alinement of the world into two armed camps. In the postwar climate, that seemed to most people to be our only option. But certainly, we should have a more developed view now. We should be able to see that Communist nations, like other nations, seek their own national interest first, rather than a commitment to worldwide Communist advances. We should surely acknowledge that the major non-Communist nations that lay broken after World War II now stand strong and prosperous. We must

be able to account for the fact that developing countries, regardless of their internal economic and political systems, are more and more determined to act independently in their external relations. And we should know that whatever influence the so-called superpowers may have, either in sponsoring or suppressing revolts, it weighs far less than internal conditions which are beyond our control.

Yet, even after this bitter and destructive decade of involvement in Indochina, we still hear no realistic definition of American security interests which could help us avoid the same mistake again; rather, we are told it was an honorable venture all along, and we are exhorted to a global role which threatens to repeat it. At the very least, we are following a policy that makes the needs of our own society secondary to the demands of a growing arsenal for adventures abroad.

I do not think there is any question at all that Dr. Kissinger puts the claims of foreign policy ahead of any demand of the needs of our own people here at home.

I am not satisfied that we can expect a notable improvement in our approach to other diplomatic challenges which are real and immediate. Dr. Kissinger has written that "diplomacy which is not related to a plausible employment of force is sterile." A "plausible employment of force" will not help our depleted economic position in the world. It will not bring back the value of our dollar. It cannot replace 4 years of neglect in our relations with developing countries. Force cannot coax more wheat out of the ground to replace that sold to the Soviet Union, under circumstances which have left us wanting at home and incapable of meeting our commitments to the hungry abroad. And it certainly will not recover the losses we have suffered because there has been closer consultation with Moscow and Peking than with Tokyo, Paris, London, and Bonn—to say nothing of Canada and Latin America.

Nonetheless, while voicing these policy reservations, I do recognize that we cannot change this administration's approach to the world by opposing this President's choice for Secretary of State. On the broad outlines of policy, Mr. Nixon will choose his own course regardless of who heads the State Department.

Mr. FULBRIGHT. Mr. President, will the Senator yield for a question?

Mr. McGOVERN. I yield.

Mr. FULBRIGHT. Is it not a fact that any Secretary of State is going to be preoccupied with solely foreign policy? The place where adjustment of priorities between domestic and foreign must be made is in the Senate and the Congress.

Mr. McGOVERN. That is correct.

Mr. FULBRIGHT. Here is where we have to do it.

Mr. McGOVERN. That is correct.

Mr. FULBRIGHT. I would not expect Dr. Kissinger or any other Secretary of State to interest himself in the problems of the people of South Dakota, for example. That is not his interest or where he makes policy decisions. We, ourselves, the Congress, have failed to do what ought to be done.

Mr. McGOVERN. That is correct.

Mr. FULBRIGHT. We have refused to take the responsibility. Is that not correct?

Mr. McGOVERN. That is correct. I take this opportunity simply to object to an overall administration policy which looks at the whole range of national priorities and ends up looking at the claims of the military and our adventures abroad ahead of our national needs.

Mr. FULBRIGHT. We could contain that here in the Senate and Congress if we had the backbone to do it.

Mr. McGOVERN. I agree with the Senator. It is for us in the Congress to legislate our own alternative strategies, not to deny the President his personnel. And in the special circumstances of this case—in which Dr. Kissinger will doubtless be directing American foreign policy whether he is confirmed or denied—I have suggested that it may be well that he will be in the State Department and not just in the White House, so he will be obliged to consult and confer with the legislative branch. We expect him to be available to us and candid with us. We will certainly be candid with him.

But I see more compelling reasons for opposing this nomination. There are matters on the record which I suggest bear not only on our posture in the world but on Dr. Kissinger's qualifications for this most sensitive position.

In the years ahead there will be no shortage of perplexing international challenges to our foreign policy establishment. I have no doubt that Dr. Kissinger has the skill to address them, from the administration's policy point of view and within the framework required by congressional action.

But the still greater challenge lies in reconciling the requirements this administration sets for our global role with the institutional requirements of our democracy. And on this score I have grave doubts.

I have thought that foreign policy should be regarded as a shield behind which our society could prosper and develop. It should be the instrument of our democracy, not its ruler.

Yet today, that proposition stands reversed. Our operations abroad have become less and less related to our legitimate security interests. They seem more and more the attempts of a few leaders, Dr. Kissinger included, to impress their counterparts elsewhere and to leave their marks on the world.

Further, it appears that tendency is likely to become even more pronounced in the days ahead. Mr. Nixon has been incapable of dealing with inflation and other complex troubles in America. His administration is mired in unprecedented political scandal. What is his response? He talks of crucial negotiations around the world and of America's vast global obligations. He will, he says, veto any military program that reduces his military budget, or any domestic program that increases his budget. He gives every indication that he will attempt to escape his difficulties in America through exploits overseas, regardless of how remote they may be to our legitimate security needs.

But it is precisely this approach which has so seriously degraded our own institutions.

For more than 4 years, we waged a war the American people wanted to end. It was a war they voted to end in 1968.

Does Dr. Kissinger believe the voice of the people counts in such matters? He has given us no plausible assurance on that.

For 14 months we secretly bombed in Cambodia, a country with which we were not at war. At the end of those 14 months, we were told specifically that no action had occurred—rather that—

For 5 years, neither the United States nor South Vietnam has moved against these enemy sanctuaries.

And the deception went on for 3 long years more, until the truth was finally forced out in 1973. There was never a word to the Congress and the American people—only false reports from the administration as recently as August of this year.

There may be room for dispute over the constitutional powers of Congress to initiate or end military operations. But there is no disputing this: we cannot end or prevent wars we cannot see. And that secrecy and deception, in which Dr. Kissinger was a prominent participant, has shattered public trust. Words cannot restore it; the record speaks so much louder. So over this long period, the administration has placed its own international purposes ahead of the requirements of constitutional democracy. And that our system cannot stand.

Nor is there much cause for satisfaction in the reassuring words we heard in the hearings. Dr. Kissinger tells us that if the same conditions existed again, he would see that appropriate members of the Foreign Relations Committee were advised. But the war powers of the Congress are not delegated to any committee or any select group. And the problem, which I hope Dr. Kissinger will perceive. is not that the secret was not widely enough shared; it is the secret itself, and the gross deception employed to maintain it, long after any real purpose had ceased to exist. If we believe in a democratic system, then unless overwhelming military necessity temporarily requires it, there is no excuse for keeping from the people the truth about what their Government is doing and for what purpose.

Nor, in my judgment, is there an excuse for constitutional defiance of another sort—for wiretapping and snooping to uncover dissenting subordinates. That may have a place in other kinds of governments. It should have no place in America. We have heard of wiretaps placed in the name of "national security." But we are powerfully equipped to handle threats to our national security from abroad. I am convinced that the gravest threat to our freedom now comes, not from any foreign power, but from practices which, in the name of "national security," have been chipping away at our constitutional liberties from the inside. In that context, I believe our highest officials must do more than avoid responsibility for activities of this kind; they must move to firmly condemn them and end them.

This nomination raises other matters bearing on the relationship between our

international posture and our internal condition. Did we "tilt" toward Pakistan—despite no constitutionally chosen preference in that civil conflict, and in the face of the slaughter in Bangladesh—because Pakistan was a diplomatic route to Peking? Do we suffer food shortages and inflation this year because last year our wheat served as a diplomatic tool in the Soviet Union? To what extent are we spending our treasures for military "bargaining chips" which do not protect our people, but only underwrite our diplomats pursuing their private view of the world.

Where Dr. Kissinger is concerned, these are grey areas. Obviously, he cannot be made to carry alone full responsibility for the administration's actions. I do not assign him that heavy burden.

But Dr. Kissinger must bear his part. And on that basis, I cannot approve.

Dr. Kissinger may do better in the future. I hope he does. In careful and scrupulous practice, it should be possible to allay some of the concerns I have raised and the suspicions which are so widely held both in this country and throughout the world.

The best way to begin may be with a modest recognition that, especially now in the wake of the war and Watergate, this Nation cannot exist primarily to conduct a power policy abroad; we must exist first of all to preserve the freedom and fulfill the aspirations of our own people.

Mr. President, in conclusion, I say that none of this is a plea for isolationism. It is a recognition that effective foreign policy must be based on a sound system at home.

Mr. FULBRIGHT. Mr. President, I yield 10 minutes to the Senator from California.

The PRESIDING OFFICER (Mr. BURDICK). The Senator from California is recognized for 10 minutes.

Mr. CRANSTON. Mr. President, I am approaching this nomination with very mixed feelings.

I have done a great deal of thinking about Henry Kissinger and his policies. Clearly we should not withhold confirmation from the man on the grounds that some of us have strongly disagreed some of the time with some of his actions. And even if we did refuse to confirm him, he would simply go on advising the President in the seclusion of the White House, immune from congressional scrutiny. We have little choice.

All the same, I think we should take a hard look at his record. That record is full of contrasts.

I have looked hard for an explanation for these contrasts. Here is a man who has proven himself perfectly capable of waging war with the one hand and making peace with the other. Both his policies and his pronouncements suggest that he has in mind a larger diplomatic goal or vision. That vision has been described as a worldwide balance of power. Here is where at least part of the explanation lies.

Critics have often defined Kissinger's concept of the balance of power solely in terms of military force. But his own writings tell us that it means more than that. In his introduction to his book about Europe after Napoleon, "A World Restored," there is a long passage about the relationship between the quest for peace and the "true" content of stability. It says so much about his world views and about his attitudes toward peace and war, that it is worth quoting at length. He wrote:

> Whenever peace—conceived as the avoidance of war—has been the primary objective of a power or group of powers, the international system has been at the mercy of the most ruthless member of the international community. Whenever the international order has acknowledged that certain principles could not be compromised even for the sake of peace, stability based on an equilibrium of forces was at least conceivable.
>
> Stability, then, has commonly resulted not from a quest for peace but from a generally accepted legitimacy. "Legitimacy" as here used should not be confused with justice. It means no more than an international agreement about the nature of workable arrangements and about the permissible aims and methods of foreign policy. It implies the acceptance of the framework of the international order by all major powers, at least to the extent that no state is not dissatisfied that . . . It expresses its dissatisfaction in a revolutionary foreign policy. A legitimate order does not make conflicts impossible, but it limits their scope. Wars may occur, but they will be fought in the name of the existing structure and the peace which follows will be justified as a better expression of the "legitimate", general consensus.

I have reservations about this world outlook. But I think we should look primarily at what it has produced. We should not judge motivations, but results.

There is no doubt in my mind that some of the results of Dr. Kissinger's policies have been creative steps toward peace. In fact, he had a major hand in ending the cold war.

The distinguished chairman of the Foreign Relations Committee raised some questions on that point in his earlier remarks this morning. I would like to ask a question of the distinguished chairman relating to the detente on phase II, following phase I, inasmuch as that did not work out.

Is the Senator considering the possibility of having hearings in the committee on the strains and stresses now working on the détente to see if some wisdom can be generated to see how to deal with this problem?

Mr. FULBRIGHT. Mr. President, I have asked Dr. Marcy, the chief of staff, to took into the possibility of hearings to try to probe this very question.

In the last few days, I have been very disturbed by the pronounced rise in the criticism of Russia in the press. It is continuing, together with the reports of speeches by Mr. Brezhnev and together with the recurrence, as so often happens at this time of the year, of rumors about a great new arms advance in Russia. I know that they are designed to get the full amount of appropriations for the military.

Yesterday there was a rather interesting little story about pop-up missiles. Every year just before appropriations time, there pops up some new type of missile or something else pops up to strengthen the hands of the military so as to get their money for the missiles.

This is a very dismal picture. I anticipate that if this continues, Brezhnev will be in trouble. He will probably be removed as Mr. Krushchev was because he tried to make peace with the Americans and failed. I think that is what happened with Mr. Brezhnev. This is a difficult time. I do not blame this on Brezhnev.

The primary trouble is in this country, because the trouble started with an amendment offered by the Senator from Washington, which amendment was agreed to. It is still in the bill, and the sentiment to retain it in the bill is growing. That means the end of any détente with the Government of Russia. I think that is a great tragedy for this country and for the world.

Mr. CRANSTON. Mr. President, I thank the Senator. I want to say that, just as I have mixed feelings about the confirmation of Dr. Kissinger, whom I nonetheless intend to vote for, I likewise have misgivings about détente. I believe in détente as a way to deal with the threat of an all-out world war.

Nevertheless, I am deeply sympathetic with those who would wish to seize this opportunity to ease tensions and repression within the Soviet Union and to open the gates to those who want to flee from the Soviet Union.

Mr. FULBRIGHT. Mr. President, I agree with the Senator. These are two different things. However, if it is so easy to ease repression, why do we not do it in Brazil or in Greece? We could probably bluff them into quitting it.

In saying this, I do not mean that we should not be any less interested in the humanitarian conditions in these countries, no matter what they might be. However, Russia is one of the major nuclear powers in the world, along with our country, and, if we continue the arms race and continue the same policy that we have tried for 25 years, it would be most foolish. We have given that policy a good test. Why should we not give another policy a chance a work? This policy of détente has never been tried during the last 30 or 35 years.

Mr. CRANSTON. Mr. President, the Senator has asked some very sound and deeply interesting questions, and seeking an answer to the questions, I trust, will be one of the reasons for the hearings.

Mr. FULBRIGHT. Mr. President, I do not know whether we can do anything with the hearings. I shall try. I have instructed the staff. However, under the atmosphere in the country, they are not interested in hearings or debate on this subject.

Mr. CRANSTON. Mr. President, I am delighted to know that the Senator has such plans for his very important committee work regarding the work of Mr. Kissinger.

Most outstanding is the breakthrough with China and the Soviet Union. Dr. Kissinger's outstanding contributions have been to realize that these two countries are no longer behaving like revolutionary powers but integral members of the international system—and to act on that realization. He knows that, at least

for the time being, these countries are willing to play by the rules, and he gets along well with their leaders partly because they share a concern with maintaining the status quo.

In some ways the breakthrough with China was just lying there, waiting to be harvested by anyone fortunate enough to be President at the right time. A foolish policy had already withered and fallen. Meanwhile, the Chinese were worried about the sharp deterioration in their relations with the Russians and did not want a hostile confrontation with both superpowers at the same time.

But Dr. Kissinger did more than just pick up the pieces, he negotiated a major breakthrough on the emotionally charged issue of Taiwan—long a stumbling block to better relations with Peking. He arranged for President Nixon to visit China with Chinese leaders. And he did all this without unduly alarming the Russians.

Similarly, his politices of détente with the Soviet Union were carried out without damaging relations with China. The high degree of Sino-Soviet tension and mutual resentment makes this feat particularly supreme. The manner in which Dr. Kissinger has dealt with both countries deserves the warmest admiration and praise. His patience, knowledge, and finesse have been superb.

It is this style which is most frequently admired. But I suggested a moment ago, even more impressive is Dr. Kissinger's ability to act on a fresh perception of the international system, namely, the perception that two powers formerly hostile to us and presently hostile to each other could simultaneously become—within limits—partners of American diplomacy.

His triumph in the field of arms limitation was a natural fruit of this perception. The SALT agreements—and the sophistication they reflect—are already important steps. If the momentum behind them continues, they can become major accomplishments of our time.

During the congressional briefing on the SALT agreements in June 1972, Dr. Kissinger's comments persuaded me that he sees the SALT agreements as an historic first step toward further progress in arms limitation in particular and the relaxation of international tensions in general. On that occasion he said:

> We believe that we have started a process by which we can move international relations into a new era. . . . I think we have the opportunity to turn a significant page in history, and as far as this administration is concerned, we are going to make a major effort in this direction.

Another byproduct of détente may have been the absence of a major war in the Middle East. I believe that Soviet restraint in this area is partly due to the overall improvement in relations with the United States. Dr. Kissinger deserves some credit for the fact that there has been no major outbreak of violence since 1967.

Unfortunately, the record of Henry Kissinger's diplomacy also shows some minuses.

Many, many lives were lost while Dr. Kissinger was adviser to the President because of the bloody and needless prolongation of the Vietnam war and the bombing of Cambodia and Laos: 20,000 Americans died, 110,000 were wounded, and over 500 were captured or declared missing in action; an estimated 4½ million Indochina people were killed, wounded, or made homeless; over 20,000 civilians were executed without trial under the Phoenix program; 750,000 acres of crop and forest land were devastated by bulldozers and by bombs that fell at the rate of 2 tons every 60 seconds.

Meanwhile, the secret bombing of Cambodia was covered up by systematic lying and outright deception of the American people.

In the face of all that, Dr. Kissinger stated last year that—

> What we are doing now with China is so great, so historic, that the word "Vietnam" will be only a footnote when it is written in history.

Some footnote.

Indochina is not the only area of the world where the United States has shared responsibility for bloodshed.

Bangladesh has dropped out of the headlines. But only two years ago an entire people became the target of massacre, pillage, and rape, and the United States lined up with the oppressors. There were so-called balance of power reasons for supporting Pakistan, notably our delicate but steadily ripening friendship with Pakistan's ally, China, combined with the need to offset what appeared to be a growing Soviet-Indian alliance. But these "reasons" produced a policy that effectively condoned slaughter on an appalling scale.

On a less violent level, the United States has mishandled our relations with Tokyo. Unfortunately, the time and effort that went into nurturing better relations with the Russians and the Chinese was not devoted as well to our important and loyal friends in Japan. Dr. Kissinger shares some responsibility for no less than three sudden moves that were highly upsetting to Tokyo, moves that are known in Japan as the "Nixon shocks." One was the 15-percent surcharge, the second was the announcement of President Nixon's trip to China, and the third was the soybean embargo. Regardless of the merits of these particular decisions, we owed it to Japan to warn her in advance. Perhaps the White House felt that Japan needed a rap on the knuckles. But three?

Preoccupation with the Soviet Union and China also entailed the neglect of most of the countries of the developing world, particularly Africa and Latin America. They do not fit into Dr. Kissinger's world of major powers and legitimacy and balances. Only when one of their members threatens or defies the international order does the area receive significant attention.

Another casualty suffering from U.S. neglect is the United Nations. It is ironic that Dr. Kissinger is preparing to address the General Assembly at a time when U.S. participation in the United Nations is at a low ebb. The American contribution to the international debate over the oceans and the seabed has been highly constructive. But this is an exception. I would like to see similar initiatives in other U.N. activities.

And in spite of Richard Nixon's support for the World Court when he was Vice President, his policy as President has been one of neglect. I hope to see this changed.

Finally, I was distressed to read Dr. Kissinger's answer to a question submitted by our distinguished colleague from New Jersey, Senator CASE, on the question of U.S. support for foreign police forces. He said police forces generally should be the responsibility of the nations concerned and should not involve a major commitment by the United States. But he added for the record that—

> There are unusual circumstances in which we should provide some assistance in the efforts of countries to develop civil security institutions that are responsive to the needs of the people and that help provide the framework necessary for economic and social growth in a climate of freedom.

What are these "unusual circumstances"? Do the words "climate of freedom" mean what they say? Was Dr. Kissinger referring to the situation in South Vietnam, or in the Philippines, or in Brazil, where police torture is said to exist? Should we assist the police forces of a country in which there are large numbers of political prisoners? I think not, and I would like to see a more specific commitment on this subject from Dr. Kissinger.

In general, I hope that Dr. Kissinger's success in bringing about greater stability in big-power relations can now be followed by constructive creative steps toward lasting, worldwide peace.

I want to turn to another major issue that is of concern to me: wiretapping.

With all due respect to the Committee on Foreign Relations, I do not think the basic questions have been answered.

Apparently Dr. Kissinger believes that his role in the wiretapping of his staff was legal. Perhaps it was, and perhaps it was not. Morton Halperin, a wiretap victim now on the staff of the Brookings Institution, has taken his case to court.

Dr. Kissinger has repeatedly denied that he initiated the wiretapping process. I am not sure that is the only point to consider. What is more germane is his reply to the distinguished Senator from Maine, Senator MUSKIE, when asked about his attitude toward wiretaps. With great solemnity he replied:

> The issue of wiretapping raises the balance between human liberties and the requirements of national security, and I would say that the weight should be on human liberty except where there are overwhelming considerations.

He added that he could not foresee circumstances in which further wiretapping was likely.

This response strikes me as glib and somewhat upsetting. It is no great blow for democracy to say that the weight should be on human liberty when you are on nationwide television. It is the exceptions that count. What are these "overwhelming considerations" where human liberty becomes of less importance The news concerning the use of B–52's in Cambodia, the leak that

prompted the tape, was diplomatically embarrassing but hardly threatening to our survival. And it turns out that Henry Kissinger himself leaked information on a subject that was and is vitally important—the SALT talks.

According to a story in the Boston Globe, Dr. Kissinger leaked "substantial amounts of information concerning the first round of the SALT talks to John Newhouse, author of "Cold Dawn: The Story of SALT." Although his staff was not supposed to talk to Newhouse, Kissinger himself apparently allowed Newhouse to read top secret cable messages. Detailed descriptions of private talks between Kissinger and Soviet Ambassador Dobrynin were also made available to Newhouse. As one staff member put it, "some of the leaks in the book can only be traced to Kissinger." Some of this information has already led to Soviet complaints. According to one source—

It is feared that certain disclosures in the Newhouse book may have embarrassed the Soviets, causing them to be much less candid at the second round of SALT.

This report has not been denied. I can think of few things more important than the maintenance of a constructive and candid atmosphere for negotiations surrounding SALT II.

It is ironic that the man who acquiesced in the wiretapping of his staff should himself have been the source of leaks.

What about the future? Dr. Kissinger may state that he cannot foresee circumstances in which future wiretapping might be justified in his mind, but I can see them all too clearly. For example, in an effort to save the Thieu and Lon Nol regimes, the United States might become involved in covert warfare on a significant scale, including assassination programs, bribery, surveillance, and even torture. It is conceivable. Would Dr. Kissinger then produce evidence of "sensitive" and "delicate" negotiations whose progress would be threatened by revelations of this type?

We just do not know what "overwhelming considerations" mean to him.

No one, of course, can specify in advance exactly what future circumstances might justify wiretapping to Dr. Kissinger or to someone else in authority. But there is an important authority to consult on decisions of this kind: the courts.

Dr. Kissinger did not mention the courts.

On August 20, Secretary of State Rogers said at a press conference that—

It is very important for the United States not to become so obsessed with security matters that laws are freely violated. . . . One of the things that provides security for Americans is the fact that we are a law-abiding nation, and that means protection for all individuals and a protection for individual rights.

I would like to see a similar pronouncement from Dr. Kissinger. As yet I am not entirely sure that he is free from the obsession to which Secretary Rogers referred. The committee's report on his nomination states that the committee found "very little justification" for the wiretaps which he authorized.

I am relieved that the Senate Foreign Relations Committee has voted to look further into the use of electronic surveillance devices in general. I only hope that this investigation can help prevent further abuses instead of uncovering them when it is too late. And I specifically hope that Dr. Kissinger has learned that it is better to consult the courts before tampering with individual liberties, even in the name of national security.

I hope that Dr. Kissinger has also learned that it is important to consult with the Congress.

Just before his nomination was announced, Dr. Kissinger stated that—

No foreign policy—no matter how ingenious—has any chance of success if it is born in the minds of a few and carried in the hearts of none.

This theme was reaffirmed when his nomination became known. He has promised "a new and full partnership with the Congress" and has described his move to the State Department as part of an attempt to make policymaking "more accessible to Congress and public scrutiny."

In another book of his, "Nuclear Weapons and Foreign Policy," Dr. Kissinger makes a strong plea for making the consideration of nuclear weapons more acceptable to the elite, but he pays no attention to the opinions of ordinary people. I am pleased that he seems willing to make a new effort to make his policies more accessible to the public, and I hope it produces results. I think he can do a great deal to help end the administration's obsession with secrecy that has poisoned the President's relations with Congress and with the American people. We need to let some fresh, clear air into our foreign relations as well as into our domestic affairs. To summarize, I have reservations about Dr. Kissinger's philosophy, but I admire many of his results. He has made a fine contribution to détente with the Soviet Union and China, progress in arms limitation, and relative peace in the Middle East. I think he has the historical vision to continue his excellent work in these areas and to move toward a more secure and permanent peace.

I have criticized other parts of his record, particularly Indochina. I am distressed by the fact that he authorized wiretaps on his staff and that he has not pledged to consult the courts before using them again.

What convinces me to vote in favor of his confirmation is that his contributions toward ending the cold war outweigh other serious foreign policy failures of the Nixon administration.

In "A World Restored," Dr. Kissinger made a somewhat chilling statement. He wrote:

The test of a statesman . . . is his ability to recognize the real relationship of force and to make this knowledge serve his ends.

Mr. President, I think that we in the Congress ought to try to make sure that those ends are defined wisely. If we are to match Henry Kissinger's professionalism, we will have to try hard.

I yield back whatever time remains.

Mr. AIKEN. Mr. President, I yield 1 minute to myself, and then I shall yield 5 minutes to the Senator from Mississippi.

I listened with interest to the remarks of the Senator from South Dakota. I agree with him completely that we have plenty of domestic problems to occupy our time now, but I would also remind the Senate that had it not been for the improvement in foreign policy and foreign relations over the last 2 or 3 years, our farmers would probably still be selling corn for 85 cents a bushel instead of the $2.50 they get today; and wheat, instead of selling for $1.35, is now selling for $5 a bushel.

Furthermore, our machine tool and other industries are holding orders that will take them at least 3 years to fill. And above all else, since we cannot really separate our foreign policy from our domestic policies, particularly our agricultural policies, it is only because of the improvement in foreign policy, for which we must give President Nixon and Dr. Kissinger a great deal of credit, that we are now able to transfer funds from farm payments and farm subsidies to the benefit of the consumers and the children in school, and for other purposes.

I want to repeat right now what I said a few minutes ago: This is no time to look back in anger, but a time to look forward with hope.

I now yield 5 minutes to the Senator from Mississippi.

Mr. STENNIS. Mr. President, I thank the Senator from Vermont.

Mr. President, I have no prepared remarks on this nomination. I do think that this nomination, the hearings, and the forthcoming approval is a historical step that is being taken today. To have the Foreign Relations Committee, as an organ of the Senate, develop all the facts that might be connected with this man or his positions, and to come out with a vote that was unanimous except for one, and, with respect to the Senator from South Dakota, as I understand he said that he felt as a general principle that he should vote in protest is certainly all right.

I commend the Committee on Foreign Relations, its chairman, the Senator from Arkansas (Mr. FULBRIGHT), the ranking minority member, the Senator from Vermont (Mr. AIKEN), and all the members of the committee for the way they grappled with this question, which was like prickly pears in a way. The nomination had real problems connected with it. They went into all these questions most impartialy.

I am not closely associated with Dr. Kissinger. We have never spent any time together socially. But in the 4 years he has been here. I have had a great deal of contact with him from time to time for those 4 years in connection with the war and security matters that were very grave.

One thing about him I found: He came here to Washington with preconceived ideas about certain policies and certain problems of the Government; when he found the facts to be different from what he had understood and believed, he had the courage and the forthrightness tc change his mind and change his posi-

tion. I think that is the way a man finds what is best for our country.

Another thing I have often been impressed with Mr. Kissinger's courage and his ability to exercise a strong firm hand in hard situations. I think the times we live in demand this firmness. I hope that I am not a harsh man but I think the head of the Chief Executive and the head of Departments must be firm and positive and, at certain points, unyielding and hold out for what is the sound and necessary position, whether it is popular now or ever popular, regardless of what might be the situation at the time with reference to popular opinion, public opinion, or newspaper opinion. This is a part of my political philosophy.

Sometimes I agreed with Mr. Kissinger and sometimes I did not, but I was always aware that he took that firm position and stand. From what I have seen, he has an unusual ability to carry on and not hedge, so to speak, with the other side in representing us, particularly in foreign affairs.

In these times of suspicion and mistrust, caused by some of the things that have happened, and as a man connected for 4 years with many problems, he has come through this full inquiry by the committee. It is, therefore, a signal event.

Now just one word about the telephone leak. I was one of those who complained about the leaks coming out of the National Security Council meeting some 3 years ago. I complained to Dr. Kissinger and told him that men were dying every day on the battlefields in South Vietnam and they would have to put a stop to the leaks. I learned that he was already deeply disturbed and was determined to continue to pursue the problem and stop the leaks.

I believe that he did whatever was necessary to stop those leaks.

Now another point: The President is going to be his own Secretary of State, as a whole, but Mr. Kissinger will be a very effective representative and will help make policy and will help implement whatever policy is decided on.

The PRESIDING OFFICER (Mr. HUGHES). Who yields time?

Mr. AIKEN. Mr. President, I yield 5 minutes to the distinguished Senator from New York (Mr. JAVITS).

The PRESIDING OFFICER. The Senator from New York is recognized for 5 minutes.

Mr. JAVITS. I rise today, first to salute a miracle of American history. The most significant entry in the biography of Dr. Henry Alfred Kissinger are the words: Born, May 27, 1923, Furth, Germany; naturalized U.S. citizen June 19, 1943, Spartanburg, S.C., when he was in the Army.

This is a first in history. Whatever else it does—and I think Henry Kissinger will make a very distinguished and, I hope, a great Secretary of State—it will inspire the aspirations of every person of minority ethnic origin in this country, whether religious, national, or in any other way. This nomination stands in such magnificent juxtaposition to the repressions of the other superpower against intellectuals and minorities—particularly the Jewish minority—it is a magnificent testimonial to the fact that we mean what we say in this country and that we actually live up to our words.

This could not have come about were not Dr. Kissinger a man of great character, extremely high intelligence, and possessed of the ideas and initiatives which our country admires, and which have won the confidence of Presidents and the country.

There were many imperfections which have been pointed out in the committee dealing with the wiretap issue which was by no means a happy one for Dr. Kissinger, or ourselves. Indeed, one of its silver linings is the fact that we have now resolved to dig into the question completely in a resolution which the committee adopted, sponsored by the distinguished Senator from Maine (Mr. MUSKIE) and myself.

But what stands out are the words in the committee report:

> Dr. Kissinger is eminently qualified for the position to which he is nominated, from the standpoint both of education and experience.

Notwithstanding our individual disagreements—including my own with him on the War Powers Act, and on the way in which we need to deal with the Soviet Union regarding oppression and repression—he demonstrates a capacity and a conviction which impressed the committee well nigh unanimously. In that catecory I would even include the distinguished Senator from South Dakota (Mr. MCGOVERN), who certainly is distinguished in his own right and is obedient to his own conscience in terms of an appraisal of the man.

Mr. President, let me comment on one or two other aspects. We who have had the opportunity to debate this nomination in committee should not take too much of the Senate's time here; but I look forward to an outstanding era of cooperation between the State Department and the Committtee on Foreign Relations which will be of enormous benefit to the country and to the world.

I believe that we will find, again, the opportunity—whether we can seize it or not I cannot foretell—to repeat the experience of the tremendously creative initiatives which characterized the relationship between the State Department and the so-called Vandenberg Foreign Relations Committee in past years.

Knowing the distinguished Senator from Arkansas (Mr. FULBRIGHT) as I do, I would think that he would get as much pleasure out of heading a committee that was moving in that field in that successful way as I would.

Finally, no speech would be complete without a record word about Bill Rogers, retiring Secretary of State and a very decent man. The New York Times called him a man of intelligence, sound instinct, and good will, responsible for initiatives on his own. Whether I agreed with him or not on the details of the effort to bring peace to the Middle East, it was a most creditable initiative, and one which he pursued wtih vigor. It was a very difficult situation with the President vesting so much confidence in Dr. Kissinger. I believe that Bill Rogers behaved as only a gentleman and a highly patriotic American could, with never a trace of resentment or trace of irritation.

Thus, I repeat, I rise first to salute a miracle of American history in Dr. Henry Alfred Kissinger's being the first foreign born, naturalized Secretary of State.

I also rise, Mr. President, to give thanks, insofar as one Senator should give thanks, in the name of his people and in the name of the Nation, for this man who has served so well and who showed character and distinction as the highest officer in the President's Cabinet—William Rogers.

Mr. AIKEN. I now yield 3 minutes to the Senator from Rhode Island (Mr. PASTORE).

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for 3 minutes.

Mr. PASTORE. Mr. President, like the distinguished Senator from Mississippi (Mr. STENNIS), I have no prepared remarks, but I can safely say with deepest conviction that to know Dr. Henry Kissinger is to respect him and to admire him. I agree with the Senator from New York (Mr. JAVITS) who has just spoken, that his career in public life is truly the beautiful story of America.

Henry Kissinger, to me, is a shining light within the staff of the White House. It was through his intelligence and his acumen in diplomatic matters that he was able to convince President Nixon to make a 180-degree turn with reference to our relationships with China and Russia.

It was the spadework he did, the foundations he laid, that opened up the dialog between ourselves and China and also with Russia.

When we realize that we have five nations who are major members and sole members of the nuclear club, we can realize what the opening of this dialog means not only to the détente that all of us desire but also to the prospects for peace, hopefully within our time.

I believe that this accomplishment is of historic value.

As the chairman of the subcommittee of the Senate that will have to do with the funding of the State Department, I know that our relationship with Dr. Kissinger will be a friendly one and a constructive one.

I trust that each of us will understand that what is good for America should be satisfying to both of us.

So I am happy that the Committee on Foreign Relations made a very thorough and searching examination not only as to the individual but also as to his convictions and to the past activities of the National Security Council and the foreign policy of the Nation.

As the Senator from New York has said, here is a man still young in years, with a great career before him, foreign born, who occupies a position that will have a great deal to do with peace in the world of our time.

I close by saying that I wish him every success, and I do look forward to fine cooperation between Henry Kissinger and Congress.

The PRESIDING OFFICER. Who yields time?

Mr. FULBRIGHT. I yield 10 minutes to the Senator from South Dakota.

Mr. ABOUREZK. Mr. President, on the favorable side, it has been said that Dr. Kissinger is a clever, witty, urbane, and intelligent man. It has been written that he is the most capable Cabinet nominee submitted by President Nixon.

Of the arguments advanced by Dr. Kissinger's opposition, any one is sufficient reason, in my opinion, to justify a vote against his confirmation.

Certainly, wiretapping of his own staff, participating in the deception surrounding the Cambodian bombing, all of the deceptions practiced during the Vietnam war, as well as his refusal to resign as a Presidential adviser, are acts which I personally believe to be wrong. They are acts which are not compatible with my notion, or the notion of a great majority of my constituents, of what American political leadership ought to be.

Dr. Kissinger was able to negotiate our withdrawal from Vietnam 4½ years after the withdrawal was promised by the President. Some say, myself included, that the terms—a simple withdrawal in exchange for our prisoners—could have been negotiated at any time within the last 10 years, had there been a desire to do so.

Since World War II the American people have fallen victim to the games of power played by the few government leaders who have controlled our foreign policy. We have seen, since then, decision after decision in foreign policy made in secret, carried out in secret, then presented to the American people as a fait accompli.

By asking for a more open foreign policy, I do not ask that we be made privy to troop movements, or to the location of nuclear warheads. And I do not believe a Secretary of State should be made to call the Foreign Relations Committee every morning for instructions.

But I do ask for openness and honesty in the basic decisionmaking process. If Congress and the American people had been able to openly debate whether or not we should commit our military in Indochina, we most likely would have decided against it.

If there were a free flow of information and debate on the money and police and advisory support we have given to various dictatorships, such as Brazil and South Vietnam, I am confident the American people would strongly oppose American tax money going to support the imprisonment and torture that those regimes are able to carry on with our help.

Neither Henry Kissinger nor Richard Nixon suffers from the results of their secretive foreign policy. The people who suffer are those who are kept outside of the decisionmaking process—the people of this country, who have their income stripped from them in excess taxes—who weep over their sons whose lives and limbs have been lost.

We know enough about Dr. Kissinger to know that he is capable of deceiving Congress and the public. We know enough about him to know that he has little regard for the basic liberties of even his own staff.

We know enough to realize that confirmation means a continuation of a "daddy knows best" attitude, by which Congress and the people will both continue to be excluded from this vital part of our own Government.

If we are capable of learning anything, we should learn from our mistakes.

Mr. JAVITS. Mr. President, I yield 2 minutes to the distinguished senior Senator from Maryland.

Mr. MATHIAS. Mr. President, within 3 years, we shall be celebrating, or I should say, more properly, commemorating, the bicentennial of the American Revolution. One of the unfortunate aspects of the plan for the Bicentennial some groups in America think is that the only people who really should take part in it are those whose ancestors fought in the Revolution. They overlook the tremendous contribution that has been made to America by those who have come to this country and have cast their lot with America; who have contributed their lives to America in the intervening years; those who brought an infusion of new blood, a new spirit, a new creativity; of all those who have come to this country to make it their country, not be the accident of their birth, but by their choice. No adopted son has had a more impressive, a more rewarding career than has Henry Kissinger. We do not have to speak in any detail about his academic achievements or about his diplomatic triumphs. Those have been embroidered very fully in the tapestry of modern American life.

It is worthy of note, however, that by his life, by the kind of career he has carved out for himself, Henry Kissinger has proved not only to America, but to all the world, as well, that this still is an open society and country, with literally an unlimited opportunity; a Nation which will place in the first rank of the Cabinet a man who came to this country under the circumstances in which Henry Kissinger came to our country.

I am happy that he is here. I am grateful for the contributions he has made to the Nation. I wish him great success in his new position as Secretary of State. The challenge before him is tremendous. The traditional American dream of extending the concept of freedom throughout the world is still a part of our heritage.

Henry Kissinger faces a serious challenge. It is one which he is capable of meeting.

I thank the distinguished Senator from New York for yielding to me.

Mr. HARRY F. BYRD, JR. Mr. President, how much time remains to me?

The PRESIDING OFFICER (Mr. HUGHES). The Senator has 30 minutes.

Mr. HARRY F. BYRD, JR. I suggest the absence of a quorum, the time for the quorum call to be charged to the Senator from Virginia.

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. HARRY F. BYRD, JR. Mr. President. I intend to cast my vote in favor of confirmation of Dr. Henry Kissinger to be Secretary of State.

Before casting this vote, however, I wish to make clear that I am not enthusiastic about all of the developments in foreign policy in which Dr. Kissinger has had a hand during the present administration.

It is my feeling that in the current excitement about the so-called détente with Communist China and the Soviet Union, a number of dangers may be lurking.

At the outset, let me say that I favor President Nixon's visits to Peking and Moscow. Open lines of communication and a continuing dialogue between the great powers of the world are healthy.

But let us not deceive ourselves.

Let us not suppose that all has become amity between the Communist powers and the United States.

In the field of arms limitation we must be wary of the illusion that because of a few meetings and agreements we can afford to make major reductions in the defenses of the United States.

I was deeply concerned about the terms of the temporary agreement on limitation of offensive nuclear weapons when it was sent to the Senate. This agreement gave numerical superiority in strategic offensive missiles to the Russians.

I gave my support to that agreement only on the basis of two conditions: first, the testimony of the Joints Chiefs of Staff that this accord, because it is temporary, would not compromise the security of the United States; and second, the adoption of the Jackson amendment—which I cosponsored—assuring that the United States would demand equality in future agreements.

On that basis, I voted in favor of the offensive weapons agreement.

But unless future agreements provide for the equality demanded in the Jackson amendment, I do not think that I can give them my support. The United States must not be the second strongest nation in the world.

It is not alone in the field of arms that I feel there has been some disposition on the part of American negotiators to give too much away. I think the same tendency showed itself in the 1972 sale of grain to the Soviet Union.

Under the terms of that sale, we sent to Russia vast quantities of wheat at a price substantially below the world price. The American taxpayer was hit with the bill for a $300 million subsidy. And to top it all, we extended long-term credit to the Soviet Union to finance the purchase. To use the words of Treasury Secretary Shultz, "We got burned."

That is not the way to do business with other nations.

It most certainly is not the way to do business with the Russians.

If we are to have a genuine détente—if we are to have a relaxation of tensions based on true international security—then we are going to have to do some hard-nosed bargaining.

In casting my vote in favor of the confirmation of Dr. Kissinger today, I call upon him and his associates in the field of foreign policy—who will determine our negotiating position—to keep our guard up, and put the long-range interests of

this country ahead of any desire to achieve dramatic agreements.

True peace can come only from strength, hard bargaining, and firmness.

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

The PRESIDING OFFICER. The Senator has 20 minutes remaining.

Mr. HARRY F. BYRD, JR. Mr. President, I yield 2 minutes to the distinguished Senator from Mississippi.

Mr. STENNIS. Mr. President, I shall not use that much time. I did have an opportunity to read the Senator's speech before he made it and I approve every point he made. I congratulate him for his thought and the timeliness of his expressing it here at this time.

I had already said that one thing about Dr. Kissinger is that he is open to persuasion and new facts on matters; he will take seriously the remarks of the Senator from Virginia.

Mr. HARRY F. BYRD, JR. I thank the distinguished Senator very much for his kind and generous comments.

Mr. President, I yield 10 minutes to the Senator from Maine.

Mr. MUSKIE. Mr. President, I thank my good friend, the Senator from Virginia. Before I begin my remarks I would like to compliment him on the appropriateness of his note of caution as we enter into a period of detente. We do have to take a good hard look at our interests as well as opportunities for expanded contacts with the Soviet Union as we look forward to the potentially constructive period that lies ahead. In additional views which I filed in the committee report I stated my position on the nomination before us but I thought it would be useful to express some of those views on the floor of the Senate this morning.

I support the nomination of Henry A. Kissinger to be Secretary of State. I do so after full consideration of certain reservations which I intend to set out in this statement. I have reached the conclusion that Dr. Kissinger should be confirmed, notwithstanding these reservations, and it would be well to state my reasons at the outset:

First, Dr. Kissinger is extraordinarily well qualified, by intellectual training and experience, for the position to which he has been nominated. On this there is little disagreement.

Second, he has demonstrated a capacity for creative initiatives in foreign policy which I believe to be beneficial to our national interests. Among such initiatives are the policy of rapprochement with China; broader cooperation with the Soviet Union in political, economic, and military affairs; and, more recently, an effort designed to reinvigorate our relations with tradtional allies.

Third, Dr. Kissinger has expressed what I believe to be a genuine appreciation that the foreign policy process in our democratic system must be more open than it has been in the recent past. I believe he now wishes to consult and cooperate with Congress in meaningful ways and to seek the broadest possible public understanding of the ends and means of our Nation's foreign policy.

Fourth, he has been a vigorous and dynamic leader in the making of our foreign policy. Were the Senate for any reason to reject his nomination, he would probably remain as a decisive influence in his present White House post. There are, however, concrete advantages in having a man of his energy, influence, and ability as Secretary of State, where he will hopefully breathe life into a bureaucracy which has been made irrelevant by his operations outside the State Department. He will be better able to institutionalize the new directions in foreign policy which he has already charted in the administration's first term, and he will be available to testify before Congress when questions are raised about those policies and the manner in which they are being implemented.

Fifth, Dr. Kissinger's role in national security wiretapping was not such as to constitute an obstacle to his confirmation. I believe it was essential that he be cleared of any taint of Watergate-related misdeeds, for should that scandal envelop the Secretary of State, the consequences for America's standing in the world could be tragic. I have been reassured on that point by the evidence and by his own testimony presented to the committee.

For all these reasons I support Dr. Kissinger's nomination. But I think it is in his interest—and in the country's interest—that this nomination not sail by without an expression of concern over weaknesses in the Nixon-Kissinger foreign policy and in its style of operation.

In contrast to Dr. Kissinger's accomplishments in dealing with our cold-war adversaries, the record in many areas of the Nixon-Kissinger foreign policy is mixed at best.

First, the long, protracted withdrawal from Vietnam has yet to be justified by subsequent events. It was my view at the time that the United States had long ago fulfilled its moral obligation to the people of South Vietnam, that the issues of the war had to be settled by the Vietnamese people themselves, and that continued direct U.S. military involvement in Indochina cost us much and gained us nothing. I see no reason to change that view today. In my opinion, the so-called peace settlement in Indochina was based more on U.S. political realities than on Vietnamese—and, if Congress had not insisted on the termination of U.S. military involvement after August 15, 1973, U.S. bombing would still be going on today with no end in sight. In sum, I do not believe that the administration's Indochina policy rates as any kind of success—rather, as one of its principal failures.

Second, the administration's justifiable interest in establishing new relationships with our European allies and former cold war adversaries has led to a kind of benign neglect of the developing world. In some cases—as in the poor performance of the Nixon-Kissinger team in the Bangladesh crisis of 1971—benign neglect would have been preferable to the bungling, surreptitious "tilt" toward Pakistan that was in fact tried. But in other cases—notably in Latin America and Africa—the neglect has been real. Even granting that the role of indifference is preferable to the role of interventionism in third-world affairs, the Nixon-Kissinger foreign policy has gone too far in its aloofness and implied indifference to the developing world. Ultimately, our fate is intertwined with theirs, and our foreign policy shold reflect a solid understanding of this fact.

Third, Dr. Kissinger has not, in my view, demonstrated a full appreciation of the interdependence of political and economic factors in world affairs. The Nixon-Kissinger foreign policy in the first 4 years has been marked by a curious separation of political and strategic initiatives on the one hand, and economic initiatives on the other. To be sure, close attention has been paid to growing trade with the Soviet Union as an integral part of our political strategy of detente. But on a global scale, the great and perplexing monetary and trade issues which have steadily grown, which have become more troublesome, and which now appear to be the most critical factors, for better or worse, in determining the world's future—these issues cannot be divorced from an overall political and military strategy designed to create a new world order. Dr. Kissinger, who has already brought an admirable degree of intellectual coherence to American foreign policy, must seek greater coherence between economics and politics in our nation's policy, and he has pledged to do so.

In expressing these doubts concerning the substance of the Nixon-Kissinger foreign policy, I should add my reservations about its style of operation. That style has been marked by secrecy and surprise. Initiatives are formulated within a closely guarded inner circle, then sprung on an unsuspecting public in a way calculated to maximize their theatrical potential—witness the China visit and the series of agreements announced at the Soviet-American summits, to name just a few. Dr. Kissinger has argued that these elements of secrecy and surprise were necessary to the substance of administration policy, given the delicacy of the diplomatic initiatives undertaken. My own view is that we have paid a serious and possibly dangerous price for such a style.

Specifically, there are two principal areas in which the administration style has produced dangerous results: first, there has been the obsession with secrecy—accompanied by a willingness to deceive Congress and the public, to spy on trusted advisers, and to infringe upon the constitutional rights of newsmen—all in the name of national security. While Dr. Kissinger's personal role in such activities was not clear when the committee commenced its hearings—although it was clarified in those hearings—I was deeply concerned by the way in which the administration had used the Constitution—the presumed "inherent Presidential powers" in the area of national security—to commit acts which the Constitution was specifically designed to prevent. In doing so, it was striking at the very foundation of our political system.

It was for this reason that the committee—myself included—concentrated

so heavily on questioning Dr. Kissinger on the issue of wiretaps—and on the whole question of executive authority to define national security interests and to take sweeping, secret actions based on that definition. The conclusion I reach from our hearings, and from the many other revelations of abuse of power with which we have become sadly familiar this year, is that it is imperative that the Congress establish new procedures, new criteria, new monitoring provisions that will prevent such abuses in the future.

We have seen the consequences of power operating unchecked to decide what official behavior can be justified by invoking concern for national security. National security has been used as grounds for wiretapping that included Government employees who had nothing to do with the security matters. National security has been invoked to justify surveillance of employees who had access to information that was leaked to the press in May of 1969, and has been invoked to justify eavesdropping on other employees a year later, when their superiors' real concern was dissent, not indiscretion. And national security supposedly required tapping the phones of men even after they had left Government service and gone back to private life.

I can hypothesize situations in which a clear foreign danger to the safety of the community could justify a decision to favor the greater needs of the whole society over the rights of individuals in that society. But the power to make such judgments will always be open to misuse if it remains unsupervised and unshared. Even the pledge of Attorney General Richardson to be scrupulous, when asked to authorize wiretapping, in balancing the need for security against the rights of personal privacy cannot guarantee us the permanent safeguards we require.

Officials do not lose their constitutional rights when they assume responsibility for sensitive policies and activities. While they must agree to be subject to closer scrutiny than ordinary citizens, they should not have to accept telephone taps on themselves and their families as a condition of employment.

And their loyalty to the Government should not be questioned simply on the basis of their conscientious dissent from one course of action or policy decision. If a man's private conversations are to become the property of his superiors simply because he opposes their judgment on an issue, then the vigorous internal debate from which the best policies are formulated will be stifled, and sychophants will take the place of candid, constructive advisers.

To avoid these dangers—the continuation of past practices we all recognize as improper—Congress must fully explore the Government's use of wiretapping and other surveillance techniques. The Foreign Relations Committee, acting on a motion I offered with the senior Senator from New York, Mr. JAVITS, who now presides over the Senate, has already committed itself to such a study in connection with foreign affairs. That resolution is printed in the committee report.

I ask unanimous consent that it be included in the RECORD at this point.

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

The resolution ordered to be printed in the RECORD is as follows:

Resolved, that the Foreign Relations Committee pursuant to its oversight duties undertake a full examination of the use of electronic and other means of surveillance of American citizens in connection with alleged intelligence gathering or other activities related to the foreign policy and the areas of national policy over which this Committee has legislative responsibilities, to the end that more satisfactory guidelines and opportunity for more effective congressional oversight may be developed than those set forth in the letter of the Attorney General to Senator Fulbright dated September 12, 1972.

Mr. MUSKIE. Mr. President, in the course of our examination I hope we can weigh the applicability of safeguard contained in the Safe Streets Act of 1968 with respect to the use of wiretaps in domestic security cases: that wiretapping be subject to judicial warrant; that such warrants be for limited periods of time, renewable only by return to court; and that records itemizing the principal subjects of such wiretapping, the justification for the surveillance and the duration of it be made available, with requisite provisions for confidentiality, routinely and periodically to the appropriate oversight committees of Congress.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. MUSKIE. Mr. President, would the Senator from Arkansas yield me some additional time?

Mr. FULBRIGHT. Mr. President, I yield the Senator 5 additional minutes.

The PRESIDING OFFICER. The Senator from Maine is recognized for 5 additional minutes.

Mr. MUSKIE. Mr. President, beyond these mechanical safeguards, however, we must address the harder task of formulating criteria to guide and limit the freedom of executive and judicial officials to authorize actions which will, inevitably, abridge the rights of individuals.

We enacted such standards in 1968, for many types of criminal activity, but apparently we did not define closely enough the President's discretion to act in situations he judged to present threats to national security. Now we have seen discretion twisted to serve questionable purposes, and the burden is on us—as much as on those officials who acted improperly in the President's name and who now promise new concern for individual rights—to define discretion so surely that it cannot be abused again.

Mr. President, in yesterday's New York Times and in this morning's Washington Post, there were stories illustrating the reasons why the Foreign Relations Committee and all of its members are concerned about the use of surveillance, not only in connection with surveillance of all kinds, but also in the case of surveillance which infringes upon individual rights. These articles appearing in the papers related to surveillance of a news columnist. The article in yesterday's New York Times is headlined "FBI Reportedly Trailed Columnist on Visit to Paris."

This morning's Washington Post specifically mentions the name of the newsman. It reads: "Kraft Says FBI Tailed Him to Paris."

The story clearly relates to columnist Joseph Kraft.

I ask unanimous consent that the two articles be printed in the RECORD.

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

[From the New York Times, Sept. 20, 1973]

FBI REPORTEDLY TRAILED COLUMNIST ON VISIT TO PARIS

(By John M. Crewdson)

WASHINGTON, Sept. 19.—The Nixon Administration ordered a high-ranking F.B.I. official to follow Joseph Kraft, the syndicated columnist, to Paris in 1969 and to arrange with the French government to keep him under electronic and physical surveillance during the visit, according to sources familiar with the operation.

The sources said that because of the Administration's "concern" about Mr. Kraft's contacts with representatives of the North Vietnamese government and the Vietcong, J. Edgar Hoover, the late director of the Federal Bureau of Investigation, sent one of his top assistants to Paris, where Mr. Kraft and his family were vacationing.

The assistant, William C. Sullivan, who was then in charge of the bureau's Domestic Intelligence Division, consulted French security officials, who carried out the surveillance operation.

Mr. Kraft's room in the Hotel Georges V, near the Arc de Triomphe, was bugged by the French security agents, who also tapped his telephone and followed him around-the-clock.

The sources said that the 24-hour surveillance was continued by the F.B.I. after Mr. Kraft returned from France to his home in the Georgetown section of Washington.

John W. Dean 3d, the dismissed White House counsel, told the Senate Watergate committee in June that John J. Caulfield, the former New York City policeman who worked as an investigator for the White House, had told him of a wiretap placed on the Kraft family's telephone in Georgetown, and sources said today that they believed that the tap had been installed while Mr. Kraft was vacationing in France.

Barely a month before, the F.B.I. had begun a program of wiretapping Government officials and newsmen that was described by President Nixon as an effort to halt leaks of classified national security information to the press.

Asked why the F.B.I. had not been used to install the Georgetown tap, one source said he believed that the White House had never made such a request, but another, equally well-informed, said that the White House team had been used after John N. Mitchell, then the Attorney General, had refused to permit the F.B.I. to become further involved.

Mr. Sullivan, who recently retired from the Justice Department, said by telephone from Massachusetts that he would have "absolutely no comment to make one way or the other" on the matter.

It has never been entirely clear whether Mr. Kraft was included in the national security investigation that Mr. Nixon ordered in May of 1969 in response to a report in The New York Times describing the then-secret bombing of Cambodia by American aircraft.

But the logs of some of Mr. Kraft's con-

versations, presumably including those monitored by French security agents, were reportedly found last May with the wiretap records relating to the four newsmen and 13 Government officials who were targets of the White House wiretap effort.

Those records, which had disappeared from the F.B.I.'s files in late 1971, were found by bureau agents in a White House safe belonging to John D. Ehrlichman a few days after he had resigned as Mr. Nixon's chief adviser for domestic affairs.

One source said that although the instructions to follow Mr. Kraft to Paris came to Mr. Sullivan from Mr. Hoover, he did not know whether the late F.B.I. chief had been ordered by his superiors in the Administration to conduct the surveillance.

The source said, however, that Mr. Hoover had passed on to a superior the results of the intelligence-gathering effort by the French authorities that Mr. Sullivan carried back from Paris. Another source said he believed that the superior in question was Mr. Ehrlichman.

Mr. Kraft said in a telephone interview today that he had learned some months ago of the intelligence effort directed against him. He added that he had been in touch with representatives of the North Vietnamese Government and the National Liberation Front since 1964, that these relationships were "well known" and that from time to time he had used information provided by them in his column.

[From the Washington Post, Sept. 21, 1973]

KRAFT SAYS FBI TAILED HIM TO PARIS

Joseph Kraft, the syndicated columnist, said yesterday that the FBI had followed him to Paris in 1969 and arranged to have his hotel room bugged there.

Kraft said he was told by the FBI that William C. Sullivan, a former top official of the bureau, had been ordered to follow him.

During his testimony before the Senate Watergate committee last June, former White House counsel John W. Dean III said he had been told that Kraft's phone in Georgetown had been tapped by John J. Caulfield, a former New York police investigator who worked for the White House.

Kraft said after that testimoney he asked the FBI for an explanation and was told of the Paris surveillance.

The FBI yesterday refused to comment. Sullivan, who is retired and lives in New Hampshire, could not be reached for comment.

Mr. MUSKIE. In its examination of the wiretapping issue, the Foreign Relations Committee addressed itself to 17 names, names of Government employees and newsmen which have been printed in the press as allegedly having been covered by the wiretapping policy.

I think it should be clear that these 17 names do not limit the committee's concern as to the extent to which surveillance has been used, not only in the form of wiretapping, but in other ways.

It is my understanding that the resolution adopted by the committee is intended to address the broader concern and is not limited to the 17 names specifically referred to in the press.

I wonder if the distinguished chairman of the committee would comment on this point.

Mr. FULBRIGHT. Mr. President, I say to the Senator that he understands the intent of the sense of the resolution quite correctly. It does anticipate that we should look into electronic and other means of surveillance beyond the 17 names mentioned.

I was approached yesterday by members of the Judiciary Committee who asked about the intention of the Foreign Relations Committee in this area and who suggested tentatively that there might be joint hearings held on that subject because it is of such great importance. The substantive jurisdiction insofar as legislation is concerned would be in the Judiciary Committee. There is already a bill pending on that matter.

It is my intention in the Foreign Relations Committee to discuss this at one of the next executive meetings and examine into who would like to be on a subcommittee representing the Foreign Relations Committee. I am sure that if the Senator from Maine is at all interested—and I am sure he is—I would be very pleased to have him act on that subcommittee. The matter ought to be looked into.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. FULBRIGHT. Mr. President, I yield 2 additional minutes to the Senator from Maine. I have committed most of my remaining time to the Senator from Iowa, who is to follow me.

That was the situation as I see it. The Senator explained it very well. It is extremely important if we are to establish any confidence in the Government procedure in this field. I think that what the Senator said is very appropriate. I certainly agree with what he had to say.

Mr. MUSKIE. Mr. President, I thank the Senator from Arkansas. I simply wanted the RECORD to reflect the committee's feeling on this and that it will press forward with hearings. The mere fact that the nomination is confirmed does not end the committee's concern. I want that to be fully understood.

The second principal area in which the administration's diplomatic style has caused serious difficulties is that of alliance policy. United States relations with our major allies in Western Europe and with Japan have undergone severe strain in recent years. To some degree such strain is an understandable consequence of our policies of détente with China and the Soviet Union—for the alliances themselves were born in opposition to these two powers, and détente raises questions about the significance we attach to our older alliance systems in the new era of good fellowship. Nevertheless, the administration can be criticized for failing to consult adequately with our allies, just as it has failed to consult Congress or fully inform the American public. In doing so, it has needlessly aroused their concern and caused irritations which it is now belatedly trying to calm with rhetoric about the "Year of Europe" and about the importance of Japan.

The failure of style in this respect is most sharply illustrated by the first "Nixon shock" applied to Japan in the summer of 1971—the surprise Kissinger visit to China. Whether Dr. Kissinger honestly believed in the diplomatic necessity for springing this surprise, or whether he was merely giving way to a theatrical impulse, the decision to deliberately leave Japan in the dark on new developments in our China policy has had a serious psychological impact on that country. Compounded by later economic shocks and some fairly harsh rhetoric, the United States-Japan relationship has undergone considerable deterioration during Dr. Kissinger's tenure on the White House staff.

More recently, there have been signs of improvement, and I earnestly hope Dr. Kissinger will apply his energy and ability to furthering this momentum. Japan today is an industrial giant—the world's third largest economic power after the United States and the Soviet Union—and this economic power has given her an influence in world affairs which contrasts sharply with the low-key diplomacy which the world has learned to expect from Japan since the early 1950's. Moreover, Japan today may be at a watershed period of her foreign policy—and very much in a position to exercise more than economic power if she chooses to do so. How Japan develops in this regard, within the framework of a United States-Japan partnership which the Japanese deem fundamental to their interests, should, I believe, be one of the overriding concerns of American foreign policy.

Similarly, our Atlantic ties have been unnecessarily disturbed by the administration style. To be sure, serious problems have long existed in that partnership—problems which Dr. Kissinger himself eloquently described in a 1965 book on the subject. But the dialog across the Atlantic has recently become even more difficult, and the time for a major overhaul of the relationship is long overdue. I therefore welcome Dr. Kissinger's initiative in trying to articulate a new set of guiding principles, and although he has a long way to go in turning the rhetorical "Year of Europe" into reality, he is especially qualified to do so.

As in the case of Japan and the China initiative, a significant cause of West European dissatisfaction with the Nixon administration is the considerable suspicion aroused by our policy of detente with the Soviet Union. In the European mind, that policy could result in sacrificing the interests of our allies in the unilateral pursuit of a special relationship with the Soviet Union. The Europeans need to be constantly reassured on this point.

In this connection, it is noteworthy that many doubts have recently been expressed concerning the limits of détente with the Soviet Union. One issue raised repeatedly in Dr. Kissinger's confirmation hearings was Soviet treatment of dissidents. While Dr. Kissinger claimed that—

> We have in the past successfully pointed out to the Soviet leaders the unfortunate impact that some of their policies have on our opinion.

He also stressed that—

> We have to ask ourselves a question: Whether it should be the principal goal of American foreign policy to transform the domestic structure of societies with which we deal?

The Soviet leadership gives every indication that it intends to pursue its policy of improved relations with the

West without yielding to domestic or international pressure for liberal reforms. Whether it be in relation to Nobel Laureate Alexander Solzhenitsyn, or to historian Pyotr Yakir and economist Kiktor Krasin, or to physicist and civil rights advocate Andrei Sakharov, or to the rights of the Jewish minority to emigrate, the Soviet Government seems determined to repress those who do not passively submit to prevailing governmental thinking.

My own view is that progress toward détente must be accompanied by continued pressure on the Soviet Government for greater respect for human rights. The question Dr. Kissinger raises is a difficult one, but it can be answered with a plea that the conceptual basis of our foreign policy—and particularly our policy of détente—come to grips with this issue. In the words of Solzhenitsyn,

> There are no internal affairs left on our crowded earth. And mankind's sole salvation lies in everyone making everything his business—in the people of the East being vitally concerned with what is happening in the West; the people of the West vitally concerned with what goes on in the East.

For a man who has written cogently about the need for conceptual clarity in foreign policy, I am not sure that Dr. Kissinger has thought clearly enough about this dilemma—or about the ultimate goals of détente with the Soviet Union. I hope that this matter will be more fully aired in the great public dialog on foreign policy which we have been promised.

I believe that the committee hearings on Dr. Kissinger's nomination have been a useful exercise—for him, for the committee, and for the country. While the size of the committee and the constraints imposed by time made it difficult to probe deeply, I believe the hearings were a satisfactory first step in a new relationship between Congress and the administration in the area of foreign policy. I have confidence in Dr. Kissinger's ability to fulfill the responsibilities of his position with distinction. I support him, and I wish him well.

Mr. HARRY F. BYRD, JR. Mr. President, I yield 3 minutes to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized for 3 minutes.

Mr. JACKSON. Mr. President, as we approach the vote on the confirmation of the nomination of Henry Kissinger to be Secretary of State, I want to make these brief comments.

Over the last few years, in connection with many crises in foreign affairs and many critical international negotiations, I have been in touch with Henry Kissinger. From time to time we have talked over in depth major issues which confront American foreign policy. He has told me how he sees things. I have had an opportunity to frankly state my views. On some matters we have agreed. On others we have disagreed. I have great respect for Dr. Kissinger's intellectual capacity and for his unusual grasp of complex problems. He will bring to the office of Secretary of State great professional expertise, in many ways unique in the history of that office.

Mr. President, Henry Kissinger will be taking on new and enormous responsibilities. In the American system of government, the Secretary of State occupies a very special position. Of the cabinet officials, only the Secretary of State is primarily charged with looking at our Nation as a whole in its relation to the outside world. His perspective, like the President's, is essentially political-strategic. Together with the President, the Secretary of State must try to speak and act for the priority of national policy. As Dean Acheson has said:

> Foreign policy is the whole of national policy looked at from the point of view of the exigencies created by "the vast external realm" beyond our borders. It is not a "jurisdiction." It is an orientation, a point of view, a measurement of values—today, perhaps, the most important one for national survival.

In our system, there is no satisfactory substitute for a strong and sensible Secretary of State who is able and willing to exercise genuine leadership in our major policies toward other nations.

It is my personal conviction that no Secretary can spend most of his time as a special assistant in the White House without clouding his title as Secretary of State. The Secretary is the head of a great department with a history and traditions stretching back over 180 years. In the councils of the President, a Secretary of State ought to be the Secretary of State. That, I believe, is the challenge facing Dr. Kissinger.

One question of importance the new Secretary must immediately face is whether the Department of State—and particularly the Office of the Secretary and the Department's long-range planning function—is staffed and organized to support the Secretary in exercising his responsibility. I anticipate that there will have to be some major changes in the Department and in key personnel to fortify the new Secretary in the discharge of his duties.

I wish him well. He will have my full cooperation.

Mr. HUGHES. Mr. President, will the Senator from Arkansas yield?

Mr. FULBRIGHT. Mr. President, I yield 5 minutes to the Senator from Iowa.

Mr. HUGHES. Mr. President, I thank the Senator from Arkansas.

I shall vote against confirming this nomination for a number of reasons.

As I have listened to the debate over the last hour, it has become more and more apparent that regardless of the discussion here, everyone's mind is made up before he comes on the floor.

A very interesting part of this debate is the fact that almost everyone who has had an opportunity to speak this morning has addressed himself to points of disagreement with Dr. Kissinger and with his policy in the past as the President's adviser on foreign policy.

The most compelling of the reasons why I shall vote against this nomination is this:

Despite his luminous intellectual powers, his personal drive and dedication, and his extraordinary accomplishments as special assistant to the President, Dr. Kissinger, in my judgment, is guided by a philosophy that is inimical to the long-range cause of world peace and inconsistent with the moral purpose of our Nation.

It is the pragmatism of the power broker who sees force or the threat of force as the only practical way to change the shape of international relations.

From his earliest academic writings to his latest pronouncements, Henry Kissinger has had a chilling, chessboard view of the world. Nations are bloodless pawns to be moved around at will in support of some grand strategy. The very phrase so commonly used now—the "structure of peace"—suggests some kind of mechanistic, balance-of-power approach to international problems.

At the core of this philosophy is the proposition that in the grand design of restructuring the world, the ends justify the means. If we have not yet seen what this concept has done to the moral fabric of our democracy by this time, we will never see it.

I am well aware that there will be only a tiny handful of votes against this nomination. Since there are an abundance of considerations that favor Dr. Kissinger's confirmation, I am not critical of the majority of my colleagues who will support it. I do not question that the President should have "his own man" in this vital post and Dr. Kissinger is clearly that. But the points that cause me to oppose this nomination need to be made, not just as a symbol of protest, but as reminder and a warning that even the most brilliant strategy is destructive and dangerous if it distorts our true national purpose.

Here is the case against Dr. Kissinger, as I see it, some of the facts of record that reflect this power broker, ends-justify-the-means philosophy that make me apprehensive about his being given the vast powers of the Secretary of State:

As de facto Secretary of State, Dr. Kissinger recommended and implemented a policy which prolonged and widened the fighting and suffering in Southeast Asia. Here, as elsewhere, was an obsession with power rather than a compassion for people.

Even as a power broker, Dr. Kissinger has had failures as significant if not as spectacular as his successes. He has alienated our closest allies—in Europe and Asia—by his careless disregard of their interests and concerns while he pursued his secret presummit diplomacy. He has neglected and been insensitive to the problems of the developing world while he pursued big-power deals.

As the President's foreign affairs assistant, Dr. Kissinger cannot escape responsibility for bully boy economic policies that have alienated our good neighbor, Canada, and our fastest growing economic ally, Japan. The heavily subsidized Russian wheat deal may have helped win an election that was in the bag anyway, but it set off the biggest inflationary bomb in this country that has been seen in recent years. What it did to advance détente with the Soviet Union is still problematical, but there is no doubt whatsoever as to what it did to the price of a loaf of bread in this country.

Kissinger's predilection for power broker, secret, summit diplomacy has resulted in his shunning multinational approaches. He has treated the United Nations as some kind of unwelcome dinner guest who is to be humored but not helped, tolerated but not strengthened. My own view is that precisely because there are so many nations with important concerns and vital interests to be taken into account, we need to rely more than ever on those international institutions which can moderate conflicts and serve as a forum for the peaceful settlement of disputes.

In his reliance on the diplomacy of big power clout, Dr. Kissinger has shown no inclination, to my knowledge, to look beyond the facades of dictatorships to see if people are suffering and dying from war, hunger, or brutal repression. Military intervention to protect the right of self-determination of a nation is a hollow shibboleth if the only choice for the people is one repressive dictatorship over another. Most Americans have rejected for their country the role of global policeman or merchant of death. Has Dr. Kissinger? We are interested in helping to feed the hungry of the world; we are concerned with social and economic progress in developing nations. Preoccupation with the machinations of power diverts us from our national purpose.

There is no convincing evidence that Henry Kissinger has empathy for these matters or the humane concern and understanding that any American Secretary of State should have.

The unprecedented concentration of power in the White House coupled with a jealous obsession with secrecy produced many abuses with which no one links Dr. Kissinger. But his acquiescence in the wiretapping of his own, personally chosen aides cannot be explained away. Either his own judgments about his subordinates were faulty or he is basically insensitive toward the individual's right of privacy. The new era at State I am afraid will begin with something less than an atmosphere of complete trust in its leader.

It is worth noting, too, that Dr. Kissinger's exceptional abilities as a lone operator wielding great power may not necessarily translate into the organizational ability to head a vast Department which everybody recognizes to be in a low state of morale, partly because of the preemption of its powers and prestige by Dr. Kissinger himself in recent years.

One of the most serious reasons I am opposing the Kissinger nomination relates to the secret bombing in Cambodia which began only a few days after President Nixon's first inauguration. Since Dr. Kissinger was chief architect of the Nixon foreign policy, it is clear that this secret war was part of his grand design. There has been no convincing indication that the secrecy and deception here involved, so destructive of the constitutional processes, was considered a mistake or would not be repeated at some future time.

I am grateful that the Foreign Relations Committee raised this issue with Dr. Kissinger on my behalf and obtained answers from Dr. Kissinger to specific questions which I had suggested. I can only say that I was disappointed and disillusioned with the answers, which were in part evasive, in part arrogant, and on the whole, completely unsatisfactory.

I wanted to know, for example, why only a few Members of Congress were informed about the secret bombing. While Dr. Kissinger denies that there was any intention to deceive the Congress, he says that the decision to inform only a handful of Members "was a consequence of the deteriorated state of trust and cooperation between the branches and the lack of adequate consultative procedures between Congress and the Executive."

Mr. President, this response gets to the nub of my apprehensions about Dr. Kissinger as our next Secretary of State. Since when was the executive branch endowed with the divine right to suspend constitutional processes on its own judgment that there was a "deteriorated state of trust and cooperation between the branches?" The truth is that Congress, except for a few chosen partisans, was kept in the dark, because it was feared that they would exercise their constitutional prerogative to disagree and to stop a secret and illegal war.

Moreover, one does not have to possess a phenomenal memory to recall that in the early days of this administration, we in the Congress were bending over backward to cooperate with the President who had been elected on the promise to end the war quickly. If the President or his representatives had consulted with appropriate committees of the Congress, even on the most classified basis, there might have been congressional support for his policy of widening the war. I do not know. But at least the constitutional processes—that we presumably fight wars to defend—would have been honored. Instead, what we had was a pernicious undermining of the equality of Members of Congress as well as a flagrant violation of constitutional law.

The Pentagon's own white paper on the Cambodia bombing and other secret operations admits that Congress was informed of a secret budget line item for the cross-border ground operations in Laos and Cambodia. But only a few were told—and the rest deceived—about much larger air operations in these two countries which, in a 16-month period, by the Pentagon's own estimate, cost American taxpayers over $1.5 billion, without the consent of the branch of the Government empowered by the Constitution to appropriate funds.

The attempts to justify this secrecy and deception on the grounds of delicate negotiations is a sham. The Cambodians, the Vietnamese, the Chinese, the Russians all knew what was going on. Only the American people and Congress were kept in the dark. The administration feared the reaction of the American people and it was demonstrated that its fears were justified judging from the angry response in our country when the secret war became public with the invasion of Cambodia in 1970.

When the secret bombing failed to bring peace, we had an open invasion, the only lasting consequence of which was the widening of the war and the extension of the bloodshed to the people of Cambodia.

Even then, the Congress and the American people were not told the truth. Dr. Kissinger now says that the administration did not then disclose the bombing because—

> We did not wish to charge the atmosphere or force North Vietnam into a retaliatory effort which might jeopardize the negotiations.

That is the lamest kind of argument, for we had already "charged the atmosphere" with our ground invasion of Cambodia, just as we later risked upsetting negotiations by supporting a South Vietnamese invasion of Laos and by our own massive bombing of the north and mining of Haiphong. The truth should have taken precedence.

I am now more convinced than ever that the President's secret plan to end the war—and also Dr. Kissinger's, so far as we can tell from the available evidence—was really a plan for secret and expanding war. Within days of taking office, the President and his advisors approved a large ground attack into Laos and set in operation the plans for secret bombing of Cambodia. This was followed up with implicit and explicit warnings to Hanoi about further U.S. actions. Dr. Kissinger admitted in response to my questions that—

> We left no doubt in Hanoi's mind that we would take whatever defensive actions were required if it stonewalled the negotiations and stepped up attacks.

The secret war became a prolonged war and then a public war. Thousands of lives and billions of dollars later, we had a compromise settlement which was probably not much different from what could have been achieved years before.

Dr. Kissinger was not responsible for the war, of course, but he was the architect of the Nixon policy of prolongation and deception. And his hindsight now shows none of the necessary appreciation for how this particular policy weakened our country from within as well as internationally.

If we now learn the wrong lessons from Vietnam, it follows that our foreign policy in the years ahead will be another series of tragic mistakes. On this score, neither Dr. Kissinger's actions nor his statements give us the assurance we seek this will not be allowed to happen.

I do not question that Dr. Henry Kissinger is one of the ablest and most brilliant men who has ever served our Government. I do not question his dedication or his personal honesty.

The prospect of the first foreign born Secretary of State invites my soul rather than distressing it. The Lady of Liberty still welcomes the people of other lands to equal citizenship; this is our heritage and our strength; I would not have it otherwise.

However, apart from personal or partisan feelings, I have the gravest reservations about Dr. Kissinger's philosophy of international relations and his attunement to our national purpose.

If Dr. Kissinger, as Secretary of State, propels this country in the direction of

continuing war, military intervention, secrecy, deception, big power politics, then his very assets as an individual become the Nation's liabilities. I am concerned, as I have stated, about his insensitivity to individual liberties and to the general run of human problems, his disregard for an outgoing approach to international economic issues and his apparent contempt for the United Nations.

He has proved his virtuosity, his wit, his charm, but not his compassion for people or his belief in working our international solutions other than big power dominations. Without these ingredients, our foreign policy, in the years ahead, may have the appearance of sophistication and modernity, but in reality it will remain in the prison of the brutal past.

Mr. AIKEN. Mr. President, I yield 5 minutes to the Senator from Kentucky (Mr. COOK).

The PRESIDING OFFICER (Mr. HATHAWAY). The Senator from Kentucky is recognized for 5 minutes.

Mr. COOK. Mr. President, I rise to support the nomination of Dr. Henry Kissinger.

With my great admiration for the distinguished Senator from Iowa (Mr. HUGHES), I would hope, as Dr. Kissinger assumes his responsibilities as Secretary of State, that Dr. Kissinger will read the remarks of the Senator from Iowa with a great deal of interest. But, I would also hope that we stand here today not to judge Dr. Kissinger for all the problems that we in the Senate faced as a result of the altercations by the United States throughout the world in the past. Nor do we say that these were of his making. They were problems of acquisition, when he took over that responsibility and took that role.

I should also like to say, Mr. President, that I hope Dr. Kissinger takes into very serious consideration his dual role, that of Secretary of State and that of his membership on the National Security Council, that we in the Senate who have debated this issue between the Department of State and the National Security Council may find in the future that this debate can cease and that, as a result of his dual role, we will see a transition of the basic decisions which have been made at the Council level transferred to the Department of State; because, in fact, the President of the United States has made the nomination for Secretary of State of one in whom he has great confidence, of one in whom he also has great confidence as a member of the National Security Council.

I would be remiss if I did not also say that if we are in a stage, as the Senator from Iowa says, where the moral issues are at stake, then I should like to remind him that the moral issues are, indeed, at stake but that we have to weigh the moral issues in regard to the position of the other countries in the world with whom we have to deal. I would not, by any stretch of the imagination, disagree with the Senator from Iowa that many of the militaristic attitudes could not be quelled, with one exception, that the two major powers we now face in the world, militarily at least, as to manpower, are a great deal stronger than we are. Therefore, one has to deal in the field of reality along with the field of morality.

Therefore, Mr. President, it gives me a great deal of pleasure to say that I think we have seen the selection of an individual who has, indeed, a tremendous international mind. To the extent that that international mind will function, I would say to my colleagues that, somehow or other, I got a degree of feeling out of the words of the Senator from Iowa that all of these things we faced in the past years of this administration were all of this administration's making, and that, somehow or other, these situations were created and not found to be in existence before.

We all know this not to be true.

For those who, for reasons of their own, are critical of Dr. Kissinger because, "he is not a native-born American," and for those letters that I have received critical of this phenomenon, which is more traditional to the United States of America than to any other nation in the world, I would only say that I discount them out of hand. The reason I do is that every one in this Chamber today can do no better than to trace his own heritage to some foreign nation and not to this Nation.

I am delighted that the Senator from Iowa also made remarks relative to those words on the Statue of Liberty, because those words represent, indeed, the very fabric of this Nation.

I would say to all my colleagues that it was a short time ago in terms of history that the Congress of the United States bestowed on every citizen, and now the Commonwealth of Puerto Rico, one of the most remarkable rights that the people of the world can possess, and that is the right to be known as citizens of the United States.

In conclusion, Mr. President, I would only say that I think Dr. Kissinger brings to the State Department a great expertise, one that this Senator felt was always possessed by Secretary Rogers.

I am delighted that as we look to the future of the State Department, we look to a future in which détente may be a reality ultimately. But I will only say to my colleagues that it is not the State Department that is lulled by the theory of détente; it is often the Congress of the United States that is lulled by the word "détente."

If we have one individual who looks at those very hard, cold facts of reality and the position of the United States in the world of nations, it is Dr. Kissinger, and I am delighted to support his nomination.

The PRESIDING OFFICER. Who yields time?

Mr. AIKEN. I yield 5 minutes to the Senator from Missouri.

Mr. SYMINGTON. Mr. President, it has been my privilege to know Secretary of State-designate Henry Kissinger for many years, long before he became a national and international figure. He is able, with a brilliant mind. I know of no one who has had more experience in the field of foreign policy.

When he was nominated, I said I would vote for him, provided he would agree not to plead executive privilege before the Committee on Foreign Relations as a result of his decision to retain his positions as chairman of many committees of the National Security Council including—and this to me is most important—the two highest committees of national intelligence. Dr. Kissinger pledged the committee he would not take executive privilege except with respect to private conversations with the President, and he would be frank on the subject in question.

I do not agree with, and do not approve some of the policies Dr. Kissinger has implemented, already discussed on the floor, but everybody knows they were not his policies. In his new post, he may be in a better position to object when he feels that what has been considered is wrong. I hope also and believe that, as he considers our planned programs around the world, he will recognize that our increasingly grave economic problems—a sound economy and a sound dollar—are just as important to the security of the United States as the thousands of military installations we currently have all over the world as are the billions upon billions of dollars of additional money now being requested for new weapons.

If Dr. Kissinger wins in this new position, we all win; if he loses, in effect, we all lose. I wish him good luck, and look forward to voting for his confirmation.

The PRESIDING OFFICER. Who yields time?

Mr. HARRY F. BYRD, JR. I yield 4 minutes to the distinguished Senator from Connecticut.

Mr. WEICKER. I thank the distinguished Senator from Virginia.

Mr. President, I will vote against the nomination of Dr. Henry A. Kissinger to be Secretary of State of the United States.

I do so for two reasons—one grounded in fact, the second in principle.

At the outset of the Senate Foreign Relations Committee hearings, the committee demanded the FBI summary of the 17 wiretaps which are more commonly known as the Kissinger taps. That demand was never openly met. A song and dance given by the Federal Bureau of Investigation to two Senators is not a substitute for the tapes, the summaries, William Sullivan and the policymakers appearing before the full committee.

Long before Dr. Kissinger's nomination, I had made a similar demand upon the Federal Bureau of Investigation for information concerning activities of the Bureau that related to improper or excessive intelligence operations directed at American citizens and groups. I requested this information at the suggestion of William Sullivan, formerly of the FBI and supervisor of the Kissinger taps.

Without taking the time of my colleagues, there is no question that the Kissinger taps were only one part of a pattern of improper and excessive use of power by Government.

There is no question that facts which would establish that pattern are being withheld from Senate committee and Senator alike.

This is no generalization but rather a most specific personal observation since starting on June 4, 1973, I have gone from Ruckelshaus to Cox to Ruckelshaus to Kelly to Richardson by phone, letter, and meeting in order to obtain the truth and have been denied that truth in each instance.

Those who hide the truth can say "no" only so long as those who are denied the truth say "yes" at times like this. That is why the "no" vote.

Lastly, the principle that should not be skipped over is the importance of how we achieve our ends in America. I do not want the United States to accept a little law breaking, a little spirit breaking in the name of security or the greater good. The state of our spirit is what truly determines the state of our Union. I am not sure Dr. Kissinger understands this.

I wish to Dr. Kissinger great success in his new venture as Secretary of State. Hopefully, he will understand that my action is not meant to demean his professional ability or a brilliant personality. It is merely giving expression to what I believe to be important in this country.

The PRESIDING OFFICER. Who yields time?

Mr. MANSFIELD. Mr. President, will the Senator yield me 2 minutes?

Mr. AIKEN. I have one request for 2 minutes.

Mr. HARRY F. BYRD, JR. I will be glad to yield 2 minutes to the Senator from Montana or the Senator from Vermont.

Mr. AIKEN. I was going to yield 2 or 3 minutes to the Senator from Tennessee.

Mr. HARRY F. BYRD, JR. Mr. President, I yield the remainder of my time to the Senator from Montana.

Mr. MANSFIELD. Mr. President, I want to talk about a man who seems to have been forgotten in all these proceedings today. I refer to former Secretary of State William Rogers, a dignified, decent, tolerant, understanding individual who did a far better job as Secretary of State than he has ever been given credit for doing.

Secretary Rogers was always forthcoming, despite the allegations which have been raised from time to time. He was always honest and candid with the Committee on Foreign Relations, insofar as the scope of his knowledge was concerned. This man, this good man, did a job which is entitled to the thanks of this body; and I just take this occasion to state my personal feelings about a public servant for a job well done.

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

Mr. MANSFIELD. I yield.

Mr. SYMINGTON. I should like to associate myself with the remarks of the able majority leader.

I have known Bill Rogers since many years ago when he was counsel to the Senate Preparedness Subcommittee, chaired by the distinguished former Senator from Michigan, Homer Ferguson.

I knew Mr. Rogers when he was an outstanding Attorney General in the administration of President Eisenhower, and have seen him operate under extraordinary circumstances in the Nixon administration. I wish him well. He is an honorable and able man. He worked under circumstances which made it difficult for him to function.

I am glad the majority leader made these remarks, because Bill Rogers is a great American.

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

Mr. MANSFIELD. I yield.

Mr. FULBRIGHT. I would like to associate myself with the Senator's remarks. In the preoccupation with the nominee I overlooked mentioning Secretary Rogers, for whom I have the greatest respect. I have known him for many years. He is a real gentleman and a fine man. I wish him well in his new undertaking. I am very pleased the majority leader made the comments which he did and I associate myself with them.

Mr. AIKEN. Mr. President, I also wish to associate myself with the remarks that have been made concerning former Secretary of State William Rogers by the majority leader and other Senators. As far as I know every member of our committee agrees with the remarks that have been made, particularly by Chairman FULBRIGHT, Senator MANSFIELD, and the Senator from New York (Mr. JAVITS). I also made some remarks concerning him in my opening statement.

Mr. President, I yield 3 minutes to the senior Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. BAKER. Mr. President, I thank the distinguished Senator from Vermont for yielding so that I can add my voice to that of most of our colleagues in support of the nomination of Dr. Henry Kissinger to be Secretary of State.

Before I move on to my accolades for Secretary-designate Dr. Henry Kissinger, let me say just a few words about his predecessor, Secretary Rogers. I knew Bill Rogers long before he came to the State Department. I think he has served with great distinction in his capacity as Secretary of State and I think the country owes him a debt of gratitude for his quiet, but effective service. I don't know of many, if any, individuals in Washington who command the universal respect that Bill Rogers does.

I think Dr. Kissinger will bring distinction to this historic position in government, as well. I think he has shown the agility, intellect, perseverance in the face of adversity, and the innovative spirit to advise and counsel on matters of cataclysmic importance.

At this time in our Nation's history and, indeed, our civilization, when the twin challenges and perils are so great, we have a clear-cut opportunity, as a result of the gifts of science and technology, to either incinerate ourselves in a nuclear holocaust or, view from the edge, the possibility that we may in fact be able to significantly increase peace on earth for all mankind. Nothing is more important than to preserve integrity, security, and viability of American policy vis-a-vis other nations of the world.

I think that Dr. Kissinger brings a special talent to this field. If I could pick a single person at this point in history to best try to define the imponderables of the future, I rather judge that Dr. Henry Kissinger would be at the top of the list.

I commend the President for his nomination, the Senate for its confirmation, and I join colleagues in expressing support for his confirmation.

I thank the Senator for yielding.

Mr. AIKEN. Mr. President, I have no further requests for time now but before we vote I would like to point out what is included in the committee's report. The hearings on this nomination have been more extensive than those held with respect to any other nominee for this post since World War II, or before. Indeed, according to the records available to the committee, they have been more extensive than on any hearing for a nominee to this office since the founding of the Republic.

I commend the chairman for conducting these hearings in such a manner that they are undoubtedly the most complete hearings ever held on the nomination of a person to be Secretary of State.

Mr. FULBRIGHT. Mr. President, I yield myself the remainder of my time.

Mr. President, I thank the distinguished Senator from Vermont for his comments about the hearings. We did the best we could. I regret that it is such a large committee that no member had an opportunity individually to pursue any specific policy as much as he would like. As a whole the committee did cover a great deal of territory.

One other thing before we finish that I think is relevant to this nomination. Dr. Kissinger is going to be approved. For several days running the press has had recurring articles that are very prejudicial, in my opinion, to the new Secretary of State being able to carry out a policy of détente, assuming he wishes that policy to be put in effect, which I think he does.

This morning, one of the columnists insinuated, or used an even stronger word, that members of the staff of the Foreign Relations Committee, and possibly other committees, are being lobbied in an excessive manner by Russian Communists and the Chinese—but primarily by the Russian Embassy. He seems to be saying that the chairman of the Committee on Foreign Relations is acting in some way that must be suspect, because he is meeting, discussing, and associating with the Ambassador from the Soviet Union. I would agree that we meet with those people. That is true. When diplomats from the Soviet Union ask to meet with members of the staff of the committee, I do not object. They meet with representatives of the Russian Embassy and with representatives of other governments, some of them Communist. It is their duty to do so. They usually give me reports, but it is not necessary that they give me verbatim reports. We trust these men. I think they are entitled to trust. Some of the meetings are with members of the committee. As a matter of fact, my committee has been requested by the Executive on many occasions to attend tea parties, which, as a matter of fact, is a great burden, in many cases, because it is time-consuming, and we are very busy on the floor of the Senate. It is difficult for me and my colleagues.

The whole purpose of this type of article, which has been recurring, at the present moment, when we are considering the military authorization bill, is to strengthen the opposition to détente with Russia and, of course, the whole Communist world. That is contrary to the announced purpose of the President and the new Secretary of State. I think this is a most vicious kind of revival of a tactic we used to have, called McCarthyism.

In view of the policy of détente, of a possible reduction in an excessive foreign military establishment and a possible reduction of troops in Europe, I regret this action very much.

In my opening remarks, I stated that we are now approving the nomination of a new Secretary of State. We all wish him well, just as the majority leader said. Our minds are not prejudiced against the policies he stands for—or which I believe and hope he stands for; otherwise we will end with a rival of the cold war that existed in the fifties and was revived after the dismissal of Khrushchev in the early sixties.

I deeply regret that it has been stated that some members of the Foreign Relations Committee staff are engaged in some suspicious intercourse with Communist representatives, and that members of that committee, because they associate with staff members of embassies, or others, are suspect. These activities are well publicized.

It is said that there is some devious lobbying going on to distort the loyalty of our staff to the welfare of our country. I deeply regret this. It disturbs me no end. It could lead us down the same road of the arms race that has already brought us near to bankruptcy at a time when we are seeking to prevent an outbreak of war anywhere in the world.

Mr. AIKEN. Mr. President, I yield 2 minutes to the distinguished Senator from New York.

Mr. JAVITS. Mr. President, I wish to associate myself with some of the educational aspects of what the distinguished chairman of the Committee on Foreign Relations has just stated. We who are members of the Foreign Relations Committee face a strange paradox. People certainly ought to know as much about the foreign policy of the country as do the Secretary of State and the President, but when we take a trip abroad, generally working a minimum of 12 hours a day, with overnight flights each way in order to do so, they say we are on a junket; or when we go and talk with a Prime Minister abroad, that is great news, but when we talk with him here, there is something clandestine about it.

I think this is a serious matter for the education of our people, and that includes the press. It may be all right to castigate someone going on a trip, sure, but not every trip is a junket, and not every foreign committee meeting is a clandestine operation—far from it.

Mr. AIKEN. Mr. President, I yield 5 minutes to the Senator from Pennsylvania (Mr. SCOTT).

Mr. SCOTT of Pennsylvania. Mr. President, of course I support the nomination of Dr. Kissinger to be Secretary of State. Probably no man in the United States is better qualified through experience, through his contacts with world leaders, through his acute sensitivity to the tremendous and serious problems the Government faces in foreign policy, and certainly by reason of his outstanding achievements in all areas of the world where we have been involved, but most particularly in regard to the improving relations with the Soviet Union and the People's Republic of China.

Now I would like to correct some misapprehensions. The first is that there might have been something in the executive session which ran counter to whatever have been done publicly. Dr. Kissinger testified publicly that his role was limited in regard to the wiretapping operation and was limited to furnishing the information on request, as indeed he would be dutybound to do.

I have seen a number of articles going further than hinting—stating that in the committee perhaps it was developed that Dr. Kissinger's role extended beyond this simple administrative response to a request from a superior authority. Now, it did not. It did not, and I think my word is good on that, and I do not care how many leaks occur from how many people.

It did not. That subcommittee, made up of Senator CASE and Senator SPARKMAN, reported, and the committee was satisfied. A careful analysis was made, name by name, of every person involved in the summary, and it did not show any further expansion of the role of Dr. Kissinger.

I do not like to see people derogated by the rumor route, because, God knows, we public officials have to live with that all the time. It goes with the territory. We have to sit here, hunker down, and take it. I have been around 37 years and I have taken a lot of it. It is all right. It is part of the game. But it is not part of the game to imply something went on in an executive session different from what went on in the hearing. It did not.

I notice the newspapers published this morning a full list of the 17 names. I think that is a real disservice to the people involved, because my observation, from what I saw and learned, was that there was very little, indeed, if anything, to the discredit of almost the totality of these people. So to parade the names, just to add another column of print, which could only have come from limited sources, because there were not many people in the executive session, it seems to me is just a disservice.

I do not know how far this kind of thing is going to go, but those 17 people had some right to privacy. They had the right not to have their names revealed, because, as I say, it is almost totally true that they were not involved, whatever the reason for the wiretapping—and I deplore it, and I am glad that the Secretary-designate and the Attorney General have committed themselves to a very rigid policy, and I am for it—but the press ought to exercise some restraint when we are dealing with people's careers and reputations, and the people involved here ought not to suffer any implication from the fact that their names appear, whoever they are.

The fact that the wiretapping occurred, I say, is something that ought to be stopped, and under the assurances from both the Secretary-designate and the Attorney General, it will be stopped, except under the most rigid guidelines.

I do not know what protection we have in executive session if all these things are going to be published in the New York Times later. It is a great tribute to the Times that it has such good sources, but it is not a great tribute to us that, no matter what we talk about, it gets in the paper. It prohibits frank discussion. It violates our legislative privilege. It interferes with the fact that we ought to have some opportunity to discuss freely among ourselves the merits or demerits of the individual cases or individual issues.

I do not know; I have heard nobody speak of invasion of the right of privacy. The Senator from North Carolina has taken the lead in the protection of the right of privacy. I would like to have a good speech from him, because I agree with him when privacy is invaded or when the civil rights of individuals are invaded; but it seems to me that there is a mutual responsibility on our part and on the part of those who report our actions. I hope we can arrive at something rather than try to deal with a rumor which has a thousand eyes and a thousand tongues, which no one can cope with adequately or fairly under our system. Restraint is the only answer.

I yield back my time.

Mr. AIKEN. Mr. President, if there are no further requests for time, I yield back my time.

The PRESIDING OFFICER. All time has been used or yielded back. The question is on the confirmation of the nomination. The yeas and nays have been ordered, and the clerk will call the roll.

Mr. MANSFIELD. Mr. President, how much time is left?

The PRESIDING OFFICER. All of the time has been used or yielded back.

Mr. MANSFIELD. How much time has been yielded back which can be yielded back in this direction?

The PRESIDING OFFICER. Six minutes.

Mr. AIKEN. Mr. President, I yield to the Senator from Wisconsin 3 minutes.

The PRESIDING OFFICER. It would take unanimous consent.

Mr. AIKEN. If I have unanimous consent to do so.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Wisconsin is recognized for 3 minutes.

Mr. NELSON. Mr. President, I intend to vote against the nomination for a narrowly defined specific reason.

My concern on this particular issue at this time is what I feel to be, after reviewing the record, a lack of a clearly delineated position on the part of the nominee on the question of wiretapping and surveillance. I think that anybody who holds any position of any influence at all must make a commitment to the fourth amendment, which is unequivocal in this matter.

The fourth amendment of the Constitution has been violated, off and on,

for years by this administration and previous administrations, and it is time to call a halt.

In the testimony it seems clear to me that Mr. Kissinger failed to take a position of unequivocal support for the amendment.

Mr. President, I might add that we have heard all kinds of speeches and talk here about the seriousness of unauthorized bugging and wiretap. However, this institution, the Senate, has not taken any responsibility whatsoever in doing anything about it. There is legislation pending that would bring this matter under congressional oversight. And what we have to do, and what I intend to do, is to keep raising this question of establishing a bipartisan committee of both Houses of the Congress which shall have the responsibility of calling before it, each year every single official in this government who has any authorization under any circumstances to conduct any surveillance, any wiretapping, or any bugging, and putting them under oath and having them bring in the records and notify the committee as to who was surveilled or wiretapped or bugged and under what legal authority.

Every single individual, whether he is in the government or not, has a responsibility to defend the fourth amendment of the Constitution, and the higher the position, the greater the responsibility.

I would hope that Congress, which has been dilly-dallying on this question of bringing this practice under control will quit paying lipservice to the Constitution and pass legislation implementing the provisions of the fourth amendment to the Constitution. It is long overdue.

Mr. President, Henry Kissinger is a man of unique intelligence and talents. There can be no question that he possesses the requisite ability to direct the foreign affairs of this Nation as Secretary of State.

I am not convinced, however, that Dr. Kissinger has shown sufficient sensitivity to the fundamental constitutional liberties which are the hallmarks of our democratic system. I cannot support anyone for high and influential political office who does not have a strong conviction and clearly delineated position on the issue of Government surveillance of American citizens—Government intrusion upon privacy by wire tap, bugs, and personal surveillance threatens the survival of the whole concept of personal privacy which goes to the very heart of freedom itself.

The record is clear that approximately 13 members of Dr. Kissinger's National Security Council staff had their telephones wiretapped in 1969. Those wiretaps were installed without any court authorization. There was no showing to any impartial tribunal that any of those staff members had committed or were about to commit a crime. There was no showing to any impartial tribunal that any of those staff members were in fact leaking sensitive information which could undermine our national security interests.

Dr. Kissinger knew about those wiretaps before they were installed. He provided the FBI with names of the individual staff who had access to certain sensitive information. Dr. Kissinger understood that the named individuals would probably have their telephones wiretapped by the FBI. Nonetheless, Dr. Kissinger did not voice any objection or raise any question about the propriety of such wiretaps.

At his confirmation hearings before the Foreign Relations Committee, Dr. Kissinger was asked several questions about his role in instituting wiretaps on members of his NSC staff and about his present view of such wiretaps. At no point in the hearing record is there any evidence of Dr. Kissinger's disapproval of the wiretaps which were installed in 1969 on the telephones of his staff members. At no point in the hearing record is there any evidence that Dr. Kissinger would disapprove of such wiretaps in the future.

In an exchange with the Senator from Maine, Mr. MUSKIE, Dr. Kissinger did state that, in deciding whether to install wiretaps, a balance must be struck between human liberty and national security, and that—

> The weight should be on the side of human liberty.

But implicit in Dr. Kissinger's statement is a clear willingness to condone again wiretaps installed without court authorization. Indeed, Dr. Kissinger declared flatly that he would not object to such wiretaps if they were approved by the Attorney General.

I am disturbed by Dr. Kissinger's failure to state unequivocally that he opposes, as a matter of principle, wiretaps installed without court authorization.

The fourth amendment to the Constitution states quite simply that:

> The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the persons or things to be seized.

The amendment's provisions apply to all unreasonable searches and seizures. There is no exception for national security cases. Before any search or seizure can be made by the Government, a warrant based on probable cause must be issued. In my view, this applies to all cases. The fourth amendment does not waive the requirement of a warrant based on probable cause for national security cases.

One need not be a lawyer to understand the basic purpose of the fourth amendment. It is designed to protect an individual's privacy against invasions by the Government. Nor must one be a lawyer to understand that this right of privacy is fundamental to our concept of democratic self-government.

In his dissent in the 1928 case of Olmstead against the United States, Justice Louis Brandeis made clear the significance of the citizen's fourth amendment rights:

> The makers of our Constitution undertook to secure conditions favorable to the pursuit of happiness. They recognized the significance of man's spiritual nature, of his feelings and of his intellect. They knew that only a part of the pain, pleasure and satisfaction of life are to be found in material things. They sought to protect Americans in their beliefs, their thoughts, their emotions and their sensations. They conferred, as against the Government, the right to be let alone—the most comprehensive of rights and the right most valued by civilized men. To protect that right, every unjustifiable intrusion by the Government upon the privacy of the individual, whatever the means employed, must be deemed a violation of the Fourth Amendment.

Justice Brandeis' view found expression most recently in the case of the United States against U.S. District Court, decided by the Supreme Court last year. In that case, the Court held that the Government may not install wiretaps in domestic security cases without court authorization. Speaking for a unanimous Court, Justice William Powell stated:

> Fourth Amendment freedoms cannot properly be guaranteed if domestic security surveillances may be conducted solely within the discretion of the executive branch. The Fourth Amendment does not contemplate the executive officers of the Government as neutral and disinterested magistrates. Their duty and responsibility is to enforce the laws, to investigate and to prosecute. . . . The historical judgment, which the Fourth Amendment accepts, is that unreviewed executive discretion may yield too readily to pressures to obtain incriminating evidence and overlook potential invasion of privacy and protected speech.

The Court expressly declined to decide whether court authorizations are likewise required in all cases concerning national security. Nonetheless, the same considerations which underlie the Court's decision in the domestic security case suggest strongly that court authorizations are also required in national security cases.

I discussed the issue of unlawful Government surveillance in a speech on the Senate floor on February 23, 1967. I pointed out then that Government surveillance activities unreviewed by either the Congress or the courts jeopardized the individual freedoms which are the cornerstone of our democratic system.

On April 15, 1971, I introduced the Constitutional Rights and Civil Liberties Protection Act of 1971, a bill to remedy the shameful abuses of Government wiretapping and other surveillance activities.

Most recently, on June 18, 1973, I introduced a bill to establish a Joint Committee on Individual Rights, a bipartisan congressional committee which would provide the critically necessary oversight of Government surveillance activities. The issue of unsupervised Government surveillance is one of fundamental importance to this Nation's well-being. Accordingly, I intend to keep raising the issue on the Senate floor until the Congress passes legislation to control this dangerous monster.

Today the Senate is asked to vote on the nomination of a man for the high position of Secretary of State. He is a man of unimpeachable talents; but he is, unfortunately, a man who has failed to demonstrate the requisite sensitivity to fundamental constitutional liberties.

It is no answer to state that Dr. Kissinger, as Secretary of State, would have no responsibility or authority to install wiretaps and that, therefore, his views on wiretapping are of no consequence. In a government of laws, all those who participate in public affairs must appreciate and adhere to the limitations under which the Government operates. All must share a responsibility to insure that those limitations are not violated. A decision to acquiesce in silence to a dangerous policy because it falls within someone else's jurisdiction is a decision to condone that policy.

This is not an academic debate or a mere question of philosophy. If Dr. Kissinger had not furnished the FBI with names in 1969, or if he had raised some objection to the installation of wiretaps without court authorization, the matter might have been handled with greater concern for human liberty. The same is true of the future.

Every citizen shares the responsibility to defend freedom and individual rights no matter what his station in life, and that burden is all the heavier for those in positions of power and influence.

It should be noted that the Congress itself has shamefully defaulted in its own responsibility by its failure to bring these dangerous activities under careful and regular congressional oversight.

Mr. HOLLINGS. Mr. President, on the occasion of this debate over the confirmation of Dr. Henry Kissinger to be Secretary of State, I would like briefly to state my views.

I am voting to confirm Dr. Kissinger's appointment. I do so with misgivings—presistent misgivings about his demonstrated propensity to mislead Congress, and the Nation, on vital foreign policy issues—and equally persistent misgivings about the wisdom of several Kissinger-inspired initiatives.

The most blatant misleading of the Congress goes back to the invasion—or "incursion" as the administration would have it—of Cambodia in 1970. At the time, I believed that strong military action to wipe out COSVN headquarters across the border from South Vietnam was long overdue. But I also believed that any such military action should in no way constitute a commitment to the Government of Cambodia. We had already made too many commitments in Southeast Asia—commitments that two Presidents—one a Democrat, the other a Republican—were unwilling to see through to their logical conclusion. It should have been plain to anyone with eyes to see that another commitment in Southeast Asia would only make it more difficult for the United States. Any commitment to the leaders of the Cambodian regime would only drag us headlong into another Vietnam.

At the time, Dr. Kissinger and every other administration spokesman assured us that no such commitment was contemplated or implied, and that the purpose of this "surgical incursion" was simply to shorten the war. The months passed and each one saw us further and further bogged down in Cambodia. And by 1972, we were being told by Dr. Kissinger that we must keep our "commitment" to Cambodia. The result, of course, is that we were forced to keep fighting over Cambodia even after the bombings stopped in Vietnam, because the administration—with Dr. Kissinger as the principal architect of its policy—had given a commitment to the leaders of the Lon Nol regime.

It was bad policy. And it was policy made in the same secrecy and seclusion which has characterized this administration every step of the way. Congress was misled, the people were ignored, and we reaped the result of this subversion of the democratic process.

Within the past year, Congress has also been misled on the matter of postwar aid to North Vietnam. In the presence of some 43 Senators at a rare briefing session, Dr. Kissinger assured us time and time again that the administration had given no commitment to the North Vietnamese that any aid would be forthcoming. Yet when the terms of the agreement were made public, it became clear that article 21 implicitly commits the United States to participate in the postwar process of rebuilding North Vietnam. Once more, the policy was wrong on its merits. Any aid channeled into North Vietnam will only be used to build up the military and the economy and allow the North to continue its aggressions against the South. We can no longer afford to aid our friends. How anyone could contemplate aiding our enemies is beyond me.

And not only was the policy wrong on its merits, but again it was lacking in candor. Again the strategy was to deceive rather than to inform. This time, however, the people and their representatives uncovered the facts and now the chances of any American dollars being wasted in North Vietnam are about nil. Had it been up to the administration, we would probably be engaged in a gigantic Marshall Plan for the reconstruction of Southeast Asia by now. We can be thankful that commonsense prevailed.

Even more important to America's long-term prospects is our diplomacy vis-a-vis the Soviet Union. I am one person who has never seen much worth in this new policy of consorting and cavorting with the Communist leaders of Soviet Russia. Whenever we get involved in negotiating with the Russians, we somehow manage to come out on the short end.

As I speak today, Americans all across the land are feeling the backlash of the wheat deal. This administration has always prided itself on its business acumen, but yet when they got with a few Communist traders, they lost everything but their trousers. As a result, the American housewife is being bled white to buy a loaf of bread, while the Soviets turn around and resell our wheat to Italy. A person can buy a loaf of bread in Rome more cheaply than in Columbia, S.C.

Perhaps the most ominous policy in terms of our future security was the disastrous SALT agreement on offensive weaponry signed last year. When that matter came before this body for a vote, I was one of only two Senators to vote against it. Today, the papers are filled with journalists, analysts, and repentant politicians all pointing out how bad the agreement was, and how we must do much better in any future arms agreements. What SALT did was to confirm Soviet missile superiority. Any further agreements along that line and we can forget about keeping America second-to-none in its national defense.

Mr. President, I think by now it is generally conceded that administration policy with regard to the popular struggle which gave birth to Bangladesh was completely counterproductive. Yet Dr. Kissinger and the President believed firmly in tilting toward Pakistan. By so tilting, they drove India further into the waiting arms of the Soviet Union, and further diminished American influence on the subcontinent. Now we are told that the administration tilt was necessary in order to break the ice with Communist China. For my part, Mr. President, I say let us not worry about breaking the ice if we are only going to drown as a result. For my part, I do not see the wisdom of cozying up to the Chinese if we are going to use our broadened contacts to repeat such follies as the wheat deal or the SALT agreement.

In his confirmation hearings, Dr. Kissinger assured us that a new day is dawning, and that future policy initiatives will not be taken in the dark of night or behind closed doors. I hope this is true.

We have a long way to go to restore the mechanism given us by our forefathers for the making and implementation of American foreign policy.

It has always been my belief that unless a nominee for office is obviously unfit—by reason of intelligence or character—that the President should have relatively a free hand in selecting the members of his own team. President Nixon is entitled to the same treatment as his predecessors. He was given an overwhelming victory last November at the polls. And now he must be given the chance to translate that victory into action. That is why I am today voting to confirm Dr. Kissinger's appointment. It is my sincere hope that events of recent months have made us all more cognizant of the need for cooperation and communication in all the councils of Government. I believe that message has been made clear to Dr. Kissinger, and I believe that he possesses the intelligence to see that accommodations are going to be necessary in the future.

Mr. TUNNEY. Mr. President, The Senate is voting today on the nomination of Henry A. Kissinger to be Secretary of State. Mr. Kissinger, as we well know, has been for the past 4 years an extremely active participant in the formulation of American foreign policy. From his position as adviser to the President on National Security, he has been instrumental in a number of foreign policy initiatives of enormous significance. These have included the opening of a dialog with the People's Republic of China, improvement in our relations with the Soviet Union and negotiation of the SALT agreements

Mr. Kissinger has clearly displayed superior intellectual capabilities for the position of Secretary of State. I believe the Nation will benefit by his confirmation in the post which he has been unofficially filling, in part, over the past 4 years. Of

great importance to me is the fact that, as Secretary of State, Mr. Kissinger will now be available for questioning by the Congress. This administration has hidden far too much from the American people and from the Congress. Mr. Kissinger has always been one of the administration's most open figures, and I am confident that he will share the development of foreign policy with Congress and not confine the process to the secret war rooms of the White House.

Mr. Kissinger has pledged that as Secretary of State he will not rely on the doctrine of executive privilege, except in extreme cases, and I expect him to adhere to that pledge.

In voting to confirm Mr. Kissinger, I wish to make clear that I do not condone or ratify all of the policies of the past 4 years. There is much which the Nixon administration has done wrong in its foreign policy, and for which Mr. Kissinger shares responsibility: the tragic failure to end the Vietnam war much sooner, the massive use of bombing in Cambodia after the peace agreements were signed, the ill-conceived attempt to tilt our policy toward Pakistan in 1970 and 1971; and the inattention paid to Japan and our European allies in economic matters and grand political maneuvering. I also deplore the extent to which Dr. Kissinger became involved in the deceptions and in the infringements of individual liberties which have become a hallmark of the Nixon years. The secret bombing of Cambodia in 1969 and 1970, and the wiretapping of personnel at the National Security Council, the White House, the Pentagon, and in the press, are serious matters, which have given me and other Senators pause before this vote. But the Foreign Relations Committee has examined the wiretapping situation in length, and concluded that Mr. Kissinger should not be denied confirmation because of it.

Therefore, my vote today to confirm Mr. Kissinger is a vote which recognizes that he is the de facto Secretary of State, that he and the administration have not had a perfect record, but that there is great promise for a continuing realinement of our foreign policy, with a greater role for the Congress in coming years. We must pull away from the role of world policeman, and toward an era of cooperation and friendship with other nations. Mr. Kissinger can help accomplish these goals, and as the President's choice, he is entitled to confirmation.

Mr. BROOKE. Mr. President, the Senate will confirm today, as Secretary of State, a man characterized by many as the best qualified candidate for this position in the past quarter of a century. I concur in this evaluation of Dr. Kissinger. He shall receive my concurrence to his nomination.

The soon-to-be Secretary of State is a man of strong will and conviction. He believes fervently in the policies he and the President have advocated that they hope can bring about a less violence-prone world. Many of us in this body have disagreed with some of these policies, at times intensely disagreed with them. Nevertheless, the Congress and Dr. Kissinger have been able to maintain a mutual respect for the right to differ. This respect will hopefully continue in the months ahead as we continue to debate crucial issues of foreign policy. Certainly differences between Dr. Kissinger and the Congress will continue to occur. However, I believe that when they do exist, debate will be designed by all parties to effect the solution that is best for the interests of the United States. The Congress can ask for nothing more from Dr. Kissinger and vice versa. With the expectation that this will be the case I support the nomination of Dr. Kissinger to be Secretary of State.

Mr. President, I ask unanimous consent that a recent article by C. L. Sulzberger entitled "Kissinger and Callieres" be entered in the RECORD at this point. It is a cogent summary of the sober nature of Dr. Kissinger's tasks and his unique qualifications to undertake them.

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

KISSINGER AND CALLIERES

(By C. L. Sulzburger)

WASHINGTON.—Henry Kissinger is probably better qualified than any other man to become American Secretary of State and, despite the lamentable political atmosphere in this country, one is justified in hoping this promise will be borne out by success.

Of course Senator Fulbright was right when he remarked during confirmation hearings that Kissinger had in effect already been Secretary of State four years. He certainly ran President Nixon's foreign policy and played a crisper intellectual role and more dynamic diplomatic role than the placid William Rogers.

Even so, it is one thing to be the top White House adviser and another thing to hold the Number One Cabinet position. It is even more impressive when the same man apes John Foster Dulles by holding both jobs at the same time.

Until Dulles actually moved into State he was never certain he wanted to be Secretary because that minister was "too tied up with political maneuvers and party obligations" and it might be "much more fun" to play the part of Harry Hopkins (under Roosevelt) or Colonel House (under Wilson).

He solved that quandary by being two things at once, flying about the world as a kind of proto-Kissinger and carrying in his briefcase the decision-making functions of his department and its appurtenances except for the Great Seal.

There isn't any problem about duality of functions for the newly appointed Secretary since the President has specifically stated that he will not relinquish his special advisory functions at the White House.

Mr. Kissinger brings twin advantages to his new office: he knows more about the theory and practice of foreign policy than any predecessor save perhaps Dulles; and he also happens to be the first Secretary of State in a quarter of a century who wasn't trained as a lawyer.

The last nonlegal mind running State was that of Gen. George C. Marshall. Since his tenure, Dean Acheson and Dulles (two distinguished attorneys) and Christian Herter and Dean Rusk (both of whom have law degrees) served as Secretary, as well as the lawyer, Rogers.

In his remarkable treatise (*de la manière de négocier avec les souverains*) Francois de Callières, private secretary of King Louis XIV, wrote in 1713: "In general, the training of a lawyer breeds habits and dispositions of mind which are not favorable to the practice of diplomacy."

Callières' implication was that an attorney might be more interested in winning a case than in developing a long-range program; that he might be more facile than wise; that he could be more concerned with exploiting flaws in an opponent's argument than in attaining reasonable and enduring solutions; and that he is professionally accustomed to adroitly changing positions.

Surely all of these habits could be attributed to the flamboyant Dulles who was both a brilliant negotiator and a flexible acrobat even though one doesn't need to stress Callières' point artificially by analyzing the careers of other legalbeavers at State.

Not even Kissinger's most biased critics contend he is ignorant in the complex field of foreign affairs and he has even managed under difficult circumstances to maintain tactful personal relationships with legislators now angry with the Executive. Moreover, there is reason for the State Department and the career Foreign Service to take heart from the fact they will now be headed by a tough, intelligent man.

Mr. Kissinger must surely see the need to strengthen our diplomatic representation abroad at every opportunity presented. In this endeavor he is likely to be aided by his former chief lieutenant, Alexander Haig, who has fortunately replaced H. R. Haldeman as Mr. Nixon's right hand in the White House and who is unlikely to measure ambassadorial capacities in terms of G.O.P. political donations, as seemed to be Haldeman's custom.

Here too one may expect Kissinger to take his cue from the admirable Callières, who wrote: "We find that instead of gradual promotion by degrees and by the evidence of proved capacity and experience, as is the case in the usages of war, one may often see men who have never left their own country, who have never applied themselves to the study of public affairs, being of meager intelligence, appointed so to speak overnight to important embassies in countries of which they know neither the interests, the laws, the customs, the language, nor even the geographical situation."

Mr. DOLE. Mr. President, occasionally an individual comes to government service with a set of professional and personal attributes which uniquely enhance his capacity to deal with the challenges and issues facing the Nation.

Henry Kissinger is such a person. Combining the highest academic and intellectual credentials with considerable experience at top levels in government and an abundant warmth and personal charm, he has served as Assistant to the President for National Security Affairs during 4½ years of unparalleled accomplishment for the United States in the international arena.

An end to the Vietnam war, an opening dialog with the People's Republic of China, and broader and more constructive relations with the Soviet Union have marked this period as one of the most constructive in our history and have provided the foundation for the President's continuing efforts to achieve a generation of peace for the entire world.

Dr. Kissinger's energies, resourcefulness, and conscientious dedication to realizing the President's policies have become legend in Washington and throughout the world. At the same time, he has distinguished himself as an open and candid person who has not shrunk from discussing important issues with a great number of individuals of varying persuasions.

As Assistant to the President, Dr. Kis-

singer was able to perform a variety of duties under circumstances requiring the utmost confidentiality and delicate diplomacy. For example, his secret mission to Peking, which laid the groundwork for the President's successful journey, and his many negotiating sessions with the North Vietnamese in Paris were so sensitive that they could not have been accomplished with any glare of publicity. These efforts, and the accomplishments which followed, however, have opened the door to a different era. This era is one in which the more traditional diplomatic patterns are called for as contact with China becomes more regular, Russian matters begin to fall into a more orderly pattern, and the work begins on involving the entire Nation and our allies in a diplomacy attuned to the political, military and economic realities of the coming years.

And in looking toward this new diplomatic era, President Nixon has determined that Dr. Kissinger should be given the responsibility for organizing and motivating our governmental apparatus and representing the United States as its chief foreign policy spokesman. He has nominated him to be Secretary of State, and I can think of no other person who has come to this office with better qualifications or more promise.

I commend the President for his choice and Dr. Kissinger for his competence and dedication to the Nation's best interests.

I would also like to add a word of praise for Secretary of State William Rogers, who is leaving the Cabinet with a great record of success and with the well-deserved esteem of his colleagues, the Congress and the American people. He has served two Presidents and his country with unswerving devotion and outstanding accomplishments, both as Attorney General and as Secretary of State. Few men have given the country so much, and the respect, affection, and confidence which have come to him are most appropriate and fitting.

Finally, Mr. President, I would observe that Dr. Kissinger's nomination to the most prestigious and oldest of Cabinet positions is marvelous testimony to the promise of America and the extent to which it is constantly being fulfilled. As Dr. Kissinger, himself, observed, in no other country in the world could a person of his history—a refugee immigrant—even aspire to such a position. But here in America it is possible not only for him, but for countless others, to achieve recognition and position on the sole strength of their efforts and capabilities.

The richness of our country is in its people, and Henry Kissinger is only one more reminder to each of us of the extent to which America has been strengthened by being a haven for the tired, the poor, the "huddled masses yearning to breathe free."

Mr. PELL. Mr. President. I am very glad to support the nomination of Dr. Henry Kissinger. I have known and admired him over a period of many years. I really believe that he has done a tremendous job in opening doors in Russia and China and in curtailing the strategic nuclear arms race through his contribution to the SALT negotiations.

As a longtime and strenuous opponent of the war in Indochina and many of the administration's tactics and policies there, such as the bombings, secret warfare in Cambodia and Laos and distortion of public information, I have often not seen eye to eye with Dr. Kissinger. Nevertheless, I have admired the skill, determination, and resourcefulness he demonstrated in the negotiations which helped immeasureably to terminate our military involvement in Indochina. In dealing with Hanoi, Dr. Kissinger was up against probably the world's toughest and most exacerbating negotiators, capable of trying the patience of the best of men of good will.

I have deplored the extent to which the administration has veiled its doubtful actions and usurpation of power behind executive privilege. As National Security Adviser, Dr. Kissinger in the past was limited by the executive branch in this regard. As Secretary of State, he will, of course, be far more accessible to the Congress. That is a welcomed development, especially when combined with Dr. Kissinger's announced intention to pursue an open policy of close consultation and collaboration in his relations with the Congress.

I also believe a man of Dr. Kissinger's initiative and intelligence and intellectual leadership will have a very beneficial effect on our State Department and will restore to the State Department the foreign policy planning that has not been the case since the departure of John Foster Dulles.

Mr. HELMS. Mr. President, not until this day in this session has this Senate had more than scant opportunity to cast a vote in broad assessment of the Nation's foreign policy. We have such a vote today. Normally, in its responsibility to advise and consent, the Senate does not vote on the basis of the past performance of a nominee; it merely projects, as best it can, what Senators believe a nominee will do under new circumstances.

But today we have before us the nomination of a man who has been the principal architect of our existing foreign policy, and who upon confirmation will continue to be such. There is no reason to expect that Kissinger phase II will offer any substantial development inconsistent with Kissinger phase I.

Mr. President, I have earnestly tried to weigh every aspect of this nomination. I have given considerable thought to the dual roles Dr. Kissinger will hereafter play. I have pondered the argument that a President should be allowed to have his own choice of advisers, men whom he trusts and with whom he feels comfortable.

But I have thought also, Mr. President, of my own duty, and my own conscience, in the light of my own convictions. I cannot see my duty as one of merely adding a vote of formal consent to a nomination about which I have considerable doubt.

This is not, Mr. President, a mere formality which we confront today. If it were, I cannot believe that the Founding Fathers would have bothered with the stipulation of advise and consent. In other words, I am persuaded that we are, each of us, obliged to examine this and other nominations as independent men, and vote accordingly.

But even if there were substance to the argument that each President should be allowed to appoint men to his Cabinet without question from the Senate, this particular nomination for this particular Cabinet post would have to be an exception insofar as I am concerned. It is not, in this instance, a matter of giving the nominee the benefit of the doubt. We have seen his performance. Dr. Kissinger has already been performing major functions of the Secretary of State in a role which he now agrees has been "ambiguous."

Let me emphasize, Mr. President, that it is not my purpose to doubt Dr. Kissinger's sincerity. But it is my purpose to suggest that he has been sincerely wrong. I say this in full recognition of the fact that it is not fashionable to dissent from Dr. Kissinger's professor's eye view of the world. As I review the nominee's record, I feel something like the small boy who felt compelled to discuss the emperor's clothes. I keep looking for the successes of Dr. Kissinger's foreign policy, and I cannot find them.

Dr. Kissinger posesses the kind of brilliance which may be blinding in academic circles, but it does not hold up with the folks back home who are accustomed to the practical approach in making their judgments. My people know, for example, that they are paying more for food because of the grain deal last year with the Soviet Union. They know that we sold too much, too cheap, too secretly. They know now that our granaries are nearly empty. They know that the scarcity of wheat and the scarcity of feed grains has driven up the prices in the whole food chain. They know that this triggered the administration's disastrous attempt at price controls, which, in turn drove chickens, beef, and pork off the market.

The Soviets in fact bought 25 percent of our wheat crop. They paid $1.50 a bushel and the price today is $5. The taxpayers will end up paying $400 million to subsidize the big grain middlemen and the Soviets who profited by the deal. Our shipping and railroad freight was seriously disrupted by the magnitude of the transaction. The Chicago futures market went up 75 and 85 percent for wheat and soybeans.

All of this came about because of the intense desire by Dr. Kissinger to make concessions to the Soviet Union. On January 31, 1972, he sent a directive to the Secretaries of State, Commerce, and Agriculture as follows:

> One of the possible areas for increased trade with Russia relates to agriculture products and CCC outlets. Agriculture should take the lead in a new public discussion. If negotiations with the Soviets should take place, the United States team should be headed by a representative of the Secretary of Agriculture.

On February 14 he sent another directive:

> The Department of Agriculture in cooperation with other interested agencies should take the lead in developing for the President's consideration a scenario for handling the issue of grain sales to the U.S.S.R. This should include a recommendation on how the private transactions of the U.S. grain

sales would be related to Government actions including the U.S. opening a CCC credit line and a Soviet commitment to draw on it. In cooperation with the Department of State, Agriculture should explore with the U.S.S.R. the time and modalities of beginning such negotiations as soon as possible. This should be submitted to the President by no later than 2/28.

The reason for the rush was that the Moscow summit meeting was coming up in April. At the summit meeting, the Soviets made modest commitments to purchase feed grains, but nothing was said about wheat. Negotiations continued until July, when the President announced that the Soviets had agreed to buy a minimum of $750 million in U.S. grain within the next 3 years, with credit made available through the CCC. Meanwhile, the Soviets had already begun to buy wheat in huge quantities through the big grain corporations. It was not until the wheat futures began to go up in the first days of August that the massive Soviet purchases were verified.

I regret the necessity of going into these tedious details. But I feel compelled to demonstrate clearly how all other considerations were sacrificed by Kissinger for the sake of promoting his Soviet policies. The wheat deal policy was a policy of haste and failure. The normal machinery of government was derailed. No studies were made of the economic impact of Soviet purchases, nor were alternative markets studied. We know now that the worldwide scarcities of food are creating demands that cannot be filled, yet the Soviets have in effect cornered the market. Food has become a major element of strategic and diplomatic significance, yet we have been cleaned out by the Communists.

We are talking about a deal that has had major impact upon U.S. life, and it is only one of Dr. Kissinger's agreements. I greatly fear that his other much-lauded agreements will also end up with the Soviets taking us for a ride. The issue is one of competence, and I have concluded that Dr. Kissinger has failed the test.

It is highly significant that Dr. Kissinger's chief aide and adviser on the grain deal was his longtime associate, Helmut Sonnenfeldt. Mr. Sonnenfeldt was nominated a few months ago as Under Secretary of the Treasury. The Finance Committee held hearings on Mr. Sonnenfeldt and found that he did not know such basic facts as the rate of interest the Soviets are paying in the grain deal, nor the discount rate of the United States. They also received information that Mr. Sonnenfeldt was considered a security risk in the Kennedy administration because he had given highly classified documents to a foreign power; he did not receive a clearance until the State Department security officer handling the case was removed from office and a more pliant one substituted. The nomination was sent to the committee on April 10, 1973, and the committee has been in no hurry to act. Since recent press reports say that the nomination may be withdrawn and Mr. Sonnenfeldt renominated for a high post at State, the subject of Dr. Kissinger's personnel choices becomes relevant.

It is worthy of speculation whether we will see a repeat of his action at the National Security Council when he took over there. Of the first 19 senior appointments he made there, 17 were drawn from various policymaking areas of the Kennedy-Johnson administration, giving the National Security Council a rather unusual tone for a Republican administration. Within 4 months, the problem of security leaks became so serious within this group that Dr. Kissinger was obliged to agree to having wiretaps put on their telephones in accordance with the recognized legal procedures of the time. Many of this same group later resigned over the Vietnam issue, and became vociferous critics of the President. Yet Dr. Kissinger has testified that he took only a casual interest in the problem.

The issue, I have said, is one of competence. If the Soviets took us for a ride on the wheat deal, what is going to happen on other trade agreements Dr. Kissinger is pushing so hard? Or what about the agreements that are already in place?

On the Berlin agreement, the Soviets constantly defy the meaning of the terms, and press for illegal advantages.

The Shanghai communique completely upset our relationships with our Asian allies, and caused them domestic upheaval.

The interim agreement on strategic arms limitation froze us into quantitative inferiority, while the Soviets now turn out to be much further advanced qualitatively than was admitted at the time.

The Vietnam agreement has been constantly violated from the moment it has been signed, with the Communists seeking to take over as much territory in South Vietnam as possible.

Dr. Kissinger presses the trade bill, even though we are assured by every responsible voice that such measures cause the Soviets to crack down even harder upon dissidents and those who desire to emigrate.

All of these agreements have one common denominator. They all contain semantic formulas which confirm the Soviet or Communist power positions, while judiciously avoiding mention of our point of view.

The four-power agreement on Berlin confirms Communist hegemony over East Berlin, while avoiding West Berlin's claims to sovereignty under the Bonn Republic. But the four-power agreement paved the way, with Dr. Kissinger's advice and support, for West Germany's own treaties with the East, confirming the Communist territorial gains of World War II, jettisoning the precious right to self-determination and any hope of unifying Germany under a freely elected government.

The Shanghai communique confirmed our "friendship" for the Communists of Peking, while at the same time expressing the hope that the issue of "Taiwan" would be settled by the people of Taiwan. By omission, the Republic of China was not even acknowledged as the rightful government of anywhere, even though Dr. Kissinger later assured the world that we would keep our treaty commitments to "the Republic of China." But the document that rocked Asia left our ally of decades out in the cold.

The interim agreement is hardly a year old, but we are now told by the Secretary of Defense that the Soviets are much further along with their multiple warhead tests than we expected a year ago. We now know that the Soviets have developed a so-called "pop-up" launching system for missiles that makes the silo-size limitations on missile power in the interim agreement worthless. It jeopardizes, indeed, the whole 5-year agreement. And I have been told by those who have access to better information than I have, that evidence is available indicating that the Soviets are cheating on the radar limitations and are preparing for assembly systems that could make the Tallin line defenses into a prohibited ABM system. The interim agreement, like the others, confirmed the Soviets in their gains—the quantitative lead—while leaving them the chance to catch up and surpass us in quality.

Finally, the Vietnam agreement was one which scrupulously avoided the mention of the name of our ally, South Vietnam, but gave operative recognition to the insurgent forces of North Vietnam and the Vietcong. By implication, no assertion of sovereignty was made for our ally. The actual presence of the North Vietnamese forces in the south was not mentioned; yet the reality of their presence has been a determining factor in the continued violations of the agreement by the Communists.

These agreements may be brillant semantic constructions, but they paper over the fact that no meeting of minds is contained in them. The concessions on our side are that we agree to allow the Communists to keep their illegal gains; the concession on their side is that they agree to sign a paper with us confirming their position. The mind of the ordinary American is not prepared to accept a proposition that affirms two contradictory theses. Yet the Communist method of reasoning, steeped in Marxist dialectics, has no difficulty with such a procedure. The mentality of Dr. Kissinger's most important work is alien to our thought, and, as such, is a deception on the American people. The issue again is Dr. Kissinger's competence.

We come, then, to the fundamental discussion: Is détente real, or is it a semantic illusion? It is certainly real in the sense that it is a strategy currently being pursued by the Soviets to advance their aims. But what are their aims? Published intelligence reports from England report that Soviet Party Secretary Brezhnev has been at great pains to explain the basic principles of Soviet policy to the East Europeans. Détente, Brezhnev has been saying, is a tactic designed to build up Soviet strength, militarily and economically. At the end of a 10-year period, the report says, the Soviets expect that their power will have increased to such an extent that they can gain the upper hand over the West.

The enthusiasts of détente argue that such talk is for internal consumption, a way of putting off doubters while Brezhnev normalizes relations with the West, after which it will be too late to object.

That is a neat explanation, but it does not fit the pattern of recent history. While Brezhnev has been talking, he has also been building. In the past decade, the Soviets have surpassed us in the number of missiles. They have rebuilt their navy and become the world's No. 1 naval power. They have increased their concentrations of troops and tanks in central Europe. Now they hope to get our industrial technology and capital investment, just as they got our grain.

I am not opposed to honest agreements and to mutual concessions—when we get something in return. But I profoundly disagree with policies which gives us a paper peace and disguise the real power relationships in the world. I see no logic in the assurances that the Soviet willingness to take us to the cleaners is any sign of real accommodations, or the slightest indication that they have abandoned their intent to build a world based on Marxist-Leninist principles—by force, if necessary, or by subterfuge if that is the easiest way. We can never accommodate with the Communists on basic philosophy or ultimate goals. I believe in bargaining, but not in surrender.

It gives me no pleasure to oppose this nomination. But I cannot in good conscience support it. I am aware that I shall be in the minority, and perhaps in the company of some who will be guided by motivations unlike my own.

I simply feel, Mr. President, that I should take seriously my small role in the advise-and-consent process. This I have done. Therefore I shall vote against the nomination.

The PRESIDING OFFICER. All time has expired. The question is, Will the Senate advise and consent to the nomination of Dr. Henry Kissinger to be Secretary of State? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Michigan (Mr. HART), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Utah (Mr. Moss), the Senator from Illinois (Mr. STEVENSON), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that, if present and voting, the Senator from New Jersey (Mr. WILLIAMS), the Senator from Michigan (Mr. HART), and the Senator from Illinois (Mr. STEVENSON) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from New York (Mr. BUCKLEY), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from Nebraska (Mr. HRUSKA), and the Senator from Ohio (Mr. SAXBE) are necessarily absent.

I further announce that the Senator from Utah (Mr. BENNETT) and the Senator from Ohio (Mr. TAFT) are absent on official business.

I also announce that the Senator from Oklahoma (Mr. BELLMON) and the Senator from Kansas (Mr. PEARSON) are absent because of illness.

I further announce that, if present and voting, the Senator from New York (Mr. BUCKLEY), the Senator from Oregon (Mr. HATFIELD), the Senator from Nebraska (Mr. HRUSKA), and the Senator from Ohio (Mr. TAFT) would each vote "yea."

The result was announced—yeas 78, nays 7, as follows:

[No. 403 Ex.]

YEAS—78

Aiken	Eastland	Mondale
Allen	Ervin	Montoya
Baker	Fannin	Muskie
Bartlett	Fong	Nunn
Bayh	Fulbright	Packwood
Beall	Gravel	Pastore
Bible	Griffin	Pell
Biden	Gurney	Percy
Brock	Hansen	Proxmire
Brooke	Hartke	Randolph
Burdick	Hathaway	Ribicoff
Byrd, Harry F., Jr.	Hollings	Roth
Byrd, Robert C.	Huddleston	Schweiker
Cannon	Humphrey	Scott, Pa.
Case	Inouye	Scott, Va.
Chiles	Jackson	Sparkman
Church	Javits	Stafford
Clark	Johnston	Stennis
Cook	Long	Stevens
Cotton	Magnuson	Symington
Cranston	Mansfield	Talmadge
Curtis	Mathias	Thurmond
Dole	McClellan	Tower
Domenici	McClure	Tunney
Dominick	McGee	Young
Eagleton	McIntyre	
	Metcalf	

NAYS—7

Abourezk	Hughes	Weicker
Haskell	McGovern	
Helms	Nelson	

NOT VOTING—15

Bellmon	Hart	Pearson
Bennett	Hatfield	Saxbe
Bentsen	Hruska	Stevenson
Buckley	Kennedy	Taft
Goldwater	Moss	Williams

So the nomination of Henry Kissinger to be Secretary of State was confirmed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of this nomination.

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

LEGISLATIVE SESSION

Mr. MANSFIELD. I ask unanimous consent that the Senate return to legislative session.

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

SATURDAY SESSION

Mr. MANSFIELD. Mr. President, for the information of the Senate and in order to dispel certain rumors, there will be a meeting of the Senate on tomorrow and there will be votes.

ORDER FOR DEFERRAL OF VOTES ON AMENDMENTS TO MILITARY PROCUREMENT BILL

Mr. MANSFIELD. Mr. President, a number of our colleagues will be going to the funeral of Tom Vail. They will be a little late in coming back.

I ask unanimous consent that any votes on the military procurement bill be delayed, if need be, until the hour of 2:30 this afternoon.

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

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 9256. An act to increase the contribution of the Government to the costs of health benefits for Federal employees, and for other purposes; and

H.R. 9281. An act to amend title 5, United States Code, with respect to the retirement of certain law enforcement and firefighter personnel, and for other purposes.

HOUSE BILLS REFERRED

The following bills were each read twice by their title and referred to the Committee on Post Office and Civil Service:

H.R. 9256. An act to increase the contribution of the Government to the costs of health benefits for Federal employees, and for other purposes; and

H.R. 9281. An act to amend title 5, United States Code, with respect to the retirement of certain law enforcement and firefighter personnel, and for other purposes.

DEPARTMENT OF DEFENSE APPROPRIATION AUTHORIZING ACT OF 1974

The PRESIDING OFFICER (Mr. HATHAWAY). Under the previous order, the Senate will now proceed with the consideration of the unfinished business (H.R. 9286), which the clerk will state.

The assistant legislative clerk read as follows:

A bill (H.R. 9286) to authorize appropriations during the fiscal year 1974 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test and evaluation, for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each reserve component of the Armed Forces, and the military training student loads, and for other purposes.

The PRESIDING OFFICER. The Senate will be in order. The pending question is on agreeing to the amendment No. 490 of the Senator from Iowa (Mr. HUGHES), on which there is a time limitation of 2 hours for debate.

CONSIDERATION OF A CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the distinguished Senator from Nevada (Mr. BIBLE) be recognized at this time to call

up the conference report on the Interior Department appropriation bill; that there be a time limitation thereon of 20 minutes, to be equally divided between the Senator from Nevada (Mr. BIBLE) and the Senator from Alaska (Mr. STEVENS), with both of whom I have cleared this request; and that there be a time limitation on any debatable motions or appeals—we do not expect any—in relationship thereto of 10 minutes, to be equally divided, in accordance with the usual form.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATION BILL, 1974—CONFERENCE REPORT

Mr. BIBLE. Mr. President, I submit a report of the committee of conference on H.R. 8917, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. HATHAWAY). The report will be stated by title.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 8917) making appropriations for the Department of the Interior and related agencies for the fiscal year ending June 30, 1974, 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 September 17, 1973, at page 29909.)

Mr. BIBLE. Mr. President, I yield myself such time as I may require under the limitation.

Mr. President, the bill making appropriations for the Department of the Interior and related agencies, as it passed the Senate, provided a total of $2,488,773,700 in new obligational authority and $191,200,000 to liquidate contract authority. This is a grand total of $2,679,973,700 for the Department of the Interior, exclusive of the Bureau of Reclamation and the power marketing activities, and related agencies including the U.S. Forest Service, Indian health and education activities of the Department of Health, Education, and Welfare, the National Foundation on the Arts and Humanities, and the Smithsonian Institution.

The conference committee report provides a total of $2,634,337,200, including $2,443,137,200 in new obligational authority. This is a reduction of $45,636,500 in the Senate allowance and an increase of $173,583,000 in the amount approved by the House. It represents an increase of $65,769,900 over the budget estimates considered by the Committee on Appropriations. This increase consists of a reduction of $7,000,000 in appropriations to liquidate contract authority and an increase of $72,769,900 in new obligational authority. I should also note that the total appropriation agreed to in conference is $228,400,100 under appropriations for fiscal year 1973.

Mr. President, I ask unanimous consent that a tabulation of the fiscal year 1973 appropriation and the budget, House, Senate, and conference committee allowances for fiscal year 1974 be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. BIBLE. Mr. President, I would like to point out briefly the major changes from the Senate bill.

ENERGY

Probably most attention this year has centered on the energy-related portions of this bill. Responding to mounting concern over the Nation's domestic energy resources, the Senate approved additional funding principally for the Bureau of Mines and the Office of Coal Research. I am pleased to report that the bulk of this funding was accepted by the House conferees. The total for the Bureau of Mines, $152,224,000, includes most of the Senate additions and, together with House-approved items, is a net increase of $900,000 over the Senate allowance. A similar situation occurred with respect to the Office of Coal Research, where the conference agreement was a $700,000 reduction in the $95 million approved by the Senate. This is a $32,800,000 increase in the House allowance and a $41,800,000 addition to the budget request for OCR. The conferees will expect the Interior Department to seek the approval of the House and Senate Appropriation Committees on the final allocation of the added funds.

LAND AND WATER CONSERVATION FUND

The conferees also reached a realistic agreement on differences involving the Land and Water Conservation Fund another area of intense interest this year. The total appropriation approved in conference, $76,223,000, is $11 million below the Senate allowance but $21 million above the budget request. The Senate position prevailed, that additional State assistance should be made available to those States which are exhausting prior year allocations without penalizing future grants.

FOREST SERVICE

Another difficult area where the committee was confronted with an inadequate budget request was the U.S. Forest Service. I believe the conference agreement presents the best possible answer to the resource management needs of this agency. The agreed to appropriation, $387,232,300, is $2,366,000 over the Senate allowance and $1,135,000 below the House amount. It is $17,960,000 over the budget estimate. The increase includes an additional $11,137,000 for forest land management, mainly for reforestation, timber stand improvement, and surface mining research.

ARTS AND HUMANITIES

The final figure for the National Foundation on the Arts and Humanities offers a balanced compromise. The total of $118,275,000 is $11,475,000 below the Senate allowance and $11,600,000 above the House amount. It is a reduction of $34,725,000 in the budget estimates but provides $36,761,000 more than the fiscal year 1973 appropriation.

INDIAN PROGRAMS

The total appropriations for Indian programs agreed to in conference provides $67,922,000 more than the budget request. The greater part of this increase is $40 million to continue assistance under the Indian Education Act of 1973. There was no budget estimate or House allowance for this important program. Although the final figure is a $25 million reduction in the Senate allowance, it is more than double the 1973 appropriation. Agreements on appropriations for the Bureau of Indian Affairs and Indian Health Service exceeded both the House and Senate allowances. The $533,364,000 for the BIA is $12,397,000 over the budget and the $234,210,000 for Indian health is a $15,525,000 increase.

Mr. President, this was one of the smoothest running conference committees that it has been my experience to work with in my many years of handling this bill, due principally to the charming good will of the chairman of the House committee, Representative JULIA BUTLER HANSEN of Washington.

Mr. President, I also wish to recognize the good work of the distinguished Senator from Alaska (Mr. STEVENS) who served again this year as the ranking minority member on the subcommittee.

Also, I pay tribute to the staffs on each side who were extremely helpful in working out the bill.

Mr. President, I would hope, as the Department of the Interior and its related agencies proceed with the formulation of the 1975 budget, that they will meet their problems more realistically.

The Forest Service was badly cut back, as was the Bureau of Mines and several other Interior agencies. The Land, Water Conservation Fund was almost totally crippled. These are all areas that require our attention, and I hope that we can get a more realistic budget proposal from the administration as we move into the next fiscal year.

Mr. President, I believe that the conference report presents a good agreement. It meets the Nation's needs in the programs covered by the bill with a minimal increase in what was clearly a severely curtailed budget proposal.

EXHIBIT 1

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATION BILL, FISCAL YEAR 1974 (H.R. 8917)

Agency and item	New budget (obligational) authority appropriated, 1973	Budget estimates of new (obligational) authority, 1974	Allowances			Conference allowance compared with—		
			House	Senate	Conference	Budget estimates of new (obligational) authority, 1974	House allowance	Senate allowance
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
TITLE I—DEPARTMENT OF THE INTERIOR								
PUBLIC LAND MANAGEMENT								
Bureau of Land Management								
Management of lands and resources	[1] $96,565,000	$91,347,000	$83,872,000	$83,932,000	$83,932,000	−$7,415,000	+$60,000	
Construction and maintenance	7,965,000	6,300,000	6,300,000	6,300,000	6,300,000			
Public lands development roads and trails (appropriation to liquidate contract authority)	(3,265,000)	(4,000,000)	(4,000,000)	(4,000,000)	(4,000,000)			
Oregon and California grant lands (indefinite, appropriation of receipts)	17,500,000	17,500,000	17,500,000	17,500,000	17,500,000			
Range improvements (indefinite, appropriation of receipts)	2,714,000	3,376,000	3,376,000	3,376,000	3,376,000			
Recreation development and operation of recreation facilities (indefinite, special fund)		165,000	165,000	165,000	165,000			
Total, Bureau of Land Management	124,744,000	118,688,000	111,213,000	111,273,00	111,273,000	−7,415,000	+60,000	
Bureau of Indian Affairs								
Education and welfare services	[2] 303,285,000	299,785,000	298,476,000	300,550,000	301,704,000	+1,919,000	+3,228,000	+$1,154,000
Education and welfare services (appropriation to liquidate contract authority)	(271,000)	(1,500,000)	(1,500,000)	(1,500,000)	(1,500,000)			
Resources management	[1] 86,041,000	85,358,000	86,022,000	86,108,000	86,208,000	+850,000	+186,000	+100,000
Construction	56,078,000	44,000,000	53,343,000	48,287,000	53,703,000	+9,703,000	+360,000	+5,416,000
Road construction (appropriation to liquidate contract authority)	(45,539,000)	(43,000,000)	(43,000,000)	(43,000,000)	(43,000,000)			
Alaska native fund	50,000,000	70,000,000	70,000,000	70,000,000	70,000,000			
Payment to Ute Tribe of Uintah and Ouray Reservation	65,000							
General administrative expenses	6,200,000	5,319,000	5,244,000	5,244,000	5,244,000	−75,000		
Tribal funds (definite)	3,000,000	3,000,000	3,000,000	3,000,000	3,000,000			
Tribal funds (indefinite)	13,530,000	13,505,000	13,505,000	13,505,000	13,505,000			
Total, Bureau of Indian Affairs	518,199,000	520,967,000	529,590,000	526,694,000	533,364,000	+12,397,000	+3,774,000	+6,670,000
Bureau of Outdoor Recreation								
Salaries and expenses	[3] 4,150,000	4,436,000	4,396,000	4,396,000	4,396,000	−40,000		
Land and Water Conservation Fund								
Appropriation of receipts (indefinite)	300,000,000	55,223,000	71,223,000	87,223,000	76,223,000	+21,000,000	+5,000,000	−11,000,000
Territorial Affairs								
Administration of territories	22,375,000	15,000,000	15,000,000	14,500,000	14,500,000	−500,000	−500,000	
Permanent appropriaion (special fund)	(469,000)	(420,000)	(420,000)	(420,000)	(420,000)			
Transferred from othter accounts (special fund)	(470,000)	(645,000)	(645,000)	(645,000)	(645,000)			
Trust Territory of the Pacific Islands	60,000,000	56,600,000		47,776,000	47,776,000	−8,224,000	+47,776,000	
Total, Territorial Affairs	82,375,000	71,000,000	15,000,000	62,276,000	62,276,000	−8,724,000	+47,276,000	
Total, Public Land Management	1,029,468,000	770,314,000	731,422,000	791,862,000	787,532,000	+17,218,000	+56,110,000	−4,330,000
MINERAL RESOURCES								
Geological Survey								
Surveys, investigations, and research	[4] 150,450,000	156,000,000	155,974,000	162,190,000	159,536,000	+3,536,000	+3,562,000	−2,654,000
Bureau of Mines								
Mines and minerals	[5] 157,465,000	136,824,000	145,424,000	151,324,000	152,224,000	+15,400,000	+6,800,000	+900,000
Office of Coal Research								
Salaries and expenses	43,490,000	52,500,000	61,500,000	95,000,000	94,300,000	+41,800,000	+32,800,000	−700,000
Office of Oil and Gas								
Salaries and expenses	1,558,000	16,145,000	2,585,000	2,585,000	2,585,000	−13,560,000		
Total, Mineral Resources	352,963,000	361,469,000	365,483,000	411,099,000	408,654,000	+47,176,000	+43,162,000	−2,454,000
FISH AND WILDLIFE AND PARKS								
Bureau of Sport Fisheries and Wildlife								
Resource management	[1] 76,639,500	79,004,000	80,137,000	80,377,000	80,437,000	+1,433,000	+300,000	+60,000
Construction and anadromous fish	2,333,000	9,233,000	12,846,500	5,933,000	8,126,500	−1,106,500	−4,720,000	+2,193,500
Migratory bird conservation account (definite, repayable advance)	7,100,000			7,100,000	3,500,000	+3,500,000	+3,500,000	−3,600,000
Total, Bureau of Sport Fisheries and Wildlife	86,072,500	88,237,000	92,983,500	93,410,000	92,063,500	+3,826,500	−920,000	−1,346,500
National Park Service								
Operation of the National Park System	[1] 162,918,000	176,780,000	176,720,000	187,577,000	183,052,000	+6,272,000	+6,332,000	−4,525,000
Planning and construction	[1] 54,146,000	20,000,000	20,000,000	19,744,000	20,000,000			+256,000
Road construction (appropriation to liquidate contract authority)	(5,416,000)	(35,000,000)	(35,000,000)	(35,000,000)	(35,000,000)			
Preservation of historic properties	11,559,000	19,559,000	4,054,000	15,559,000	15,559,000	−4,000,000	+11,505,000	
Planning, development and operation of recreation facilities (indefinite, special fund)		32,925,000	31,531,000	29,145,000	30,378,000	−2,547,000	−1,153,000	+1,233,000
John F. Kennedy Center for the Performing Arts	2,000,000	2,400,000	2,400,000	2,400,000	2,400,000			
Total, National Park Service	230,623,000	251,664,000	234,705,000	254,425,000	251,389,000	−275,000	+16,684,000	−3,036,000
Total, Fish and Wildlife and Parks	316,695,000	339,901,000	327,688,500	347,835,000	343,452,500	+3,551,500	+15,764,000	−4,382,500

Agency and item	New budget (obligational) authority appropriated, 1973	Budget estimates of new (obligational) authority, 1974	Allowances			Conference allowance compared with—		
			House	Senate	Conference	Budget estimates of new (obligational) authority, 1974	House allowance	Senate allowance
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
Office of Water Resources Research								
Salaries and expenses	[6] $16,344,000	$13,149,000	$13,689,000	$13,689,000	$13,689,000	+$540,000		
Office of Saline Water								
Salaries and expenses	26,871,000	2,527,000		3,727,000	3,627,000	+1,100,000	+$3,627,000	−$100,000
Office of the Solicitor								
Salaries and expenses	7,360,000	7,850,000	7,500,000	7,800,000	7,500,000	−350,000		−300,000
Office of the Secretary								
Salaries and expenses	15,295,100	18,926,000	15,495,000	16,026,000	15,495,000	−3,431,000		−531,000
Departmental operations	4,466,000	5,737,000	5,737,000	5,737,000	5,737,000			
Central energy research and development fund		25,000,000				−25,000,000		
Salaries and expenses (special foreign currency program)	500,000	1,630,000	670,000	1,000,000	670,000	−960,000		−330,000
Total, Office of the Secretary	20,261,100	51,293,000	21,902,000	22,763,000	21,902,000	−29,391,000		−861,000
Total, new budget (obligational) authority, Department of the Interior	1,769,962,600	1,546,503,000	1,467,684,500	1,598,775,000	1,586,347,500	+39,844,500	+118,663,000	−12,427,500
Consisting of—								
Appropriations	1,769,962,600	1,546,503,000	1,467,684,500	1,598,775,000	1,586,347,500	+39,844,500	+118,663,000	−12,427,500
Definite appropriations	(1,436,218,600)	(1,423,809,000)	(1,330,384,500)	(1,447,861,000)	(1,445,200,500)	(+21,391,500)	(+114,816,000)	(−2,660,500)
Indefinite appropriations	(333,744,000)	(122,694,000)	(137,300,000)	(150,914,000)	(141,147,000)	(+18,453,000)	(+3,847,000)	(−9,767,000)
Memoranda—								
Appropriations to liquidate contract authority	(54,491,000)	(83,500,000)	(83,500,000)	(83,500,000)	(83,500,000)			
Total, new budget (obligational) authority and appropriations to liquidate contract authority	(1,824,453,600)	(1,630,003,000)	(1,551,184,500)	(1,682,275,000)	(1,669,847,500)	(+39,844,500)	(+118,663,000)	(−12,427,500)
TITLE II—RELATED AGENCIES								
DEPARTMENT OF AGRICULTURE								
Forest Service								
Forest protention and utilization:								
Forest land management	[17] 299,231,000	246,324,000	259,701,000	257,961,000	257,461,000	+11,137,000	−2,440,000	−500,000
Forest research	[1] 62,146,000	57,275,000	59,145,000	59,880,000	60,160,000	+2,885,000	+1,015,000	+280,000
State and private forestry cooperation	[1] 32,837,000	23,760,000	27,760,000	26,760,000	27,760,000	+4,000,000		+1,000,000
Total, forest protention and utilization	394,214,000	327,359,000	346,606,000	344,601,000	345,381,000	+18,022,000	−1,225,000	+780,000
Construction and land acquisition	[1] 48,794,900	25,498,000	26,353,000	24,357,000	26,443,000	+945,000	+90,000	+2,086,000
Youth conservation corps	3,500,000	10,000,000	10,000,000	10,000,000	10,000,000			
Forest roads and trails (appropriation to liquidate contract authority)	(158,840,000)	(87,700,000)	(90,700,000)	(90,700,000)	(90,700,000)	(+3,000,000)		
Acquisition of lands for national forests:								
Special acts (special fund, indefinite)	80,000	94,000	94,000	94,000	94,000			
Acquisition of lands to complete land exchanges		55,300	55,300	55,300	55,300			
Cooperative range improvements (special fund, indefinite)	700,000	700,000	700,000	700,000	700,000			
Assistance to States for tree planting	1,020,000	1,020,000	1,013,000	1,013,000	1,013,000	−7,000		
Construction and operation of recreation facilities (indefinite, special fund)		3,546,000	3,546,000	3,546,000	3,546,000			
Scientific activities overseas (special foreign currency program)		1,000,000		500,000		−1,000,000		−500,000
Total, new budget (obligational) authority, Forest Service	448,308,900	369,272,300	388,367,300	384,866,300	387,232,300	+17,960,000	−1,135,000	+2,366,000
COMMISSION OF FINE ARTS								
Salaries and expenses	135,000	144,000	143,000	143,000	143,000	1,000		
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE								
Health Services and Mental Health Administration								
Indian health services	[8] 172,748,000	176,968,000	184,118,000	182,803,000	184,283,000	+7,315,000	+$165,000	+$1,480,000
Indian health facilities	44,549,000	41,717,000	46,027,000	50,107,000	49,927,000	+8,210,000	+3,900,000	−180,000
Total, Health Services and Mental Health Administration	217,297,000	218,685,000	230,145,000	232,910,000	234,210,000	+15,525,000	+4,065,000	+1,300,000
Office of Education								
Indian education	18,000,000			65,000,000	40,000,000	+40,000,000	+40,000,000	−25,000,000
INDIAN CLAIMS COMMISSION								
Salaries and expenses	1,075,000	1,086,000	1,086,000	1,086,000	1,086,000			
NATIONAL CAPITAL PLANNING COMMISSION								
Salaries and expenses	1,425,000	1,462,000	1,459,000	1,459,000	1,459,000	−3,000		

Footnotes at end of table.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATION BILL, FISCAL YEAR 1974 (H.R. 8917)—Continued

Agency and item	New budget (obligational) authority appropriated, 1973	Budget estimates of new (obligational) authority, 1974	Allowances			Conference allowance compared with—		
			House	Senate	Conference	Budget estimates of new (obligational) authority, 1974	House allowance	Senate allowance
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
TITLE II—RELATED AGENCIES—Continued								
NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES								
SALARIES AND EXPENSES								
Endowment for the arts	$34,700,000	$65,000,000	$49,675,000	$58,250,000	$54,275,000	−$10,725,000	+$4,600,000	−$3,975,000
Endowment for the humanities	34,500,000	65,000,000	42,500,000	50,000,000	44,500,000	−20,500,000	+2,000,000	−5,500,000
Administrative expenses	5,314,000	8,000,000	6,500,000	6,500,000	6,500,000	−1,500,000		
Subtotal, salaries and expenses	74,514,000	138,000,000	98,675,000	114,750,000	105,275,000	−32,725,000	+6,600,000	−9,475,000
MATCHING GRANTS								
Endowment for the arts (indefinite)	3,500,000	7,500,000	4,000,000	7,500,000	6,500,000	−1,000,000	+2,500,000	−1,000,000
Endowment for the humanities (indefinite)	3,500,000	7,500,000	4,000,000	7,500,000	6,500,000	−1,000,000	+2,500,000	−1,000,000
Subtotal, matching grants	7,000,000	15,000,000	8,000,000	15,000,000	13,000,000	−2,000,000	+5,000,000	−2,000,000
Total, National Foundation on the Arts and the Humanities	81,514,000	153,000,000	106,675,000	129,750,000	118,275,000	−34,725,000	+11,600,000	−11,475,000
SMITHSONIAN INSTITUTION								
Salaries and expenses	51,633,000	56,438,000	55,438,000	55,438,000	55,438,000	−1,000,000		
Museum programs and related research (special foreign currency program)	3,600,000	9,000,000	4,500,000	4,500,000	4,500,000	−4,500,000		
Science information exchange	1,000,000	1,665,000	1,650,000	1,650,000	1,650,000	−15,000		
Construction and improvements, National Zoological Park	675,000	3,850,000	3,650,000	3,850,000	3,790,000	−60,000	+140,000	−60,000
Restoration and renovation of buildings	5,014,000	1,220,000	1,070,000	1,070,000	1,070,000	−150,000		
Construction	13,000,000							
Construction (contract authority)	27,000,000							
Construction (appropriation to liquidate contract authority)		(27,000,000)	(17,000,000)	(17,000,000)	(17,000,000)	(−10,000,000)		
Salaries and expenses, National Gallery of Art	5,420,000	5,832,000	5,832,000	5,832,000	5,832,000			
Salaries and expenses, Woodrow Wilson International Center for Scholars	800,000	800,000	800,000	800,000	800,000			
Operation and maintenance, John F. Kennedy Center for the Performing Arts	[9] 1,500,000							
Total, Smithsonian Institution	110,142,000	78,805,000	72,940,000	73,140,000	73,080,000	−5,725,000	+140,000	−60,000
HISTORICAL AND MEMORIAL COMMISSIONS								
Franklin Delano Roosevelt Memorial Commission	38,000							
American Revolution Bicentennial Commission Salaries and Expenses	[10] (6,224,000)	[10] (7,100,000)				[10] (−7,100,000)		
NATIONAL COUNCIL ON INDIAN OPPORTUNITY								
Salaries and expenses	290,000	300,000	100,000	300,000	200,000	−100,000	+100,000	−100,000
FEDERAL METAL AND NONMETALLIC MINE SAFETY BOARD OF REVIEW								
Salaries and expenses	160,000	160,000	60,000	150,000	60,000	−100,000		−90,000
JOINT FEDERAL-STATE LAND USE PLANNING COMMISSION FOR ALASKA								
Salaries and expenses	708,800	750,000	694,400	694,400	694,400	−55,600		
PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION								
Salaries and expenses	[1] 350,000	200,000	200,000	500,000	350,000	+150,000	+150,000	−150,000
Total, new budget (obligational) authority, related agencies	879,443,700	823,864,300	801,869,700	889,998,700	856,789,700	+32,925,400	+54,920,000	−33,209,000
Consisting of—								
Appropriations	852,443,700	823,864,300	801,869,700	889,998,700	856,789,700	+32,925,400	+54,920,000	−33,209,000
Definite appropriations	844,663,700	894,524,300	(789,529,700)	(870,658,700)	(839,449,700)	(+34,925,400)	(+49,920,000)	(−31,209,000)
Indefinite appropriations	(7,780,000)	(19,340,000)	(12,340,000)	(19,340,000)	(17,340,000)	(−2,000,000)	(+5,000,000)	(−2,000,000)
Contract authority	27,000,000							
Memoranda—								
Appropriations to liquidate contract authority	(158,840,000)	(114,700,000)	(107,700,000)	(107,700,000)	(107,700,000)	(−7,000,000)		
Total, new budget (obligational authority and appropriations to liquidate contract authority	(1,038,283,700)	(938,564,300)	(909,569,700)	(997,698,700)	(964,489,700)	(+25,925,400)	(+54,920,000)	(−33,209,000)
RECAPITULATION								
Grand total, new budget (obligational) authority, all titles	2,649,406,300	2,370,367,300	2,269,554,200	2,488,773,700	2,443,137,200	+72,769,900	+173,583,000	−45,636,500
Consisting of—								
Appropriations	2,622,406,300	2,370,367,300	2,269,554,200	2,488,773,700	2,443,137,200	+72,769,900	+173,583,000	−45,636,500
Definite appropriations	(2,280,882,300)	(2,228,833,300)	(2,119,914,200)	(2,318,519,700)	(2,284,650,200)	(+56,316,900)	(+164,736,000)	(−33,869,500)
Indefinite appropriations	(341,524,000)	(142,034,000)	(149,640,000)	(170,254,000)	(158,487,000)	(+16,453,000)	(+8,847,000)	(−11,767,000)
Contract authority	27,000,000							
Memoranda—								
Appropriations to liquidate contract authority	(213,331,000)	(198,260,000)	(191,200,000)	(191,200,000)	(191,200,000)	(−7,000,000)		
Grand total, new budget (obligational) authority and appropriations to liquidate contract authority	(2,862,737,300)	(2,568,567,300)	(2,460,754,200)	(2,679,973,700)	(2,634,337,200)	(+65,769,900)	(+173,583,000)	(−45,636,500)

[1] Includes the following amounts contained in the 2d Supplemental bill fiscal year 1973:

Bureau of Land Management, "Management of lands and resources"	$18,500,000
Bureau of Indian Affairs, "Resources management"	2,900,000
Bureau of Sport Fisheries and Wildlife, "Resource management"	900,000
National Park Service:	
Operation of the National Park System	4,040,000
Planning and construction	3,100,000
Forest Service:	
Forest land management	43,627,000
Forest research	1,003,000
State and private forestry cooperation	77,000
Construction and land acquisition	213,000
Pennsylvania Avenue Development Corporation, "Salaries and expenses"	350,000
Total	74,710,000

[2] In addition $2,040,000 transferred from "Salaries and expenses," Office of Water Resources Research and $286,000 from "Surveys, investigations, and research," Geological Survey pursuant to the 2d Supplemental bill fiscal year 1973.

[3] In addition $72,000 transferred from "Surveys, investigations, and research," Geological Survey pursuant to the 2d Supplemental bill fiscal year 1973.

[4] Includes $1,064,000 transferred to other Interior Agencies pursuant the 2d Supplemental bill fiscal year 1973.

[5] In addition $706,000 transferred from "Surveys, investigations, and research," Geological Survey pursuant to the 2d Supplemental bill fiscal year 1973.

[6] Includes $2,040,000 transferred to "Education and welfare services," Bureau of Indian Affairs pursuant to the 2d Supplemental bill fiscal year 1973.

[7] In addition $3,179,000 transferred from "Forest Research" and $5,000,000 from "State and private forestry cooperation" pursuant to the 2d Supplemental bill fiscal year 1973.

[8] In addition $2,734,000 transferred from "Special benefits for disabled coal miners," pursuant to the 2d Supplemental bill fiscal year 1973.

[9] Appropriated in fiscal year 1973 for obligations incurred in fiscal year 1972. Fiscal year 1973 funding is included in the National Park Service Appropriation.

[10] Figures not included in totals since fiscal year 1974 budget request was not considered by either the House or the Senate.

Mr. BIBLE. Mr. President, I move that the conference report be agreed to.

Mr. STEVENS. Mr. President, I yield myself such time as I may require under the limitation.

I wish to commend my good friend, the distinguished chairman of the subcommittee, Mr. BIBLE, for the excellent job he did on this bill and throughout the conference.

As he has mentioned, it was a smooth-running conference. I think we can all agree, our chairman has been very fair to the Members of this body. Certainly, the rapport he has with the chairman of the subcommittee on the House side is primarily responsible for the fact that we have a conference report here today to which I know of no objection from any Member of the Senate.

I wish to mention two items. One is the expression of the conferees on page 11 of the report in which we state:

> The managers are deeply disturbed over the arbitrary manner in which the Agriculture Department and OMB have impounded all Congressional additions to the Forest Service budget. They direct that this practice of rejecting congressional priorities without regard to merit or need be discontinued immediately.

I hope the Department and the Office of Management and Budget will take heed of that, because in the past year, all the congressional add-ons were completely disregarded and were frozen, without regard to their merits. I cannot believe that the administration, particularly the Forest Service, should treat congressional priorities in the arbitrary manner they did in fiscal year 1973, a sharp departure from the way in which they have been treated in the past. If it happens again, I am quite hopeful that we will carry out the procedure that was discussed and have the person who is responsible for the decision appear before our committee forthwith.

I wish to comment on one other matter, and that is that it was the Senate's intention that there be an additional advance from the Alaska Native Fund for the regional corporations that were formed under the Alaska Native Land Claims Act. This matter had not been presented to the House committee, and for that reason, the conference report makes available an additional $1 million to be advanced, by the discretion of the Secretary of the Interior, to those corporations, based upon their immediate needs. It is our intention to present the request for an additional advance to the House committee at the time of the consideration of the first supplemental that comes before Congress.

The funding for the Department of the Interior and related agencies as reported by the committee on conference is some $72 million over the budget. This increase over the budget is largely due to increased funding we provided for two high priority programs.

First, we added $40 million to continue the programs of the Indian Education Act initiated in fiscal year 1973. These funds will be used to meet the needs of Indian students who are attending the country's elementary and secondary schools. Some of the funds will be used for adult Indian education. We did not have a budget request for this program but it was felt by both the Senate committee and the conference that this important program should be funded again this year.

The other large increase that caused us to be over the budget is the amount we have provided for coal research. The conference has agreed to provide an additional $41.8 million over the budget for the Office of Coal Research. I believe that the justification for this increase is obvious inasmuch as we all know of the problems we are having with energy shortages. I would like to inform my colleagues that the requests for additional funds in this area were much higher than the amount we provided. However, with the very able assistance of the junior Senator from West Virginia (Mr. ROBERT C. BYRD) and others, we were able to obtain agreement in conference on this item.

Mr. President, again I commend our chairman and thank the staff for their excellent work on this bill.

The able chairman of the subcommittee has already done a fine job of explaining the report, so I do not think it is necessary that I go into any further detail. I support the conference report and I urge the support of it by my colleagues.

Mr. BIBLE. Mr. President, I move that the conference report be agreed to.

The PRESIDING OFFICER. Is all time yielded back?

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

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

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Nevada.

The motion was agreed to.

The PRESIDING OFFICER. The clerk will report the amendments in disagreement.

The assistant legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 4 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert "$303,204,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 6 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert "$86,208,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 7 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert "$53,703,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 15 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert "$152,224,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 17 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert "$80,437,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 29 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert "$257,461,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 30 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: "$60,160,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 32 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert "$26,443,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 36 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert "$184,283,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 39 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert "$105,275,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 40 to the aforesaid bill, and concur therein with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert "$46,025,000".

Resolved, That the House recede from its disagreement to the amendment of the Sen-

ate numbered 41 to the aforesaid bill, and concur therein with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert "$44,500,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 42 to the aforesaid bill, and concur therein with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert "$13,000,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 48 to the aforesaid bill, and concur therein with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

": *Provided,* That this limitation shall not apply to specific quantities of grades and species of timber which said Secretaries determine are surplus to domestic lumber and plywood manufacturing needs".

Mr. BIBLE. Mr. President, I move that the Senate concur in the amendments of the House to the amendments of the Senate numbered 4, 6, 7, 15, 17, 29, 30, 32, 36, 39, 40, 41, 42, and 48.

The motion was agreed to.

INTRODUCTION OF A BILL AND VACATING OF A MOTION TO RECONSIDER

(The remarks Senator MAGNUSON made at this point on the introduction of S. 2466 and the ensuing discussion on the order to vacate his motion of September 19, to reconsider the vote by which the Senate passed S. 2410, the Medical Services Act, are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

REPORT ON ADMINISTRATION OF NATIONAL SICKLE CELL ANEMIA CONTROL ACT—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. ABOUREZK) laid before the Senate a message from the President of the United States, which, with the accompanying report, was referred to the Committee on Labor and Public Welfare. The message is as follows:

To the Congress of the United States:

I am pleased to send to the Congress the First Annual Report on the Administration of the National Sickle Cell Anemia Control Act in accordance with the requirements of Section 1106 of the Public Health Service Act, as amended. The Annual Report describes the ongoing research and service activities established to carry out the provisions of the act.

Research efforts to investigate the mechanism and subsequent complications of the abnormal sickling process in sickle cell anemia have been significantly increased over the past year under the National Institutes of Health. Clinical trials utilizing antisickling agents are underway to alter the sickling process and thus aid individuals who suffer from sickle cell anemia. Demonstration service activities designed to improve public awareness, education, detection and counseling concerning sickle cell disease have been initiated by the Health Services Administration.

These efforts are directed towards one genetic blood disorder—sickle cell disease, but the research and service results will also be relevant to a broader spectrum of genetic blood disorders. The fight against sickle cell anemia continues to be a high priority for our Government and I am pleased to commend this report to the attention of the Congress.

RICHARD NIXON.

THE WHITE HOUSE, *September 21, 1973.*

EXECUTIVE MESSAGE REFERRED

As in executive session, the Presiding Officer (Mr. ABOUREZK) laid before the Senate a message from the President of the United States submitting the nomination of James H. Quello, of Michigan, to be a member of the Federal Communications Commission, which was referred to the Committee on Commerce.

TO GIVE AND TO TAKE AWAY—PART 2

Mr. JAVITS. Mr. President, on June 29th, as the Senate was engaged in the 11th hour consideration of the continuing resolution to provide funds for Federal programs for the new fiscal year beginning July 1st, I spoke with reference to the so-called hold-harmless provision contained in that bill, now Public Law 93-52, and also contained in the House-passed fiscal year 1974 appropriations bill, H.R. 8877. That proviso stipulates that no State will receive less under title I-A of the Elementary and Secondary Education Act—ESEA—than it received during fiscal year 1972.

At that time I pointed out that, as confirmed by the U.S. Office of Education, the provision would not prevent local school districts disadvantaged by the 1970 census from a precipitous loss of grant funds, as the House sponsors had argued, and would, as a matter of fact, result in a windfall for a limited number of school districts in 21 States at the expense of all school districts in 29 States.

I pointed out that if we wished to cushion local school districts against a precipitous loss in title I funds because of changes brought about by use of the 1970 census instead of the outdated 1960 census—and I, for one, would want to do that—the hold-harmless provision should be modified to apply to the local educational agencies—computed by counties—at 80 percent of the 1973 level.

There was no opportunity at the time of my June 29th remarks to modify the hold-harmless clause in the continuing resolution as it was necessary to adopt the funding measure before the 1973 fiscal year expired the next day on June 30th. However, the Congress will have an opportunity to restore equity to title I funding in the Labor-HEW appropriation bill presently pending in committee and in the next continuing resolution which must be enacted before the end of this month.

Since I last spoke on this subject, a number of questions have arisen concerning the equity of the hold-harmless proviso, even from those who previously advocated its inclusion in the appropriations language.

First, it is becoming increasingly apparent that the design of the hold harmless provision is contrary to the very intent of its designers. As it is now being applied to the first quarter allocations of fiscal year 1974 it is obvious that although it is holding some States at their fiscal year 1972 levels, it is not in fact accomplishing its purpose of preventing dislocations of local budgetary processes—even in the beneficiary States. The reason is that the ESEA statute obliges the Office of Education to allocate title I funds at the county level. Thus, in determining a county's share, a loss in eligible students under the 1970 census automatically renders a loss in title I funds for that county. Even though a State as a whole may be receiving the same amount it received in fiscal year 1972, there may still be counties within the State receiving less than received in fiscal year 1972—or in fiscal year 1973. Thus, some counties in beneficiary States get richer, others in the same State stay just as poor, and counties in nongaining States lose even more than they would without the proviso.

Second, the 100-percent-hold-harmless provision creates inequitable variations in the amount of funds allocated to different parts of the country. For example, South Carolina would receive $438 per title I pupil—against $211 if there were no 100-percent-hold-harmless provision—while five other States—California, Colorado, Indiana, Ohio, and Utah—would be receiving only $170 per title I pupil—each would get between $208 and $210 in the absence of the 100 percent hold harmless. Can we realistically expect that these five States can accomplish the same goals at $170 per title I pupil as South Carolina can accomplish with several times as much at $438, especially when one considers the higher costs in California, Colorado, Indiana, Ohio, and Utah?

Equally inequitable is the pupil-teacher ratio. If one divides the State average teacher's salary into the money available to local educational agencies and then divides the result into the count of title I children, it will be shown that the number of teachers per 100 title I children ranges from a high of 6.3 in Mississippi to a low of 1.4 in California. While I do not argue that every State's ratio should be identical, I do contend that a spread of 4½ to 1 shows that correction is needed.

Also, with the 100 percent 1972 level State hold harmless provision some States receive almost 90 percent of their State average per pupil expenditure, while 14 States are receiving less than 20 percent of their State average per pupil expenditure. Furthermore, the State receiving the highest percentage of its average per pupil expenditure re-

ceives over 25 percent of its revenue for public elementary and secondary education from Federal funds. At the same time, some of those States receiving the lowest percentage of their average per pupil expenditure receive about 3 percent of their revenue for public elementary and secondary education from Federal funds.

There are those who contend that the present title I formula is inadequate to national or local needs and that other provisions of ESEA, including title I, should be changed. Many of these arguments have a firm foundation. That is why the Subcommittee on Education has been conducting—and continues to conduct—hearings on the Elementary and Secondary Education Act. The way to change title I and other elements of ESEA is through the deliberative process in committee and on the floor in the authorizing legislation and not appreciably to alter the program through hastily debated "hold harmless" and "grandfather" provisos in the appropriation bill.

In fiscal year 1966, the first year of its operation, Congress appropriated $959 million for title I. We are now considering an appropriation of nearly twice that amount, $1.81 billion. Title I has enjoyed this congressional support because, notwithstanding its shortcomings, it has done a credible job in educating the disadvantaged in all parts of the Nation, communities in one State enjoying its benefits with reasonable equity with other communities in other States. I hope that this broad base of support will not be endangered by uniquely devised provisos in appropriation measures which alter the direction of the flow of funds from that contemplated in the authorizing legislation. Changes should be made—few argue to the contrary—but such changes should be reasonable and made with care and deliberation. The 100 percent hold harmless is discriminatory and unreasonable.

I ask unanimous consent that there be included at this point in my remarks a table illustrating points which I have made:

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

ESEA TITLE I, FISCAL YEAR 1974—ANALYSIS BASED ON $1,810,000,000 APPROPRIATION AND 100 PERCENT STATE HOLD HARMLESS PROVISION AT 1972 LEVEL AS CONTAINED IN HOUSE-PASSED FISCAL YEAR 1974 LABOR-HEW APPROPRIATION BILL (H.R. 8877) AND CONTINUING RESOLUTION (PUBLIC LAW 93-52)

State	State average per pupil grant	State average per pupil grant as percent of State average per pupil expenditure	Number of teachers per 1,000 title I children
Alabama	$402.72	76.07	5.1
Alaska	290.35	19.99	1.9
Arizona	185.48	24.86	2.0
Arkansas	427.01	82.33	6.2
California	170.58	19.94	1.4
Colorado	170.42	20.97	1.8
Connecticut	200.19	19.83	1.9
Delaware	199.77	20.05	2.0
Florida	175.44	22.45	2.1
Georgia	279.68	43.38	3.4
Hawaii	195.95	19.92	1.7
Idaho	188.84	30.95	2.5
Illinois	$196.94	19.84	1.8
Indiana	170.84	21.81	1.7
Iowa	284.97	32.95	2.9
Kansas	220.90	28.06	2.6
Kentucky	353.57	61.83	4.5
Louisiana	253.04	35.32	2.8
Maine	175.96	24.80	2.0
Maryland	195.47	19.83	1.8
Massachusetts	177.36	19.83	1.8
Michigan	192.75	19.83	1.6
Minnesota	257.28	25.58	2.4
Mississippi	420.34	89.51	6.3
Missouri	253.76	35.14	2.8
Montana	208.43	26.00	2.3
Nebraska	229.92	28.48	2.6
Nevada	176.97	22.45	1.7
New Hampshire	173.27	22.48	1.9
New Jersey	225.17	19.83	2.1
New Mexico	222.96	32.36	2.1
New York	295.12	19.84	2.3
North Carolina	390.50	63.84	4.7
North Dakota	267.14	38.98	4.0
Ohio	170.51	22.35	2.0
Oklahoma	254.99	40.88	3.3
Oregon	189.59	19.81	1.9
Pennsylvania	183.75	20.20	1.9
Rhode Island	188.96	19.85	1.9
South Carolina	438.59	76.80	5.7
South Dakota	328.20	45.64	4.2
Tennessee	427.22	77.28	5.2
Texas	250.04	37.44	2.9
Utah	170.99	25.74	1.9
Vermont	190.39	23.88	2.3
Virginia	270.71	36.65	2.9
Washington	177.20	19.82	1.6
West Virginia	389.77	60.51	4.6
Wisconsin	188.47	19.83	2.1
Wyoming	212.40	24.08	2.4
District of Columbia	221.55	19.84	1.9

DEPARTMENT OF DEFENSE APPROPRIATION AUTHORIZATION ACT, 1974

The Senate continued with the consideration of the bill (H.R. 9286) to authorize appropriations during the fiscal year 1974 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test, and evaluation, for the Armed Forces, and to prescribe the authorized personnel strength for each active-duty component and of the Selected Reserve of each Reserve component of the Armed Forces, and the military training student loads, and for other purposes.

Mr. HUGHES addressed the Chair.

The PRESIDING OFFICER. The Senator will suspend so that we can get order in the Senate. The Chair would ask that Senators who are conversing cease their conversation or remove themselves from the Chamber. The Chair cannot hear the Senator from Iowa who ordinarily has a loud voice. The Chair would appreciate very much if Senators would stop conversing. May we have order in the Chamber.

The Senator from Iowa may proceed.

Mr. HUGHES. Mr. President, what is the pending amendment?

The PRESIDING OFFICER. The pending amendment is amendment No. 490.

Mr. HUGHES. Mr. President, I am not known for proposing increases in the defense budget, but in the case of amendment No. 490 I believe that a little more spent now may well save us from wasting billions in the future.

The B-1 program is clearly in trouble. Costs are soaring to over $45 million per plane built, or over $56 million if research and development costs are included. And those costs are likely to go even higher, because of inflation or slippages or ordinary costs overruns or some combination of each.

Already this year, the production decision point has slipped a full year. The Armed Services Committee expressed its concern over the program by cutting $100 million of the requested $473 million. And now the Air Force is taking the welcome action of full-scale management reviews.

Even these steps may not be sufficient to bring this program back into line. If decisive action is not taken quickly, the Air Force may find itself without a follow-on manned bomber, or we may be able to afford only a small percentage of the estimated need.

I am personally skeptical about the need for such a bomber at all. Intercontinental missiles have greatly reduced the utility of manned strategic bombers. Planes on runways are a tempting target, and their slow speed, relative to missiles, makes it likely that their contribution to a nuclear war would be merely the bombing of empty missile silos or posthumous revenge on already devastated cities.

Since majorities in the Congress still appear to support the concept of a manned strategic power, I believe it is important for all of us to search for a low-cost means of accomplishing this mission. Otherwise, we will be saddling our taxpayers with an $11 billion mistake.

Pending the Air Force's own review of this program and its restructuring to deal with the committee's cut, I believe the prudent course would be to commission full-scale studies of alternatives to the B-1 now, so that the Congress next year will have a more realistic choice than between the B-1 and nothing. Amendment No. 490 would do just that, since it provides $5 million for the Secretary of Defense to take a comprehensive look at alternatives and then report to Congress by next April 1, in plenty of time for adequate consideration by the Congress.

Such a new study of design and cost alternatives is necessary because, according to testimony before the Research and Development Subcommittee by B-1 systems division director, General Nelson:

> 1969 was the last year that a real funded effort was directed at studying a range of alternatives for the B-1.

Yet we all know that many changes have occurred since then both in our economy and in the international strategic environment.

As recently as July 27, Air Force Secretary McLucas declined to pinpoint the cost at which the B-1 was so expensive that the Air Force would have to go back to the drawing boards. However, Secretary McLucas did say "I do not think we are all that far from being there now."

If we may have to come up with a new design, I think it is important for there to be funds for a significant study of alternatives. Amendment No. 490 would provide that hedge for the Air Force as

well as new information for the Congress.

We still have to develop a new manned bomber, for the Air Force admits that the B–52 G and H models will continue as viable operational systems for at least 8 to 10 years. And D.D.R. & E. John Foster told the committee this year that, if we had to go for a new plane:

I would assume that it would be at least five or six years and possibly longer.

Thus, we have a 2- to 5-year margin in which to develop a new bomber, if we choose to do so.

There are already some alternatives which could be readily available—a new version of the B–52, additional FB–111's or a longer range stretched version of that proven and effective bomber.

Perhaps the best and least costly alternative would be a standoff bomber carrying missiles which could be launched against enemy targets several hundred miles away, thus negating the requirement for the special characteristics now needed to penetrate enemy defenses. Development of a fleet of such planes could save vast sums not only in procurement, but also in reducing the need for tankers.

Amendment No. 490 would direct the Secretary of Defense to consider such specific alternatives, as well as the advantages and disadvantages of certain questionable and costly design features of the current B–1—such as the swing wing which has caused such problems for the SST and TFX and F–14.

If this amendment is adopted, the Congress will know next spring what it would cost to have the B–1 compared to other planes or modified designs. We will know, if only roughly, how much it would cost to develop such planes, how much to build them, and how much to operate them. On the basis of this information, we can better choose which way to go.

Mr. President, my office furnished a copy of this amendment to the Air Force in the hope that they would comment on it. They did and just this morning we received a reply addressed to Mr. Stevenson of my staff, who is the legislative adviser on military affairs for me. In this letter, General Boswell claims these things have been done. I wish to read a part of the letter into the RECORD. He said:

The alternative systems directed to be studied in the proposed amendment are: (1) an all subsonic bomber; (2) a fixed wing bomber; (3) a stretched version of the FB–111 aircraft; (4) a new or modified version of the B–52 bomber; and (5) a non-penetrating bomber and stand-off missile system. Each of these system concepts has been previously studied, either in the conceptual studies which defined the B–1 or in studies completed since B–1 development was initiated. In the conceptual studies over the years 1963 through 1969, candidates for a follow-on bomber to the current B–52 were examined in detail including all subsonic bombers, all supersonic bombers based on the SST and SR–71, large C–5-type bombers, small stretched F–111 bombers, fixed wing bombers, and bombers with variable geometry wings. When the Advanced Manned Strategic Aircraft (AMSA, now known as the B–1) evolved as the most promising candidate, numerous trade-off studies were made on individual characteristics to determine the justification for such features as the supersonic speed capability and the variable geometry wing configuration. In 1972, a detailed study examined the cost-effectiveness of modifying the B–52 with new engines. In this same year, the relative effectiveness of non-penetrating bombers (standoff missile launchers) was examined versus penetrating bombers like the B–52 and B–1. The consensus of all these studies is that a penetrating bomber such as the B–1 is the preferred aircraft to assure a viable bomber element in our strategic deterrent force against the threats postulated for the 1980s and beyond.

In addition to the above, DOD and the Air Force are continually reviewing the relative cost affectiveness of major weapon systems, such as the B–1. In view of these past efforts and the continuing assessments of weapon systems an additional $5M as provided in the proposed amendment would be redundant and overly costly.

Mr. President, with all due respect to the Air Force and the statement in relation to this, many of the studies referred to in this letter were completed as far back as 1969 or earlier. They do not take into account much of the later developments, sophisticated improvements, the recent economic changes, the evidence from Air Force testing of other airplanes, and what might be accomplished in the future.

Seldom if ever have I proposed an increase in the military procurement budget, but at this time I think the stakes are so high on the B–1 bomber that not to accomplish the expenditure of a few million dollars; namely, $5 million in this amendemnt, to make an in-depth study of all the alternatives based on the latest research information that this country has available to it would be a tragic mistake.

This amendment would not hold up anything; it just assures those in the Senate and those who serve on the Committee on Armed Services that by next April 1, if this amendment is agreed to, we can have in our hands the full facts for us to decide whether to continue the B–1, or to pursue suitable alternatives that might be entirely different, but more cost effective, based on the survey.

This task is also placed in the hands of the Secretary of Defense rather than the Secretary of the Air Force, and I believe would furnish us with suitable information to make a more educated determination on the basis of a longrun future need for this type of aircraft.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. SYMINGTON. Mr. President, I have listened with interest to the fine presentation of this proposed amendment by the able Senator from Iowa. I did not know about this amendment until yesterday, and have not had an opportunity to study his statement.

I am not sure in my own mind that a long-range, multimillion dollar bomber is best in the missile age. From a cost-effective standpoint, a relatively inexpensive missile proved itself to be a danger to any plane in the Vietnam war, and that would be far more true if we were fighting a first-class power.

It has been my opinion that the stretched FB–111, with refueling and its unusual capacity for performance at low altitude, could do the job in current war plans.

I think the B–1 is probably the best modern bomber that could be the follow on of a bomber comparable to the B–52. As the able Senator knows, we put a great many millions of dollars into a substitute for the B–52, called the B–70, then that bomber was abandoned by the Air Force and changed to a reconnaissance plane, but only after a great deal of money had been spent. I believe it was well over $1 billion.

If we go to another long-range bomber, I do not see the need for any one different from the B–1. If we only want the launching of a supersonic or subsonic cruise missile, we have that already, in effect, in the B–52, which, as modified, is a good airplane, although subsonic.

The price of the B–1 is high, but the price of another airplane that would be comparable to it would also be high, and no airplane of this size and character could operate supersonic on the deck.

For these reasons, although I have great respect for the Senator's opinion in these matters, as he well knows, I must vote against the study recommended.

Mr. TOWER. Mr. President, will the Senator yield me 5 minutes?

Mr. SYMINGTON. I yield 5 minutes to the distinguished senior Senator from Texas.

Mr. TOWER. Mr. President, this amendment is unsound, and I recommend that it be defeated.

The proposed amendment, if approved, would result in a wasteful expenditure of the taxpayers' money—and that is certainly something we want to avoid. One important reason such expenditures would be wasteful is—quite simply—that the proposed alternatives have been extensively studied in the past, and are continuing to be studied by the DOD as technology evolves.

The alternative systems directed to be studied in the proposed amendment are: First, an all subsonic bomber; second, a fixed wing bomber; third, a stretched version of the FB–111 aircraft; fourth, a new or modified version of the B–52 bomber; and fifth, a nonpenetrating bomber and standoff missile system. Each of these system concepts has been previously studied, either in the conceptual studies which defined the B–1 or in studies completed since B–1 development was initiated. In the conceptual studies over the years 1963 through 1969, candidates for a follow-on bomber to the current B–52 were examined in detail including all subsonic bombers, all supersonic bombers based on the SST and SR–71, large C–5-type bombers, small stretched F–111 bombers, fixed-wing bombers, and bombers with variable geometry wings. When the advanced manned strategic aircraft—AMSA, now known as the B–1—evolved as the most promising candidate, numerous tradeoff studies were made on individual characteristics to determine the justification for such features as the supersonic speed capability and the variable geometry wing configuration. In 1972, a detailed study examined the cost-effec-

tiveness of modifying the B–52 with new engines. In this same year, the relative effectiveness of nonpenetrating bombers—standoff missile launchers—was examined versus penetrating bombers like the B–52 and B–1. The consensus of all these studies is that a penetrating bomber such as the B–1 is the preferred aircraft to assure a viable bomber element in our strategic deterrent force against the threats postulated for the 1980's and beyond.

The DOD has recently initiated still another comprehensive review of the U.S. strategic bomber force. This extensive review will include the development of a range of options to provide a viable bomber force for national security for the 1980's. In view of this new study effort already underway, and the previous studies cited above, it is clear that the $5 million study directed in the proposed amendment would be an overly costly and redundant undertaking.

There are other important factors which also pertain. For one thing, we have a substantial investment in the B–1 program—an investment of more than a billion dollars. It makes no sense to approve an amendment which apparently treats that investment so lightly. For another thing, there are many tens of thousands of people across the country whose jobs are directly or indirectly related to the B–1 program. Does it make sense to scare them with fear of potential unemployment—as this amendment might do—when we already know that the alternatives proposed to be studied already have been exhaustively examined and found wanting?

I urge Senators to vote against the amendment. It would result in wasteful expenditures, seems to disregard our substantial and sound investment in the B–1, and could cause needless anxiety for thousands of skilled, hard-working members of the labor force.

I should like to say that in some measure I associate myself with the distinguished Senator from Missouri (Mr. SYMINGTON). I believe that if the B–1 is proved to be feasible, we already have an alternative in the strategic force of the FB–111, which is a very fine, direct-penetration aircraft. I, therefore, feel that a further study of the aircraft would be redundant and wasteful.

Mr. HUGHES. Mr. President, I do not intend to belabor this issue or the amendment very long. There is no desire on the part of the senior Senator from Iowa to frighten men and women of the labor force in relationship to the B–1. Neither is it my desire to demean the more than $1 billion already spent on the B–1. The only desire I have is to say that a billion dollars is a large investment, and that $11 billion is much, much larger. The expenditure of $5 million now, in the face of that total amount of money, is very small.

The Air Force Secretary has already said that the B–1 is continually being studied as to cost effectiveness, so it may be well for us to have available the best pertinent data we can have.

I have no disagreement at all with the statement made by the distinguished acting chairman of the committee, the Senator from Missouri (Mr. SYMINGTON). His long period of service from being first Secretary of the Air Force until now as a member of the Armed Services Committee, these many years, have led me to look to him for advice and consultation, and not to disagree with him.

At this point, however, I simply believe that this is a minimal investment for a need which is critical and that it should be made. If we can arrive at some conclusion to either go ahead or abandon the project or do anything else, this little investment in terms of money and appropriations might turn out to be a vital investment for the future if proven right, and if proven wrong, we will have lost $5 million.

We have overruns in the amount of a great deal of money every month in the year. I think that we could make this investment just to make sure that we are on the right course at this critical moment in our history.

Mr. SYMINGTON. Mr. President, I would say to my good friend, the Senator from Iowa, that I fully agree with his concept of getting maximum results at minimum cost.

The distinguished senior Senator from Texas (Mr. TOWER) mentioned among designs that have been seriously considered the stretch version of the F–111. I have watched with apprehension the increased cost of a very long-range bomber.

I, therefore, supported a reduction in the money to be put up for the B–1.

Let me assure the able Senator from Iowa that if I were sure of the need for such a bomber I would agree with his amendment. That is the reason why I do not agree with the amendment.

Mr. HUGHES. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent, due to the fact that so many of our colleagues are at Tom Vail's funeral, that the vote on this and any other amendment eligible not occur before the hour of 2:30.

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

Mr. THURMOND. Mr. President, I yield myself such time as I may need.

I rise in opposition to the amendment.

This amendment asks for a study of alternative systems to be made. What are those alternative systems?

One is the subsonic bomber. Another is a fixed-wing bomber. Another is a stretch version of the F–111 aircraft. Another is a new and modified version of the B–52 bomber which has been so effective. Another is a nonpenetrating bomber and a standoff missile system.

Mr. President, the Defense Department and the Air Force have been conducting these studies. That is what they have been doing all of these years.

Are we going to spend $5 million more to conduct more studies after they have gone intensively into this matter and considered all these questions?

The consensus of all the studies that have been made is that a penetrating bomber—and that means one that will penetrate a target, go over the land and hit the target—such as the B–1, is a preferred aircraft. It is the type aircraft we need against the threats postulated for the 1980's and beyond.

No doubt as time goes on, the Defense Department will make other studies. They are continuing studies at this time. These studies ought to be conducted.

I can see nothing but two things that can result from this amendment, if it is adopted. One is that we will have blown $5 million. The other is that it might slow down a program now on which we need to go forward with and without delay.

Mr. President, I realize that this program is going to cost a lot of money. But we must remember that it is programs such as this and the Trident that can mean the very survival of this Nation. They do cost a lot of money. However, that is a lot cheaper than living in slavery. That is a lot cheaper than fighting any war. And these programs will be a deterrent to war.

I submit that we should not accept the amendment. I hope that the Senate will see fit to reject the amendment.

Mr. HUGHES. Mr. President, I yield to the distinguished Senator from New Hampshire such time as he might need.

Mr. McINTYRE. Mr. President, I thank my good friend, the Senator from Iowa.

I support his amendment which would add $5 million to the B–1 program, which the committee reduced by $100 million. This may appear to be inconsistent, but in fact it is not. The purpose of the proposed amendment would complement the concern expressed by the committee regarding the future of the B–1 program.

The amendment would, in fact, require the Department of Defense to do what it has been reluctant to do—that is, recognize that the B–1 may not prove successful or affordable and, therefore, explore various other options to provide a continued airborne strategic nuclear deterrent, which is essential to the effectiveness of the Triad.

Mr. President, some background discussion would provide the Senate with a better understanding of the problems encountered by the committee in the review of the B–1 program.

Let me first recite the circumstances and actions which led to the committee decision to reduce the amount requested by $100 million. On April 6, 1973, the Air Force came before the Research and Development Subcommittee and testified that the B–1 program was in good shape and that both time and cost schedules were being met satisfactorily. Just 3 months later, on July 12, 1973, the Secretary of the Air Force advised the committee in writing that serious difficulties had been encountered in the program, that the first airplane had to be delayed by 2 months, the second airplane by 6 months, and the production decision by at least a year. The committee also was advised that an additional $78 million in research and development and $266 million in procurement would be needed in later years to support the program and procure the quantity of aircraft planned for production.

My reaction, as well as that of other committee members, to this surprise announcement was quite strong, to say the least. As a result, the Secretary of the Air Force, the Chief of Staff, and the B–1 program manager were requested to appear before the committee on July 27,

1973, to explain the circumstances and details involving this setback. The Secretary of the Air Force, in response to a direct question at that time was unwilling to assure the committee that the revised program would be adequate and that further increases in cost or program slippage would not occur.

As a result, the committee cut $100 million from the fiscal year 1974 request to express its concern. The Air Force is required to submit a revised cost estimate and the results of some 3 to 4 months of additional testing and progress by October 1, 1973. This information will be available in time for final congressional action on the authorization and appropriation bills for fiscal year 1974.

Mr. President, I am convinced that the actions taken by the committee are constructive and properly reflect the serious concern which I am sure is felt by the entire Senate about the future of this program. It should be clearly understood that the committee does not consider the B–1 to be essential irrespective of cost. Let me quote from the committee report to emphasize this point. The report states:

> The committee is convinced that the B–1 development program must show marked improvement in both management and cost control and in technical progress if it is to be continued as a viable program. The Air Force is encouraged to seriously consider other alternatives to the B–1 program in the event that such an alternative becomes necessary.

From what I have recited, Mr. President, it should be clear in everybody's mind that the B–1 program is an open issue. The committee recommendation is consistent with this fact and reserves to the Congress the final decision to be made on the fiscal year 1974 request.

Let me now address the importance of the need for the B–1 or any necessary alternative program to provide continuation of an effective third leg to the Triad of strategic deterrents.

The B–1 program is designed to provide the option to begin replacing our aging B–52 bombers around the end of this decade. This will ensure that the irreplaceable contribution of the bomber to our deterrent can continue to be made in the years ahead, even should Soviet offensive and defensive capabilities be further improved qualitatively and/or quantitatively.

Although we cannot be certain of what constitutes deterrence in the Soviet view, I personally am convinced that our manned bomber force is perceived by the Soviets as being especially reliable under any conditions of warfare, and as being extraordinarily capable of conducting effective retaliatory attacks regardless of the circumstances surrounding conflict initiation. In this respect, I am convinced that the manned bomber is a particularly powerful deterrent to the Soviets. Indeed, because of the bomber's proven capability, reliability, and flexibility—as demonstrated in full view of the Soviets over the past decades—I believe the Soviets could perceive the bomber as a most persuasive element of our deterrent force.

To illustrate, the quantity and quality of current and projected Soviet air defense weapon systems offer unmistakable evidence of the respect with which the Soviets view our manned bombers. No other country in history has operated and maintained such an extensive air defense system to counter manned bombers as has the Soviet Union. The Soviets possess the greatest inventory of interceptor aircraft and the densest concentration of antiaircraft radar and surface-to-air missile sites of any major power. Clearly, our manned bombers represent a significant retaliatory force against which the Soviets have assigned a high priority in their military planning.

The Soviet view of the persuasiveness of our manned bombers also was made clear by their reactions during the Cuban missile crisis. During that situation, the entire SAC bomber force went on full scale alert, and large numbers of SAC aircraft flew around-the-clock missions within short striking distance of Soviet targets. I am convinced—as are many others who directly observed and analyzed that operation—that this was a critical factor in bringing that crisis to a conclusion.

The Soviets have good reason to view our bombers with great respect, inasmuch as manned strategic aircraft make a singular critical contribution to our deterrent force. This contribution accrues from the unique characteristics of bombers, such as their flexibility and versatility, their heavy and diverse payload capacity in conjunction with their long range capability, their accuracy of weapon delivery, and importantly, their proven reliability and effectiveness.

To insure the continuing contribution of the bomber to our national security objectives, it is important that we approve the B–1 funding request, provided the program remains on schedule, stays within current cost estimates and does not encounter any major technical problems. This will keep open, at a relatively reasonable cost, the option to begin replacing our aging B–52's in the 1980's. Given the unique contribution of the bomber to our national security, and the nature of the present strategic balance, it would be highly imprudent to weaken or foreclose that option.

The bomber makes a unique and irreplaceable contribution to our deterrent, and the currently planned B–1 force structure is required in the early 1980's to guarantee the ability to execute national strategy. Strategic bombers are the only element of the Triad not currently limited by a SAL agreement. Greater sophistication in existing and projected Soviet defenses dictates a need for overall improvement in our manned bomber capabilities.

So I would strongly support this amendment, Mr. President, in order that alternatives may be explored, because if the B–1 bomber program continues to have its troubles, it seems to me, as the Senator from Iowa has so well put it in his amendment, we must have the Air Force, and they are very reluctant to do this. They do not want to do anything to interfere with that B–1 program. This $5 million can be utilized to explore different alternatives in case the B–1 program never comes into being. So I heartily endorse the amendment of my good friend from Iowa.

The PRESIDING OFFICER. Who yields time?

Mr. SYMINGTON. Mr. President, I have yielded back the remainder of my time.

Mr. THURMOND. Mr. President, I yield back the remainder of the time on our side.

Mr. HUGHES. I yield back the remainder of the time on this amendment.

The PRESIDING OFFICER. Under the unanimous-consent agreement, the vote on this amendment will occur at 2:30 p.m. The yeas and nays have been ordered.

Mr. ROBERT C. BYRD. Mr. President, it is my understanding that the Senator from Iowa (Mr. HUGHES) would like to have a little break between this amendment and his next amendment. I believe that the Senator from Colorado (Mr. HASKELL) is agreeable to calling up his amendment at this time.

Mr. HASKELL. Mr. President, if I may say so to my friend from West Virginia, I am, but the file has not come over from my office yet. If we could have 5 minutes——

Mr. ROBERT C. BYRD. Very well.

Mr. SYMINGTON. Mr. President, if the distinguished assistant majority leader will yield, I would suggest a quorum call. Senator DOMINICK is on the committee, and this involves his State. I have no objection to the study suggested by the able Senator from Colorado (Mr. HASKELL), but I do think it would be in order to have Senator DOMINICK notified that the amendment is being taken up.

Mr. ROBERT C. BYRD. Very well. Mr. President, I ask unanimous consent, then that it be in order at this time to call up the amendment by the Senator from Colorado (Mr. HASKELL), and that amendment No. 491 by Mr. HUGHES then be called up, upon the dispositon of the amendment by Mr. HASKELL.

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

TIME LIMITATION ON AMENDMENTS

Mr. ROBERT C. BYRD. Mr. President, on yesterday I inadvertently overlooked getting an agreement on time on the amendment by the Senator from Colorado (Mr. HASKELL). I thought I had done so, but I checked and found I have not. This request has been cleared on all sides and I, therefore, ask unanimous consent that on the amendment by Mr. HASKELL there be a time limitation of 1 hour, to be equally divided, and that there be a time limitation on amendments, debatable motions, or appeals in relation thereto of 20 minutes, all in accordance with the usual form.

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

Mr. ROBERT C. BYRD. Mr. President, before suggesting the absence of a quorum, I ask unanimous consent—this request having been cleared with the able manager of the bill (Mr. SYMINGTON) and

the able ranking Member on the other side (Mr. THURMOND)—that on amendments numbers 492 and 493 by Mr. HUGHES, there be a time limitation on each of 2 hours, to be equally divided; that there be a time limitation on amendments to amendments of 30 minutes; and that there be a limitation on debatable motions or appeals in relation thereto of 20 minutes, all in accordance with the usual form.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the amendment by Mr. MONDALE today, the Senate proceed to the consideration of amendment No. 492 by Mr. HUGHES, and that upon the disposition of that amendment the Senate proceed to the consideration of amendment No. 493 by Mr. HUGHES.

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

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time for the quorum call not be charged against either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HASKELL. 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. HASKELL. Mr. President, I call up my amendment, which is introduced on behalf of myself and the Senator from Utah (Mr. Moss) and the Senator from South Dakota (Mr. ABOUREZK), as modified, and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. HASKELL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

On page 30, between lines 2 and 3, insert a new section as follows:

SEC. 703. (a) The Secretary of Defense shall undertake to enter into appropriate arrangements with the National Academy of Sciences to conduct a comprehensive study and investigation to determine—

(1) the most effective and feasible means of eliminating all existing supplies of chemical warfare agents, both lethal and nonlethal;

(2) the estimated cost of such a program;

(3) the estimated time necessary to carry out such a program; and

(4) the manner in which such a program should proceed.

(b) The Secretary of Defense shall furnish to such Academy at its request any information which the Academy deems necessary for the purpose of conducting the investigatio and study authorized by paragraph (a) of this subsection. For the purpose of furnishing such information, the Secretary of Defense may use any authority he has—

(1) to obtain information from any person; and

(2) to require such person to conduct such tests, keep such records, and make such reports respecting research or other activities conducted by such person as may be reasonably necessary to carry out this subsection.

(c) Of the funds authorized by this Act for research, development, testing, and evaluation of chemical warfare agents and for defense against biological warfare agents, such amounts as are required shall be available to carry out the study and investigation authorized by subsection (a) of this section.

(d) In entering into any arrangement with the National Academy of Sciences for conducting the study and investigation authorized by subsection (a) of this section, the Secretary of Defense shall request that the National Academy of Sciences submit a final report containing the results of its study and investigation to the Secretary of Defense not later than nine months following the date of enactment of this Act. The Secretary of Defense shall transmit copies of such report to the President and the Congress within ten days following the receipt of such report.

On page 30, line 3, strike out "Sec. 703" and insert in lieu thereof "Sec. 704".

Mr. HASKELL. Mr. President, the modification of the amendment is in one paragraph which I shall explain in full, and the remainder of the amendment is as originally printed.

Mr. President, following my remarks on the amendment, I ask unanimous consent to have printed in the RECORD an article from Scientific American of May 1970; an editorial from the New York Times of July 9, 1973; an editorial from the Denver Post of August 22, 1973; and an editorial from the Grand Junction Daily Sentinel of August 8, 1973.

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

(See exhibits 1–4.)

The PRESIDING OFFICER. Does the Senator ask that his amendment be modified?

Mr. HASKELL. Mr. President, I do ask that my amendment be modified.

The PRESIDING OFFICER. The amendment is modified.

Mr. HASKELL. Mr. President, our Nation has outlawed use of biological weapons in warfare. We have not addressed ourselves fully to the problem of nerve gas. My amendment does not seek to outlaw nerve gas. My amendment asks that the National Academy of Sciences study and report within 9 months the most effective method of eliminating chemical warfare agents, the estimated cost of such program, the estimated time necessary to carry out such a program, and the manner in which such a program should proceed.

I should also say that the modification of the amendment I introduced yesterday is a new paragraph which requires the Secretary of Defense to furnish to the Academy the necessary information to be used in making such a study. The modification was inserted at the last moment, when I ascertained from officials at the National Academy of Sciences that they were having difficulty getting the necessary information from the Department of Defense to make a study authorized in 1969, concerning the use of herbicides in Vietnam. Therefore, I felt legislative language was necessary asking the Secretary of Defense to furnish the necessary information.

The whole problem of nerve gas, it seems to me, is one which should be studied. Assuming my amendment is agreed to, I would seek, following the study, to have these stocks destroyed. It is impossible to envision a situation in which our Nation will use nerve gas, with an arsenal of atomic weapons and the methods of delivering on a pinpointed basis. If a lesser nation were to use nerve gas against us, we are certainly well equipped to respond using either our conventional weapons or our nuclear forces. The problem with nerve gas is that it spreads like a blanket. It cannot be used against just a military target. It is incredibly lethal. Ten milligrams, for example, will kill a man in 10 minutes.

We do not need and should not have stockpiles of this deadly and useless substance around. The purpose of my amendment is not to outlaw chemical warfare stockpiles immediately but to study how they can be outlawed, how they can be destroyed, the cost of doing so, and the time necessary.

At the edge of the runway at the Stapleton International Airport in Denver, Colo., there is a huge stock of nerve gas and planes fly in that area daily. It is a matter of great concern to me. It is a matter of great concern also to the Senator from Utah (Mr. Moss), who cosponsored the amendment, and who has huge stockpiles in Utah. I understand some are in the Pacific. Where else they are I do not know.

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

EXHIBIT 1

[From Scientific American, May 1970]

CHEMICAL AND BIOLOGICAL WEAPONS

(By Matthew S. Meselson)

(Graphs and charts referred to are not printed in the RECORD.)

On November 25 of last year President Nixon announced a number of major decisions regarding chemical and biological weapons. He proclaimed that the U.S. will never be the first to use lethal or incapacitating chemical weapons and will not use biological weapons under any circumstances, even in retaliation. He also announced that he would submit to the Senate the 1925 Geneva Protocol prohibiting the use of chemical and biological weapons in warfare.

The President's statement left a question whether toxins, the poisonous but nonliving substances produced by some bacteria and other organisms, were included in the unconditional renunciation of biological weapons or only in the no-first-use pledge for chemicals. The question was resolved on February 14 when the President extended the policy for biological weapons to cover toxins as well. In order to remove a possible ambiguity, it was decided to renounce toxin weapons even if advances in chemistry should make it practicable to prepare them synthetically instead of by extraction from bacteria or other organisms.

Under the new policy the U.S. will destroy existing stocks of germ and toxin weapons and will no longer engage in their development, production or stockpiling. The U.S. biological program will be restricted to research for strictly defined defensive purposes, such as techniques of immunization.

In accord with these decisions on biological and toxin weapons, White House officials have stated that there will no longer be a need for secret work and that consideration

is being given to the transfer for conversion to other purposes of our sizable biological weapons facilities at Fort Detrick, Md., and Pine Bluff, Ark., from the Department of Defense to nonsecret agencies such as the Department of Health, Education, and Welfare and the Department of Agriculture.

As to chemical weapons, the restraints are less sweeping. The U.S. reserves the right to continue the development, production and stockpiling of lethal and incapacitating chemical weapons. It pledges, however, never to use them first. The same pledge is embodied in the treaty commitment by the 84 states now party to the Geneva Protocol.

There are two types of chemical weapons whose use in war has not been renounced. They are the antiplant chemicals and the "riot control" agents, such as CS, employed by U.S. forces in Southeast Asia. The U.S. has maintained that these agents are not prohibited by the Geneva Protocol. Many nations disagree, which raises problems for U.S. ratification of that treaty. The President himself has made no statement regarding CS or herbicides. White House officials have said only that the use of these chemical weapons will continue "for the time being."

The President's decisions were based on a six-month review of U.S. policies and programs for chemical and biological weapons. The review was conducted under the auspices of the National Security Council, which coordinated the efforts of the Department of State, the Department of Defense, the Arms Control and Disarmament Agency, the Central Intelligence Agency, the Office of Science and Technology and other branches of the Government. The subject was put under search examination. The National Security Council considered the following topics: chemical and biological weapons that were already available and those that might conceivably be developed, the possible military value of each type of weapon in relation to other weapons at our disposal, the possible consequences of proliferation, strategic questions concerning the use of such weapons for threat or deterrence, the political and moral impact of their development and possible use, the potential hazards for civilian populations, possible defenses against the various weapons, and the policies and activities of other nations.

It was obvious and became more so as the review proceeded that such a study was long overdue. The U.S. had a large factory for producing germ weapons, even though no one had ever produced a convincing "scenario" for a case in which they should be used. Shortly before and during The National Security Council study, chemical weapons were involved in one disquieting incident after another, creating a political atmosphere favorable to the questioning of previous policies. A series of earthquakes that shook the city of Denver was traced to the massive subterranean disposal of chemical wastes at the Army's Rocky Mountain Arsenal. The accidental release of nerve gas in a test of an aircraft spray tank over the Dugway Proving Ground in Utah led to the death of thousands of sheep, some of them grazing as far as 40 miles away. Then there was protest against the Army's plan to ship 12,000 tons of outmoded nerve-gas bombs across the country from Colorado to be dumped in the Atlantic. Soon afterward there was an incident in which nerve gas escaped from U.S. munitions stored on Okinawa, and it was also revealed that nerve-gas munitions were stored in West Germany. Finally there had been newspaper articles to the effect that the Defense Department was testing biological weapons in the South Pacific and had conducted open-air tests of nerve gas in Hawaii without informing state officials.

The public reaction to these incidents can be gauged from the fact that the U.S. Senate voted 91 to 0 for a resolution requiring the review by the Public Health Service of any plan for the domestic transportation or open-air testing of lethal chemical agents or of any biological warfare agents. The resolution, which is now law, also requires the Defense Department to render semiannual reports to Congress on the investigation, development, testing and procurement of all agents of chemical and biological warfare.

Here I shall discuss first the nature of chemical and biological weapons (CBW) and their military implications, then the international effort that has been made to prevent their use, and finally the present situation. Although much work on CBW has been secret, the essential facts about the weapons are now in the open literature. Particularly noteworthy is the report of a United Nations group published last year and the subsequent World Health Organization report that specifically examines the potential effects on civilian populations. The UN report was prepared by a group of 14 consultant experts nominated by their respective governments. The U.S. participant was Ivan L. Bennett, Jr., director of the New York University Medical Center and former Deputy Director of the U.S. Office of Science and Technology. The American members of the WHO consultant group were Joshua Lederberg of the Stanford University School of Medicine and myself. Even more detailed than the UN and WHO reports is the forthcoming study by the Stockholm International Peace Research Institute.

Although chemical and biological weapons are linked together in the psychology, the customs and the international law that restrain their use, it is helpful to distinguish several categories for analyzing military characteristics and implications. I shall discuss five kinds of weapons; lethal biological weapons, incapacitating biological weapons, lethal chemical weapons, incapacitating chemical weapons and antiplant agents. The distinction between lethal and incapacitating is not altogether clear-cut, particularly under the extremely uncontrolled conditions of warfare. There is a continuous spectrum of agents from the highly lethal to the generally nonlethal, and even tear gas can be used together with bullets and bombs to increase casualties. Nonetheless, the arguments for and against lethal and nonlethal weapons deserve separate attention.

Let us first consider lethal biological weapons. They would operate by disseminating clouds of disease germs over the target area or upwind from it. The germs would then be inhaled by the target population. The disease anthrax is an example. Caused by the bacterium Bacillus anthracis, it is mainly encountered as a disease of domesticated animals that is occasionally transmitted to man. Because it is not very contagious among humans, natural cases of anthrax are generally localized rather than epidemic. If the bacteria were sprayed in the air in an aerosol, however, the effects could be devastating. The inhalation of approximately 50,000 spores of B. anthracis (total weight less than a millionth of a gram) is believed to be enough to cause a 50 percent chance of contracting pulmonary anthrax. Symptoms would first appear about a day after the attack. The onset might be mistaken for a common cold, but this would be followed by severe coughing, cyanosis, respiratory failure and death. Untreated pulmonary anthrax is almost always fatal.

The WHO report gives estimates of the area-coverage capability of various biological agents. For illustrative purposes the report assumes that one light bomber delivers in a single pass ground-functioning "bomblets" containing a total of 50 kilograms of dry powdered agent along a two-kilometer line at right angles to the wind. It is assumed that the intensity of atmospheric turbulence is less than a certain level, but not so low as to be at all unusual, particularly at night. The bomblets release the agent as an aerosol, which then drifts over the target area. Such calculations take into account the dissemination efficiency of the bomblets, the decay rate of agent infectivity, the rate of vertical dilution in the atmosphere, the rate of deposition on the ground and the dose-response curve for man. For an attack with anthrax spores the WHO report predicts a high mortality rate over at least 20 square kilometers. Although there are uncertainties in the quantities that enter into the calculation, the estimate is deliberately conservative. The UN report, in a similar estimate, considers an attack by a large low-flying bomber dispensing 10,000 kilograms of agent along a 100-kilometer line by means of a spray tank. The estimated area in which a high casualty rate would occur is as large as 100,000 square kilometers, depending on the particular agent used.

Among the lethal biological agents that might be considered for military use are the viruses of Eastern equine encephalitis and yellow fever, the riskettsia causing Rocky Mountain spotted fever, and the bacteria causing anthrax, plague, cholera, glanders and melioidosis. There are moderately effective vaccines and antibiotics against some of these diseases but none against others. Moreover, such protections might be overwhelmed by a massive attack, and for some agents antibiotics can be circumvented by the use of drug-resistant strains. Protection can be given by gas masks or air-filtered shelters if there is early warning of an attack, but no satisfactory early-warning device has yet been developed. In any case a program for supplying the civilian population with masks and shelters and maintaining discipline for their use would require a major and sustained economic and political effort—without achieving reliable protection against biological attack.

It is not to be expected that biological warfare agents would be deliberately chosen to be contagious; that would maximize the risk of spreading disease far beyond the intended target, possibly to the territory of the attacker or his allies. Nevertheless, the unnatural conditions inherent in military operations create the possibility that widespread epidemics would be unintentionally started. There is also the hazard, difficult to evaluate, that the bacteria or viruses used in an attack, or even used in a field test, could subsequently emerge from exposed populations of humans, rodents, birds or other animals with increased persistence, virulence and contagiousness of man.

From this brief account it should be clear that lethal biological weapons would present a devastating threat of killing human populations over large areas. The threat is made particularly formidable by the relative ease with which such weapons could pass into many hands if the technology becomes established and if the customs and attitudes that have generally kept nations from pursuing the development of biological weapons should change. After several years of pursuing a biological weapons program that has not had adquate review or guidance from the Executive Branch, and that has been almost entirely shielded by secrecy from public and congressional knowledge, the U.S. has decided that the best way to minimize the threat of biological weapons is to renounce them altogether. The logical case for doing so rests on the realization that the possession of such weapons would add little, if anything, to our strategic-deterrent capability, whereas their proliferation would present a major threat to the U.S. and indeed to all mankind.

The second category of weapons to be considered is incapacitating biological weapons. An example is Venezuelan equine encephalitis. It is a virus that causes severe headache, nausea and prostration but that has a case fatality rate in natural epidemics of .5 percent or lower. Methods for disseminating incapacitating biological agents and the possibilities for defending against them

are essentially the same as those for lethal biological agents. The use of incapacitating biological weapons might be considered in certain unlikely and extreme situations. Perhaps the most "attractive" scenario that has been proposed imagines the entrapment of a large friendly force by enemy troops deployed over an extensive area and intermingled with civilians. In this situation the employment of incapacitating biological weapons in forward and rear areas might impede the enemy advance long enough to allow reinforcement or evacuation of the friendly troops when the alternatives might be to use nuclear weapons or to surrender.

Of course any decision to launch an incapacitating biological attack must face the fact that substantial numbers of civilians, particularly infants and the infirm, will almost inevitably be killed, even if the case fatality rate is only a few tenths of a percent. Beyond that there is the possibility that the fatality rate under military conditions might be much higher than the rate estimated from natural occurrences of the disease and from various kinds of experimental data. It is also important to note that this scenario assumes the *first* use of biological weapons rather than their employment in retaliation. This adds the additional risk of escalation and enlargement of the conflict that could result from the outbreak of germ warfare of any kind. A principal long-term cost to security of using incapacitating biological weapons, or even of maintaining them, would be stimulation of the proliferation of germ weapons, including lethal ones. The facilities for developing, producing and delivering incapacitating biological weapons are essentially the same as those required for lethal germs. International law and international custom do not distinguish between them.

To summarize, incapacitating biological weapons might seem logical in certain tactical situations, but such situations are most unlikely, and even then the risks would outweigh the possible gain.

Here a more general statement about germ weapons should be made. Such weapons have serious shortcomings from a military viewpoint. Their effects are not as predictable as those of other weapons. They might get out of control. Alternative and already available weapons are preferable, and the acquisition of a biological weapons capability would be an addition to, not a substitute for, preexisting military expenditures and programs.

Military officers and political leaders are strongly disinclined to use biological weapons, partly for practical reasons, partly because of unfamiliarity and partly because of the moral revulsion and apprehension that are undeniably associated with these weapons. There does not currently seem to be any serious interest in biological weapons in high military circles anywhere. Although such weapons could become a terrible menace, the likelihood of this is greatly reduced by the spectacular gesture of renunciation made by the U.S. This is the moment in history when the biological sciences, with their intimate linkage to the lifesaving ethos of medicine, may be spared from being recruited to serve military ends all over the world. Whether or not international biological disarmament can be ensured over the long run may ultimately be related to progress in chemical disarmament, for in the minds of many the two are linked.

Chemical weapons present a much more immediate problem. They were used in World War I and are stockpiled by the U.S. and the U.S.S.R. and are also possessed by several other nations. The distinction between lethal weapons and incapacitating ones has more practical importance here than it has with biological weapons. There are strong restraints against the use of lethal chemical weapons, and until recently nonlethal chemicals have been excluded from warfare as well. From an arms-control point of view there are important arguments for treating lethal and non-lethal chemicals together. Still, for the purpose of analysis it is useful to make the distinction.

Modern lethal chemical weapons employ the nerve gases first developed (but not used) by Germany during World War II. These agents are hundreds of times more poisonous than the poison gases of World War I; they kill when they are inhaled or when they are deposited as liquid droplets on the skin. The term "nerve gas" derives from the fact that these agents operate by interfering with the transmission of nerve impulses across synapses. They do so by inactivating the enzyme cholinesterase, which normally functions to terminate the transmission of a nerve impulse. In the presence of a nerve agent, nerve impulses continue without control, causing a breakdown of respiration and other functions. Death caused by nerve-gas poisoning results from asphyxiation. It is preceded by blurring of vision, intense salivation and convulsions.

The U.S. has stockpiled a variety of tactical nerve-gas weapons, and the U.S.S.R. is believed to have done so too. The weapons include mines, artillery projectiles, rockets, bombs and aircraft spray devices.

The U.S. stockpile includes two kinds of nerve agent. One is GB, a code name for isopropylmethylphosphonofluoridate. It is also known as Sarin and was produced in limited amounts by Germany during World War II. Sarin is a volatile liquid that evaporates at room temperature to a colorless and odorless gas.

Weapons containing Sarin release it as a spray, which then evaporates to create a respiratory hazard for unprotected personnel. The lethal exposure for man is estimated to be approximately 100 milligram-minutes per cubic meter. This means, for example, that a man would accumulate a lethal dose in 10 minutes if the concentration of Sarin in the air were 10 milligrams per cubic meter.

Since the hazard posed by Sarin is mainly respiratory, a gas mask provides good protection. Modern gas masks are capable of reducing the concentration of all known war gases, by a factor of about 100,000. In addition there are chemical antidotes for nerve agents that can provide protection if the dose of agent is not very great and the antidote is administered promptly.

The other kind of nerve agent in the U.S. stockpile is VX. The chemical formula of VX is still secret, although the WHO report suggests that the agent is ethyl S-dimethylaminothyl methylpohophonothiolate. It is a member of a class of compounds first prepared in the mid-1950's in the course of a search for improved insecticides. (Swain was also the outcome of insecticide research.) Also a liquid but several times more toxic than Sarin and much less volatile, VX is lethal either when inhaled or deposited on the skin. VX kills in a matter of minutes, and by contaminating the ground and objects on which it is deposited it can make an entire area hazardous for many days. It was VX that killed the sheep in Utah.

The lethal dose of VX applied to the skin has been estimated to be from two to 10 milligrams, depending on the site of application. Since contact with even a small droplet of VX can be fatal, adequate protection requires the wearing of a special suit as well as a gas mask. The wearing of protective suits and masks is extremely cumbersome. They are mechanically awkward, and the buildup of heat is a serious problem. Fighting efficiency would be severely reduced by the wearing of full protective equipment and also by the strict observation of various special precautions necessary for survival in a lethal chemical environment. This kind of complexity in gas warfare was clearly recognized in World War I. In the words of one officer: "The range of problems was infinite. How would the soldier eat, drink, sleep, perform bodily functions, use his weapon, give and receive commands? How would he know when his immediate area was contaminated?"

For tactical use against an enemy without protective equipment, lethal chemicals would be devastating. Against an enemy possessing suits and masks and able to impose the wearing of such gear on one's own troops by the threat of retaliation in kind, lethal chemical weapons would enormously complicate the battlefield without giving either side a major advantage. This argues for not initiating lethal chemical warfare. It also suggests, however, a reason for possessing lethal chemical weapons as a tactical deterrent if the other side is thought to have them. For example, if conventional land warfare should ever break out in Europe, with only one side in possession of lethal chemical munitions, that side might be tempted to use them in order to force opposing troops into protective gear while its own forces, taking advantage of their knowledge of the timing and location of the chemical attack, pressed the offensive. Having this knowledge, the argument goes, their operations would be considerably less complicated. It is this kind of analysis that presumably underlies the U.S. policy of maintaining lethal chemical weapons even though it is our policy never to initiate their use.

Both the plausibility and the accuracy of the foregoing scenario can be challenged. Many would maintain that a major war in Europe is extremely unlikely. It is even more unlikely that such a war could go on for many days without resort to nuclear weapons, in which case chemicals would become unimportant. Finally, it is argued, even in the event of a large nonnuclear war the use of chemicals would be strongly deterred by the risk that using such unconventional weapons to obtain any major advantage would trigger a nuclear response.

Clearly there are some risks in either approach. The second approach, however, would allow the renunciation of the possession of lethal chemical weapons.

Lethal chemical weapons could be produced by nonnuclear nations to provide a capability for strategic attack on urban populations. Under meteorological conditions favorable to the attack, a medium bomber or a converted commercial air transport can deliver enough nerve agent to kill a high proportion of unprotected people throughout the central region of a large city. For example, the WHO report estimates that an airborne attack across the wind along a two-kilometer line, releasing four tons of chemical agent over a city, would cause high casualties over an area of between two and 40 square kilometers, depending on the type of agent and munitions used. Given adequate warning a highly disciplined population could be defended against such an attack by a combination of gas masks, protective shelters and antidote therapy. Although strategic chemical weapons would add nothing significant to the arsenals of the nuclear powers, the proliferation of such weapons among the nonnuclear nations would obviously constitute a serious hazard. Even though it is unlikely that a small nation could deliver a chemical attack over a wide area of a country that has modern air defenses, it would be much easier to penetrate the air space over one or a few coastal cities.

It is also important to consider the possible role of lethal chemical weapons in "low level" conflicts. Today such conflicts are fought with high-explosive and flame weapons, which individually have limited area effect. Although such wars can be exceedingly destructive, they become so only when enormous quantities of weapons are used. (In Vietnam, for example, more than 6,000

tons of ammunition were expended by the U.S. daily in 1968.)

Many of the types of munitions used in limited war, could be filled with lethal chemicals. In such a case the "kill area" of lightweight munitions such as mortar shells and rockets could be increased by a factor of as much as 100. Even though combatants could be provided with protective equipment, such weapons would be devastating to military units caught unprepared and to civilians in urban areas. Small military units would begin to acquire strategic capabilities against cities.

It is apparent, therefore, that chemical weapons constitute a menace far beyond their possible tactical employment by the major powers. It is this menace that provides one of the chief arguments for chemical and biological disarmament. A concluding but often overriding restraint on the tactical use of lethal chemicals, particularly when the battlefield is on friendly soil, is that their large-scale employment could cause heavy casualties among undefended civilians in the combat zone and out to considerable distances downwind.

Although U.S. policy now treats toxins in the same way as biological weapons, by renouncing even their possession, the UN report classifies toxins as chemicals because they do not reproduce. Toxins are poisonous substances produced by living organisms including plants, animals and bacteria. Examples are ricin from the castor bean, tetrodotoxin from the globefish and botulin from the bacterium Clostridium botulinum. Some toxins, such as botulin, are highly lethal to man; others, such as the staphylococcus enterotoxin (the substance responsible for staphylococcal food poison), are usually only temporarily incapacitating.

Even though toxins are not capable of reproduction and therefore cannot cause epidemics, they do induce many of the same symptoms associated with infection by disease organisms. Indeed, the principal pathological symptoms of several bacteriological diseases are thought to be caused by toxins produced within the human body by the living microorganisms. Thus toxin weapons, both in terms of the means of their production and the symptoms they cause, are closely related to the biological ones.

For use as weapons toxins could be dispersed as aerosols in much the same way as biological and chemical weapons. Because toxins are not absorbed effectively through the skin, gas masks would provide protection, as would shelters fitted with special air filters. Protection can also be afforded by prior immunization with specific toxoid. Each toxoid, however, is effective only against a particular kind of toxin, and for some toxins the margin of protection is not enough to be of practical significance.

The chief military argument for having toxins is that, because of their great potency, the weight of toxin munitions needed to cover a given area would be lower than the corresponding requirement for standard chemical munitions. There are several technical reasons to question whether this is so, but even if it were, the saving would not be of very great importance for major military powers with their large logistic capability. An active U.S. toxin weapons program would have run counter to the President's decision to demilitarize and declassify U.S. biological weapons research and production facilities and would have made it impossible for the U.S. to take an unequivocal and convincing stand against the use of disease as a weapon of war.

The first chemical weapons to be employed in World War I were nonlethal. It is reported that some soldiers brought police tear-gas cartridges to the front. Soon both Germany and France began using artillery shells containing tear gas, and thousands of these shells were fired months before the famous German attack at Ypres with chlorine gas released from cylinders. Tear gas and other irritant chemicals continued to be used throughout the war—more than 12,000 tons in all. Even larger quantities of such chemicals were prepared but not employed by the belligerents on both sides in World War II.

Modern incapacitating chemical weapons are of two types, one with effects lasting considerably beyond the period of exposure and one with brief effects. President Nixon's renunciation of the first use of incapacitating chemicals has been applied only to the longer-lasting type. An example of this type is the U.S. agent BZ. This is a psychochemical, the chemical identity of which is still secret, although the WHO report speculates that it belongs to the family known as benzilates. BZ is a solid that can be dispersed as an aerosol to be inhaled by enemy personnel. It affects both physical and mental processes, causing blurred vision, disorientation and confusion. Its incapacitating effects can last for several days.

Although BZ has been standardized as a weapon by the U.S. Army and munitions have been loaded with it, it is not regarded as a very satisfactory incapacitating agent. It can elicit unpredictable and often violent behavior. Men sufficiently motivated to fight may do so more tenaciously under its influence. Furthermore, BZ has serious effects on the body's water-balance and temperature-regulation mechanisms that could lead to death, particularly under hot, dry conditions. Much effort has been devoted, without success, to finding a longlasting incapacitant without these drawbacks or similar ones.

The principal short-term incapacitant now in military use is CS (orthochlorobenzalmalonitrile). This compound was first synthesized in the U.S. in the 1920's. After World War II it was developed by the British government as a riot-control agent and named after its American discoverers, Ben Corson and Roger Staughton of Middlebury College. When employed for military purposes, it is more accurately described as a harassing agent.

The first CS munitions operated by vaporizing the agent from a pyrotechnic mixture. The CS then condenses to form an aerosol of micron-sized particles. Pyrotechnic CS is used in grenades, rockets, artillery shells and cluster bombs. A newer form is designated CS–2. Used in both bulk-disseminating devices and bursting bombs, it is a powder consisting of micron-sized particles treated with silica gel and silicone compound to improve its flow properties and persistence in the field. CS–2 can be effective in the field for several weeks. It is reintroduced into the air by the wind and the movement of people and vehicles.

The effects of CS depend on the particle size of the aerosol. Particles larger than some 50 microns exert their predominant effect on the eyes, whereas smaller particles are more effective as lung irritants. For military use CS–2 is milled fine enough to achieve the latter effect. Exposure to either form of CS causes intense pain in the eyes and upper respiratory tract, progressing to the deep recesses of the lungs and giving rise to feelings of suffocation and acute anxiety. In humid weather moderately heavy skin exposure can cause severe blistering that requires many days for healing.

If exposure is not excessive, the symptoms usually pass within a few minutes after the exposure ends. The lethal dose for man, as estimated from animal experimentation, is very much higher than that required to cause intense irritation. Nevertheless, heavy or prolonged exposure, such as might be expected in confined spaces or in close proximity to a munition emitting the agent, could cause serious lung damage and death, particularly among infants and the infirm. No long-term aftereffects of moderate exposure to CS have been demonstrated. Although investigations of this possibility are now under way, they have not been completed.

For military purposes CS has supplanted older harassing agents such as ordinary tear gas (CN, or chloracetophenone) and the emetic and respiratory agent known as adamsite or DM.

When used in war against unmasked personnel, harassing agents are effective in forcing an enemy from cover to face capture or hostile fire, to deny him terrain or to upset his fire. Against masked personnel harassing agents are very much less effective, although they reduce fighting efficiency somewhat by forcing men to put on masks. The first major application of harassing gas in combat since World War I has come in Vietnam, where more than 14 million pounds have been used by U.S. forces. At first U.S. policy was to use CS only when its employment would be more humane than the use of more lethal weapons. For example, on March 24, 1965, following the first newspaper reports of U.S. use of nonlethal gas in Vietnam, Secretary of State Dean Rusk made the following statement: "We do not expect that gas will be used in ordinary military operations. . . The anticipation is, of course, that these weapons will be used only in those situations involving riot control or situations analogous to riot control."

For five months following Rusk's statement the use of harassing agents in Vietnam ceased completely. Then an event took place that put the use of CS in the most attractive possible light and probably played an important role in bringing about authorization for its renewed employment. On September 5 a Marine officer came on a cave where civilians were thought to be intermingled with Vietcong soldiers. Faced with a choice between sending in an assault force, throwing in CS grenades or abandoning the mission, he decided on CS. It was reported that several enemy soldiers and 400 civilians emerged without injury to noncombatants. Following this incident soldiers and field commanders found a wide variety of uses for CS in regular combat. Soldiers encountered many situations in which it could be used to inflict casualties on the enemy and otherwise perform their mission while reducing their own losses. One of the major uses of CS in Vietnam is to flush enemy soldiers out of bunkers preceding high-explosive fire or infantry assault.

The overall utility of CS in Vietnam is not known, no systematic studies having been made. It has nonetheless been a popular weapon, and under this pressure from the battlefield its use has expanded greatly. One indicator is the yearly record of Army procurement of CS for Southeast Asia, which rose from 253,000 pounds in fiscal year 1965 to 6,063,000 pounds in 1969. Another indicator is the rapid proliferation of experimental and newly standardized CS munitions developed by the Army. As recently as July, 1966, military manuals listed only five types of CS weapons: two grenades and three bulk disseminating devices. Since then 18 new CS munitions have appeared, ranging from grenades with delayed-action fuzes for air drop up to 105-millimeter and 155-millimeter howitzer projectiles, various mortar and rocket munitions and a number of aircraft bombs with area coverage ranging up to a square kilometer.

It is sometimes argued that nonlethal chemical weapons would make war more humane. There is good reason, however, to expect the opposite. As long as lethal weapons are employed in war, if nonlethal chemicals are introduced, it must be expected that they will come to be employed not by themselves but rather in coordination with the weapons already in service, in order to increase the overall effectiveness of military operations.

Certainly this has been so in the case of the agent CS.

The expansion of CS use in Vietnam has given rise to two widespread concerns. The first is that the U.S. has departed from its original humanitarian justification for the use of chemicals in war. Second, it is becoming increasingly clear that the long-term arms control cost to the U.S. may be severe. I shall return to this point.

The last category of chemical weapons to be considered here is antiplant agents. These agents were first developed for military purposes during World War II and subsequently came into wide use for weed control. Near the end of the war some consideration was given to using them to destroy rice being cultivated by Japanese soldiers in isolated island strongposts, but the plan was never authorized. Herbicides were used on a small scale to clear roadsides by the British in Malaya during their military operations there in the 1950's.

The use of herbicides in Vietnam was first authorized on an experimental basis in 1961. They next came to be employed there for increasing visibility along roads and waterways and on the perimeters of military installations; then for the destruction of crops thought to be destined for enemy consumption, and finally for the treatment of large areas suspected of harboring enemy base camps or supply routes. By mid-1969 approximately five million acres had been sprayed, 10 percent of it cropland. Following a peak in 1967, anticrop operations were substantially reduced, reflecting adverse criticism of both their propriety and their effectiveness.

Three principal antiplant agents or mixtures have been in service. They are designated Orange, White and Blue. Agent Orange is an equal mixture of the n-butyl esters of 2,4-dichlorophenoxyacetic acid (2,4-D) and 2,4,5-trichlorophenoxyacetic acid (2,4,5-T). The agent is mainly directed against forest vegetation. It is applied undiluted at three gallons per acre, approximately 25 times the average amount for domestic application. Within a week or more after its application the leaves fall from most jungle trees. Orange has been the antiplant agent most widely used in Vietnam, but recently its employment has been suspended because of concern that 2,4,5-T may cause human birth defects.

Agent White is a 4:1 mixture of the triisopropanolamine salts of 2,4-D and 4-amino-3,4,6-trichloropicolinic acid. The latter component is known as picloram. The agent is sprayed from a water solution at a rate of approximately 7.6 pounds of total herbicide per acre. It is generally used for the same purposes as agent Orange, although its somewhat lower volatility makes it preferable for operations where drifting would be a hazard, as in the vicinity of rubber plantations. The extreme resistance of picloram to biodegradation has been a factor in limiting its employment.

Agent Blue is a water solution of sodium dimethylarsinate, applied at the rate of nine pounds per acre. It is used mainly against rice.

Any evaluation of the military effectiveness of herbicides is made particularly difficult by the fact that they exert their effects on the enemy only indirectly and after a substantial time lag. Certainly the most dubious form of antiplant warfare from a military point of view is crop destruction. It is not generally possible to distinguish crops destined for noncombatants from those to be consumed by soldiers. Indeed, both common sense and the experience of many wars show that when the food supply is restricted, it is the civilians and not the soldiers who go on short rations, and it is the children who are most harmed by malnutrition.

There is very little quantitative information about the overall military utility of herbicides used to improve visibility. There is no doubt that the leaves drop and visibility is thereby improved. As a result an enemy will generally choose to avoid such areas. Nonetheless, an enemy commander will not withdraw his men from action; he will deploy them elsewhere. Thus for every soldier who gains protection from improved visibility there may be another soldier or civilian receiving fire from a redeployed enemy soldier. Obviously the trade-off will not be precisely equal, but this effect will act to exaggerate the apparent military effectiveness of herbicides.

Certainly in some situations there are alternatives to chemical defoliants. In Vietnam giant plows, often working under the protection of military escorts, have been used to clear more than 500,000 acres. Where possible, this method is more effective than the aerial spraying of chemical defoliants because it removes branches and trunks as well as leaves.

I have attempted to keep the foregoing discussion factual in order to define the issues. Emotions run high on the subject of chemical and biological weapons, however, and few persons can discuss the subject without expressing or evoking strong feelings about whether or not it is wise to use or even to possess such weapons. The strong feelings generated by these weapons have been responsible for the fact that historically they have been singled out for special efforts at arms control. The most important international effort to prohibit the use of such chemical and biological weapons is the Geneva Protocol of 1925. It prohibits (1) "the use in war of asphyxiating, poisonous, or other gases, and of all analogous liquids, materials or devices" and (2) "the use of bacteriological methods of warfare." The protocol does not prohibit research, development, testing or production of gas or germ weapons. It does not prohibit the use of such weapons in reprisal against their first use by the enemy. It does not prohibit the use of riot-control gases or other agents for domestic police purposes. It does not prohibit the use in war of nontoxic smokes used for concealment or of flamethrowers, napalm or other incendiary weapons. The language of the Geneva Protocol is derived from the peace treaties of World War I, which treated gas warfare as already prohibited and specifically forbade the manufacture and importation of war gases by Germany and her wartime allies. On the initiative of the U.S., an article based on the language of the peace treaties was incorporated in the 1922 Washington Treaty on Submarines and Noxious Gases. At the urging of President Harding, Secretary of State Charles Evans Hughes, Senator Elihu Root and a presidentially appointed advisory committee of prominent citizens, the Washington Treaty passed through the Senate with no dissenting votes. Although ratified by the U.S., Great Britain, Italy and Japan, this treaty never came into force because France, whose ratification was required, objected to its provisions on submarines.

The U.S. again pressed for a prohibition against gas warfare at the 1925 Geneva Conference on the Limitation of Arms, proposing language on gas essentially identical with that of the Washington Treaty. The prohibition was extended to cover "bacteriological methods of warfare" at the suggestion of Poland. The resulting treaty—the Geneva Protocol for the Pronibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare—was signed by representatives of 38 nations on June 17, 1925.

The Coolidge Administration and the various supporters of the protocol seem to have assumed that the Senate would give its consent as readily as it had to the Washington Treaty. Almost nothing was done to prepare the case for ratification or to mobilize public support. Meanwhile the Army Chemical Warfare Service, the American Legion, the American Chemical Society and segments of the chemical industry organized the opposition. The arguments made against ratification were that the protocol would be ignored in time of war and that poison gas was more humane than bombs and bullets. The protocol was debated but not acted on by the Senate—apparently because the majority leader did not have the votes. It remained on the Foreign Relations Committee docket until 1947, when President Truman withdrew it together with several other long-pending treaties.

By 1939 the Geneva Protocol had been ratified by 44 nations, including all major European powers. At the outbreak of World War II England, France and Germany exchanged assurances that they would abide by the protocol. In 1943 President Roosevelt declared that gas warfare was "outlawed by the general opinion of civilized mankind" and that "we shall under no circumstances resort to the use of such weapons unless they are first used by our enemies." Japan is believed to have used gas against China before our entry into the war but otherwise gas was not used in World War II. The threat of retaliation provided a sanction. The restraint was reinforced by widespread abhorrence of gas and germs and by military skepticism regarding their utility, but it was the protocol that placed gas and germs in a distinct category and provided a clear standard on which the belligerents could base their conduct.

Since World War II the U.S. has on numerouse occasions declared its support for the no-first-use principle of the Geneva Protocol. When President Eisenhower was asked at a press conference if he planned a change in our no-first-use policy, he said: "No official suggestion has been made to me, and so far as my own instinct is concerned, it is not to start such a thing first." During President Johnson's Administration the U.S. supported resolutions passed in 1966 and 1968 by the UN General Assembly, calling for "strict observance by all states of the principles and objectives of the Protocol" and "inviting all nations that have not done so to accede to the Protocol." Some statements, however, have made the U.S. position seem ambiguous. For example, the U.S. Army manual *The Law on Land Warfare*, last issued in the 1950's, states that the Geneva Protocol is "not binding on this country."

A total of 84 nations are now parties to the Geneva Protocol; 16 of them have ratified it since the 1966 UN resolution. The parties include all North Atlantic Treaty Organization members except the U.S., all members of the Warsaw Pact including the U.S.S.R. and all nuclear powers (other than the U.S.), including the People's Republic of China. All major industrial nations except Japan and the U.S. are parties. The protocol has been signed but not ratified by the U.S., Brazil, El Salvador, Japan, Nicaragua and Uruguay.

Whether or not the protocol prohibits the use of harassing agents and antiplant chemicals is a subject of some dispute. On the first occasion when nations were canvassed for their views on the status of tear gas (at a League of Nations Commission in 1930), Canada, China, France, the U.S.S.R. and several other nations agreed with the declared British position that "the use in war of 'other' gases, including lachrymatory gases, was prohibited." None of the nations then party to the protocol made objections to this view. The U.S. delegate, however, expressed hesitation over any commitment to refrain from the use in war of agencies used in peacetime by domestic police and whose use in combat would be "more clearly humane than the use of weapons to which [nations] were formerly obliged to resort." Two years later the League Disarmament Conference unanimously recommended that the use of all

gases, including tear gas, be prohibited in war. This view was accepted by the U.S. with the understanding that it did not apply to the use of tear gas for police purposes. The discussions were not directed at the Geneva Protocol but at devising a comprehensive disarmament treaty, an attempt that was disrupted by the approach of World War II. The question did not come up again until 1965, when questions were first raised about our employment of CS and herbicides in Vietnam.

Responding to these questions in 1966, the U.S. representative to the General Assembly stated that the protocol does not prohibit "the use in combat against an enemy, for humanitarian purposes, of agents that Governments around the world commonly use to control riots by their own people" or of chemicals used to control "unwanted vegetation" for agricultural and other peaceful purposes. At the time these views were contested mainly by the U.S.S.R. and its allies. As the scale of chemical operations in Vietnam has increased, however, the U.S. position has come under mounting attack. Last summer Secretary General U Thant urged the members of the UN to "make clear affirmation" that the protocol prohibits the use of all chemical agents, including tear gas, in warfare. Last winter India, Mexico, Pakistan, Sweden and 17 other nations proposed in the General Assembly a resolution holding that the Geneva Protocol prohibits the use in war of all chemical agents directed at men, animals or plants. The resolution was passed by a vote of 80 to three, with 36 abstentions. Portugal, Australia and the U.S. voted against the resolution.

Since then the British government has declared that CS is exempt from the Geneva Protocol, although Britain still considers the tear gases known in 1930 to be prohibited. The British argument was that CS is less toxic than older tear gases, but it is generally thought that the real motivation of the cabinet was to avoid risking charges that the use of CS for riot control in Ulster was illegal. If so, this reflects a confusion regarding the meaning of the Geneva Protocol, which by its terms prohibits the use of gas only in warfare. The distinction between the use of tear gas for domestic police purposes and the prohibition of its use in war has been observed without difficulty by many nations ever since World War II. Even Sweden, a nation that has led the opposition to the use of tear gas in war, uses it in riot control at home. Ironically, it may be that the massive use of CS in war and the excesses this breeds will generate serious opposition to its domestic use.

As the U.S. moves to ratify the Geneva Protocol, the Administration must decide on a policy regarding the use of harassing agents and herbicides. There is no great difficulty in identifying the pros and cons of maintaining an option to use these agents in war. The difficulty arises when one attempts to quantify the various arguments and then to place values on them in order to reach conclusions.

The principal gain to the user of these agents in war is that to some extent they enable him to increase enemy casualties and to reduce his own. These agents, however, are of significant effect almost only in counterguerrille warfare and, in the case of CS, only if opposing troops are unprotected by gas masks. Hence the arguments for keeping these weapons become important to the extent that a nation anticipates involvement in such wars. CS can be expected to lose its advantage in any case, for once the impression is created that one's forces will use gas, supplies of masks will become much more available throughout the world. North Vietnamese troops in South Vietnam are now largely equipped with fairly good Chinese Communist gas masks, and increasing numbers of the excellent Russian Shlem masks are appearing. Even for guerrillas the expense of masks is not great.

The main threat to security of continuing the use of these agents is the increased likelihood of proliferation of chemical weapons and of the breakdown of the restraints against chemical warfare. Our employment of harassing gas in war, particularly when it is done on a large scale in conjunction with ordinary military operations, stimulates military planners in other nations to secure gas masks, initiate chemical training and upgrade chemical cadres and to consider acquiring for their own nations chemical weapons of various types, including lethal ones.

The large-scale military employment of antiplant chemicals poses ecological and public health problems of which we still know little but that could be most serious in the long run. The precedent of countenancing large-scale alteration of the environment in the conduct of war has obvious perils. Moreover, in many parts of the world use might be made of chemicals as agents of starvation and economic warfare against the civil population. Because of the relative ease with which this tactic can be practiced, it would be difficult to stop once the precedent is set.

The general problem of preventing chemical and biological warfare is to a large extent a psychological one. Perhaps the central problem is to prevent the application of biochemistry and biology to the opening up of a new and highly unpredictable dimension of warfare. If we can maintain and reinforce the traditional expectation that no gas or germs will be used in war, there will not be much pressure for these weapons to proliferate.

This psychological aspect of the problem has been understood by essentially all nations, including the U.S., ever since World War I. Recently, however, a dangerous break with tradition has been allowed to occur and to escalate in Vietnam. Many who have studied the problem consider the use of chemical weapons there, even though they are not lethal chemicals, to be the major and most immediate threat to the barriers that prevent chemical warfare.

If we can accept the loss of our option to use harassing agents and antiplant chemicals as weapons of war, then, judging from the recent vote in the General Asembly, it appears likely that all important nations of the world could be brought to agree. If, on the other hand, the long-observed rule of "No chemical and biological weapons" is abandoned, there will be no unique and equally simple standard on which national practice and international agreement can be based.

EXHIBIT 2

[From the New York Times, July 9, 1973]

DENVER'S DEADLY CLOUD

One-fiftieth of a drop of the nerve gas known as GB is enough to kill an adult human being within minutes of contact with his skin. Yet some 463,000 gallons of the deadly chemical is stored in the form of cluster bombs at the Rocky Mountain Arsenal only ten miles from the heart of Denver. Although the Army promised three years ago to lift this threat to the city by removing or destroying the gas, it not only has yet to remove a single missile but it now blandly reveals that an undisclosed quantity of the same nerve gas in bulk tanks will be kept indefinitely at the arsenal as a defense deterrent.

This gross betrayal of the Army's promises to Colorado officials will not surprise anyone familiar with both its lack of candor and its irresponsibility in the matter of chemical weaponry. After Army officials had repeatedly denied that nerve gas had been tested in Utah in 1969, the Government was forced to compensate ranchers for the loss of 6,000 sheep killed in tests of the toxic gas. A quantity of the same material has been shockingly dumped at sea, and in 1966 some 200 canisters at a testing area in Alaska were carelessly allowed to sink through the melting ice of a lake, where they remained for three years before being retrieved and destroyed.

Concealing in its report to the Environmental Protection Agency the existence of gas in bulk form at Rocky Mountain Arsenal was just one more offense in a long series. In the light of this sorry record, Colorado spokesmen are understandably skeptical of assurances that the Arsenal is "safe" in spite of flights of planes overhead and admissions by the Pentagon itself that some of the buildings are in "poor physical condition."

No doubt the Army would find it extremely difficult to ship the stuff elsewhere. The alternative is to destroy it. It is arrant nonsense to pretend that the country needs nerve gas to deter its possible use by an enemy, as though a whole arsenal of hydrogen bombs were not deterrent enough for any weapon an enemy might choose. Without even that pretext, there is no rationale for poison gas at all, since there is no question that it would be dangerous to our own side in war as it is in peace—a deadly threat to Americans in the field as it is now a threat to the people of Denver.

EXHIBIT 3

[From the Denver Post, Aug. 22, 1973]

MORE TWICE-TOLD TALES ABOUT NERVE GAS DISPOSAL

The Defense Department's verbal smog level is rising again in regard to the nerve gas stored at the Rocky Mountain Arsenal, on the eastern edge of Denver.

Last month, on July 6 to be exact, Army Secretary Howard Callaway said a Defense Department decision on what to do about the deterrent stockpile of super-deadly gas—whether to remove it from the arsenal or destroy it—would be announced "within the next 3 days".

It has been three weeks now since that 30-day deadline passed. And what's the latest story? One Defense Department spokesman says, "I don't think anyone can tell you how long you'll have to wait" for a decision on this issue.

Another spokesman said the question will be answered only when the matter has been "thoroughly reviewed" at the departmental level.

That process, the spokesman suggested, could involve clearing the question with, one by one, six or seven assistant defense secretaries and the department's director of research.

Well, all we need say about that is we're getting fed up with the Defense Department's different-story-every-week (or month, or day) routine on this issue.

We don't care much—except possibly about differing amounts of time involved—whether the gas is removed or destroyed. But one way or the other, the stuff has to go. The Denver area's population growth has made the arsenal an absolutely unsuitable place to store any weapon as deadly as nerve gas.

But unless someone keeps the pressure on, we shudder to think how long it may take to push a decision through the top echelons of the Pentagon. (There used to be a joke that General Washington's farewell message to his troops was still in somebody's "hold" basket there, awaiting clearance. At least, we hope it was a joke.)

So we intend to keep the pressure on from this end. And we strongly suggest that Colorado's congressional delegation do likewise, from that end.

Otherwise, the Army and/or Defense Department will still be producing a different story about this issue every week or month

until this time next year. And the gas will still be there.

EXHIBIT 4

[From the Grand Junction (Colo.) Daily Sentinel, Aug. 8, 1973]

UNNEEDED STOCKPILES

The time has come for the military to eliminate its stockpiles of nerve and other types of poison gas. We don't believe the nation or the military needs these weapons for national defense.

Too much progress has been made in tools to kill to any longer contend that great stocks of poison gas are needed to cow a potential enemy.

Poison gas as a military weapon is a holdover from World War I, the last time it was used to any great extent. It was avoided by all sides in World War II because even Hitler believed its use by the Nazi forces would bring the entire world down on him to exact retribution.

We assume all other nations of size maintain poison gas stocks, but we don't believe this any longer is an argument to maintain our own. It is past time to detoxify our stockpiles and to ease the worries they generate in the minds of the public.

We especially regard the storing of huge stocks near the Denver metropolitan area as sheer stupidity. We would suppose the chances of an accident are remote, but why invite even a million to one chance of disaster when it is unnecessary? Certainly if our national leaders insist that we must have at least some stockpiles of gas, it could be stored in remote areas far from populated centers.

But the transport of such a terrible weapon is frightening in itself. It would make much more sense to detoxify the stocks where they are than to move them elsewhere for storage or destruction. Not only would it make more sense, but it might restore some of the faith the Army and government have sacrificed in efforts to evade the nerve gas issue.

Mr. THURMOND. Mr. President, the national policy on this question was stated by President Nixon on November 25, 1969, and it is clear that the United States will not first use lethal chemicals. The objective of the chemical warfare program is to deter the use of lethal chemicals by other nations and to provide a retaliatory capability if the deterrent fails.

The United States signed the Geneva protocol in 1925, but the Senate has not ratified the protocol, and no other treaty exists to prohibit chemical warfare. Adequate controls and safeguards exist on chemicals due to specific legislation contained in Public Law 91–121 and Public Law 91–441. The impact of destroying our deterrent retaliatory capability would be to weaken our national defense posture and place the U.S. forces in a vulnerable position.

Since it would be unwise to destroy our chemical supply, it would appear unwise to make a study of this matter.

I want to say, however, that it is an emotional matter and it is one deserving of attention. If we are going to keep this country strong, we have to keep it strong in every facet of defense. Chemical warfare is one phase of defense that we have become strong in, but we would not use chemical agents unless other nations used them first. If other nations do use them first, then should we not have the deterrent to respond? The very fact that we have chemical agents acts as a deterrent to other nations not to use chemical agents.

Mr. President, after considering this matter, and since this provides for only a study, we are willing to take this amendment to conference, where it can be considered further.

The PRESIDING OFFICER. Is there objection to the amendment?

Mr. McINTYRE. Mr. President——

The PRESIDING OFFICER. Who yields time?

Mr. HASKELL. Mr. President, I yield to the Senator from New Hampshire such time as he desires.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. McINTYRE. Mr. President, I am very much in sympathy with the Senator from Colorado. I remember years ago in the subcommittee's work in the Armed Services Committee we did go into this question of chemical-biological warfare, and I think we all applauded President Nixon's decision some time later to abolish the biological end of CBW.

What is being suggested here by the Senator from Colorado falls within the framework of what we are doing today in the CBW field.

I commend, too, the Senator from South Carolina for accepting and agreeing to take this amendment to conference, because I think any study that attempts to get at the possibility that sometime we can rid ourselves of this infernal chemical warfare and nerve gas, and all the horrible things that surround it, would be well. But as long as our potential enemies have these supplies, we have some minimum type of program to help develop some kind of warning system that would be of use to us in case a potential enemy did try to use nerve gas against us. We have to try to develop different kinds of apparel that can be worn by our foot soldiers in case they have to use it. So we have limited legitimate areas of work in this field.

Any study by the National Academy of Sciences would be helpful. I would certainly hope that the conference could accept the amendment and make it part of the bill. I hope we can do just that.

Mr. HASKELL. Mr. President, I ask unanimous consent to have printed in the RECORD a statement and insertions by the distinguished Senator from Utah.

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

STATEMENT BY SENATOR MOSS

Mr. Moss. Mr. President, the nerve gas issue has been of great concern to the citizens of the State of Utah since an "accident", and I use the term with some hesitation, occurred a few years ago at a place called Skull Valley and resulted in the deaths of 6400 sheep due to their exposure to VX type nerve gas.

Since then there have been several news stories about the stockpiles of gas which are located in Tooele, Utah and at the Rocky Mountain Arsenal in Denver, Colorado. Each time these news stories appear there has been a corresponding increase in the volume of mail from my constituents. And each time I must respond that the Army informs me that this is part of our national deterrent, that the Army has taken most extensive precautions that no accident can take place, and that the Army is reviewing plans and developing methods for the eventual detoxification of this gas at Rocky Mountain Arsenal.

In short, each time a public outcry is heard against the stock piling of this gas I must respond that we still are considering alternatives but that no firm decision has been made. This has gone on for far too long. The Haskell Amendment, which I am cosponsoring, would provide for a comprehensive study to be completed within a definite period of time. Then we will have the alternatives before us in concrete terms, and we will be able to plot a course of action.

At present, there is stored near Tooele the largest single stockpile of nerve gas in the United States, and approximately ten times more than is stored at the Rocky Mountain Arsenal. In its present form, this gas is not a weapon. It is in no state of readiness. It would be impossible to deliver the gas militarily in its present state should we ever have need of it. Indeed the use of the gas would be a violation of the laws of nations.

The mute presence of row upon row, barrel after barrel of this deadly material is surely not a legacy by which we would have our children remember us. Its presence is but a reminder of a foolish and lamentable past which thrived upon fear.

So let us look and plan for the future, to a day when we may rid ourselves of these chemical agents whose usefulness has now become questionable. This amendment will assure us that adequate planning and research will be available for the detoxification of this gas—the continued storage of which is not a very real defense and is a latent threat to the lives of our people. I add to my statement several letters and an editorial appearing in the Salt Lake Tribune July 12, 1973, which, I believe, represent the views of most of the people in Utah.

SALT LAKE CITY, UTAH,
July 12, 1973.

The Honorable FRANK E. MOSS,
Senate Office Building,
Washington, D.C.

DEAR SENATOR MOSS: We are terribly concerned here about the possibility that the Army will move its poison gas stocks to Tooele! To emphasize our point we are enclosing a clipping from the editor's column with which we concur (though we don't always).

It would be appreciated if you would do all in your power to argue against this threat to your home state. Thanks.

Respectfully,
Mr. and Mrs. JAMES W. CLOPTON.

Enclosure.

MOVE POISON GASES OUT OF DENVER BUT NOT ALL THE WAY TO TOOELE

If the Army was storing deadly nerve gases and other poisonous potions within sight of the main runways at Salt Lake International Airport there would be loud protests and demands that the gases be removed.

That's how it is in Denver. The 18,000 acre Rocky Mountain Arsenal is directly in the flight path of planes using Stapleton Field. It is a situation which invites disaster and the people of Denver are justified in demanding removal of the threat.

The Army has belatedly recognized its responsibility and is considering, as one of several alternatives, moving the gas stocks some 600 miles to Utah's Tooele Army Depot. The plan is rife with risk to communities along the mountainous route between Denver and Tooele.

In addition to the high risk during transit, the Army chose the one area in the United States least prepared psychologically to receive a huge shipment of poison gas. It was just over five years ago, March, 1968, that some 6,000 sheep in the Tooele vicinity were killed in what has been called the

"Army's first public mistake" with poison gas.

The Army's reluctance to divulge facts in the sheep killing, especially its initial denials that poison gas was even being tested in the area, is still remembered here and does nothing to lend credence to Army assurances there is nothing to fear from the proposed shipment.

It comes down to this: If it is accepted that the U.S. must keep a stockpile of poison gas as a deterrent against possible gas attacks from without, then the gas must be stored somewhere. But common sense dictates that it not be moved any farther than is absolutely necessary to remove the threat to Denver.

Surely there must be ample federally owned desert land in eastern Colorado not far from Denver which could be acquired as a depot for the gas.

Rocky Mountain Arsenal for many years was one of several Army chemical warfare facilities which produced various poison gases. Presumably the arsenal is still capable of producing more gas in the future which also would have to be stored elsewhere. In that case it would make even more sense to erect a depot nearby rather than periodically expose hundreds of persons between Denver and Tooele to the dangers inherent in transporting deadly gases.

SALT LAKE CITY, UTAH,
June 5, 1973.

Senator FRANK MOSS,
U.S. Senate Building,
Washington, D.C.

DEAR SENATOR MOSS: I watched tonight as NBC aired its First Tuesday program on KUTV, and was shocked by its content. Most of the program concerned the storage of nerve gas by the Army in many arsenals around the United States, two of which are Rocky Mountain Arsenal in Denver, and Dugway here in Utah.

From other recent news programs I am aware of the storage of gas in the United States, but the impression I got was that it was being destroyed or neutralized. However, First Tuesday showed that there is a tremendous stockpile of this gas, both at Denver and Dugway. The program also showed that many of the containers are actually leaking, creating a possible hazard in the local area.

Why are we stockpiling these deadly chemicals? Even considering any possible deterrent (which I feel is nonexistent) and the fact that use of these chemicals in war would be one of the most immoral acts ever committed, just the existence of these deadly bombs and storage tanks is a threat to the lives of everyone in Denver and Salt Lake City. An Army spokesman stated that there is little danger of an airplane crash into the storage areas due to the airspace above being a restricted area. So what? How does that stop an irrational person from flying over the area and dropping explosives into the tanks, or from any aircraft in an emergency situation and out of control from crashing into the area? You can think of many possible ways by which the chemicals could become airborne and also out of control, killing a great many persons without recourse, treatment, or evacuation possibility. The sheep episode near Dugway should bring the same possibility to mind concerning the locality of the storage area and the prevailing Northwest wind blowing any accidental (or other) release of toxic agents directly into Salt Lake City; the same circumstances creates a hazard for Denver.

As First Tuesday put it: the agents were created in an era of "technology over common sense". I fully agree and ask you to do anything you can to have all toxic nerve (and other) gasses destroyed or neutralized. The technology for the destruction and neutralization has been proven, but the administration has to act to implement these procedures.

Sincerely,

WILLIAM M. TRAVIS.

SALT LAKE CITY, UTAH,
June 6, 1973.

Hon. FRANK E. MOSS,
Washington, D.C.:

We have just seen NBCs First Tuesday and are outraged that the arrogant US Army has done absolutely nothing in the last 5 years to neutralize or destroy thousands of aging leaking lethal gas canisters particularly at Tooele, Utah. Please use your influence to assure your constituents that they will not die in a 1973 accident as sheep died in a 1968 accident.

Mr. and Mrs. S. E. NEWMAN.

SALT LAKE CITY, UTAH,
June 5, 1973.

Senator FRANK MOSS,
Senate Office Building,
Washington, D.C.

DEAR SENATOR MOSS: This evening I watched *First Tuesday's* report on the manufacture and storage of nerve gas and other chemical agents for use in wartime. Scenes were depicted of massive storage facilities at the Dugway Test Center, just outside Salt Lake City.

I and my wife protest most vigorously the maintenance of such a facility. It seems to us a totally immoral thing to consider the use of these substances, even as a retaliatory measure. Research in this area may be necessary from the point of view of development of antidotes, but certainly stockpiling implies willingness to use, and this we find unacceptable. The proximity to Salt Lake is another factor, which I might add, is downwind to the test facility.

We certainly hope you adopt a strong stand against such activities by the military, and that you encourage your colleagues to do the same.

Sincerely,

JOHN A. TILELLI.

The PRESIDING OFFICER. Is all time on the amendment yielded back?

Mr. THURMOND. Mr. President, I am willing to yield back my time if the Senator from Colorado is willing to yield back his time.

Mr. HASKELL. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time on the amendment having been yielded back, the question is on adopting the amendment of the Senator from Colorado, as modified.

The amendment, as modified, was agreed to.

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

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

AMENDMENT NO. 491

Mr. HUGHES. Mr. President, I call up my amendment No. 491.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk proceeded to state the amendment.

Mr. HUGHES. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 19, line 14, strike out "$2,958,200,000" and insert in lieu thereof "$2,865,800,000".

On page 19, between lines 17 and 18, insert the following:

"SEC. 202. None of the funds authorized to be appropriated by this or any other Act may be used after the date of enactment of this Act to carry out any further research, development, testing, or evaluation in connection with the A–10 aircraft program. Nothing in this section shall be construed as a limitation on the use of funds to terminate or settle contracts entered into prior to the date of enactment of this Act providing for research, development, testing, or evaluation in connection with the A–10 aircraft program."

On page 30, between lines 2 and 3, insert a new section as follows:

"SEC. 703. The Secretary of the Air Force shall submit to the Congress on or before March 1, 1974, a comprehensive plan for upgrading and modernizing the Air National Guard of the United States. The Secretary shall also submit to the Congress, not later than such date, any recommendations for any legislation he deems necessary to carry out such plan effectively."

On page 30, line 3, strike out "SEC. 703" and insert in lieu thereof "SEC. 704".

Mr. HUGHES. Mr. President, what is the time limitation on the amendment?

The PRESIDING OFFICER. There are 2 hours on the amendment and 30 minutes on amendments to the amendment.

Mr. HUGHES. Mr. President, I thank the Presiding Officer.

Mr. President, the Armed Services Committee has already reduced funding for the A–10 program by $50 million, but I believe that the remaining $92.4 million could better be spent by adding A–7's to the Air National Guard.

My amendment 491 would terminate the A–10 program, thus saving all funds except those needed for contract cancellation costs. In addition, it would require the Secretary of the Air Force to submit by next March a comprehensive plan for upgrading and modernizing the Air National Guard.

We have already spent $125 million on the A–10, and another $190 million is estimated to be required to complete development. For the remaining A–10 funds, we could buy about 70 A–7D's, which would be a major step toward modernizing the Air National Guard.

Right now the Air Guard operates over 500 F–100's. These are at least 18 years old and urgently need replacement. This year three squadrons of A–7D's will be activated in the Guard and the Armed Services Committee has expressed its intention that this modernization process continue by adding funds for the procurement of 24 additional A–7's this year.

In my own State of Iowa, the situation is one of growing concern.

This is what Maj. Gen. Joseph G. May, the adjutant general of the Iowa National Guard, wrote me earlier this year:

In the past, as you are well aware, the Air National Guard units received equipment

resulting from modernization of the regular Air Force. This was a practical approach in the past as the Air National Guard was considered a "back-up force" to the active establishment. This is not true today. With the Air National Guard presently constituting 50 per cent of the tactical air command force structure and this percentage planned to go near the 75 per cent figure in the near future, the Air National Guard becomes a vital entity in our national defense structure.

The impact of this obsolete equipment is most seriously reflected in the tactical fighter units. The F-100 with which a large number

The impact of this obsolete equipment is obsolete and outdated. Continuous modification of the airframe, escape systems and engines has been conducted at great expense. In spite of this effort, serious safety and operational deficiencies continue to arise and will cause further extensive modification with associated high costs.

We must remember the impact the equipment has on the local community as well as the demands it imposes on the individual Guardsman. Our local communities are concerned, and rightly so, about pollution and environmental effects of our activities. Air and noise polluton are important considerations in selection of equipment for a specific area. Recent problems by other Air National Guard units in other metropolitan areas emphasize this point.

If we are to continue to attract outstanding personnel on a voluntary basis in the air national guard program we must also consider the problems they face in maintaining pilot proficiency. These problems involve safety of the individual, time necessary to meet the qualification standards and the ability of the pilot to maintain proficiency without long periods of absence from his home and place of employment.

General May's letter concludes with a request for A-7's for an Air National Guard which has received many outstanding or near outstanding inspections and operational readiness inspections. No doubt similar needs exist in other States as well.

A better solution than proceeding with the A-10 would be to spend the funds for A-7's for the Air National Guard. The Guard urgently needs 300 aircraft in the next few years to replace the remaining F-100's, and the lowest cost way to modernize, with the best airplane, is to buy A-7D's. This step would provide a single close support airplane in the Active and Guard Forces, with the attendant benefits in logistics support, training, and operational doctrine should it ever be necessary to mobilize guard squadrons to serve alongside the Active Forces.

The problems of the Air National Guard are directly linked with the question of the A-10, not only because of the competing claims for resources, but also because of limits which Guard and Active Air Force needs impose on total A-10 procurement. To support both forces, the total potential procurement of close air support planes, both A-7's and A-10's, is about 800. With 400 A-7's already bought, there simply is not room in the force structure, Active and Reserve, for the 729 new A-10 aircraft which are programed. And reduced purchases of A-10's would drive up the per-plane cost and should give the A-7 a positive cost edge over the A-10.

What are those comparative costs? Until the hearings this year by Senator CANNON's Tactical Air Power Subcommittee, the usually quoted price for an A-10 was only $1.4 million.

We now know that the true cost per plane is $3.2 million—if you exclude the $125 million already spent on R. & D. and if you make the questionable assumption that 729 planes will be bought. This compares with an official Air Force estimate of $3.4 million for each of 729 A-7's. If the total program costs of the A-10 are averaged, including the $125 million already spent, the cost differential drops to only about $30,000 per plane.

And what would we get if we paid this extra $30,000 for A-7's? A faster, more sophisticated, combat-proven, dual-purpose plane.

In both cost and performance, the A-7 is a known quantity, while the A-10 remains vulnerable to further cost increases and technical snags.

The A-7's made an enviable record in Vietnam. The Navy's A-7E routinely operated in interdiction missions in high threat areas over North Vietnam for 2 years, accumulating over 8,000 sorties and with lower loss rates than all other attack aircraft. In the 6 months that A-7D's were used in Southeast Asia, they suffered only two combat losses and demonstrated outstanding performance. They had less than a 1-percent mission abort rate, averaged 60 hours per month per airplane, or double the peacetime flying rate, had only 16.5 maintenance man-hours per flight hour, and demonstrated bombing accuracy to an average 10 meters miss distances.

Col. T. M. Knoles, commander of the A-7D wing in Vietnam, told the Tac Air Subcommittee that "the A-7 bombing system is probably the finest air-to-ground bombing system that we have today." Colonel Knoles also testified that the A-7 was "extremely effective" in close air support operations as well as in interdiction missions.

By contrast, the A-10 will have essentially no interdiction capability and a questionable survivability in close air support. It is too slow an airplane to penetrate modern antiaircraft defenses. It will not have the computer-aided bombing system of the A-7D which gives the latter plane its outstanding bombing accuracy. It must also operate low and slow to match the A-7D's close support capability, and that is not a viable attack tactic to survive modern AAA, Strella missiles, and SAM's, and even if the heavy armor and redundant systems keep the A-10 from being knocked down, frequent hits could severely reduce its utilization rate.

Let me make a few more comparisons. The A-7 bombing accuracy was 10 meters; the bombing tests conducted by A-10's in noncombat situations showed an accuracy of 27 meters. The A-7 required 16.5 maintenance man-hours per flight hour, compared to a projected 12 hours for the A-10 and a more realistic 15 hours estimated in the major trade-off study of the two aircraft. There is just not that much difference in maintenance costs.

The A-7 has a top speed of 610 knots, while the A-10 currently can go only 350 knots, with a hoped for top speed of 390. And as Colonel Knoles testified, in a combat situation, "You would like to have as much air speed as you can possibly get."

Of course, the A-10 is not supposed to go very fast. It is deliberately designed as a single-purpose, close air support plane, which can go low and slow. But it seems highly questionable to pay as much for an untested single purpose plane as for a proven, dual purpose one.

The whole concept of close air support remains unsettled and unsettling. The Army continues to spend money on helicopters and the Air Force on the A-10. I for one am just not convinced of the need to have such a duplication in capabilities.

The Armed Services Committee has recommended one way to proceed: have a flyoff between the A-7 and A-10. While this could be a very useful device to expose some of the unforeseen problems in flying an A-10, and in getting operational judgments from pilots, it may well be true that the flyoff would not resolve the fundamental question of whether we need this particular low-slow plane. The Air Force's recent major cost-effectiveness study of the A-10 compared with the A-7, called Saber Armor Charlie, was loaded with assumptions that resulted in predictable conclusions that the A-10 was better.

The distinguished chairman of the Tac Air Subcommittee, Senator CANNON, exposed these biases, but the possibility remains for a flyoff with preordained conclusions.

In any event, I do not think we need to wait for a flyoff to decide that we should not spend as much or more to buy A-10's as we would to get the same number of the much better A-7's.

Amendment 491 would terminate this program, thus freeing resources to help improve the Air National Guard.

The PRESIDING OFFICER. Who yields time?

Mr. NUNN. Mr. President, will the Senator yield for a question?

Mr. HUGHES. I am happy to yield to the Senator from Georgia.

Mr. NUNN. As the Senator knows, I have shared many of his views, particularly his statement about the Air National Guard and the need we have to drastically overhaul and improve their capabilities. I also share the view that we should do everything possible to get them equipped with A-7's.

Did the Senator hear the statement yesterday by the Chairman of the Tac-Air Subcommittee (Mr. CANNON) that the Air Force has finally agreed to have a flyoff between the A-10 and the A-7?

Mr. HUGHES. Yes.

Mr. NUNN. Does the Senator want to in any way respond to that? I voted with the Senator in committee to delete the A-10. I had serious doubts about it. I think we need dual capability, but at this particular time, since it is planned to have a flyoff, I may vote the other way. I would like to hear the Senator's comment on that.

Mr. HUGHES. I think the circumstances of the proposed flyoff could be loaded with biased assumptions. I think they may not provide comparable testing factors as to the capabilities of the separate aircraft. They may not give the A-7 its best performance profile in com-

parison with the A–10 in different types of bombing runs.

I am not saying that it will be loaded; I want to make that emphatically clear. It seems to me that it could be. Observation may well demonstrate that it is not. I hope we will do that, if I do not succeed with this amendment.

My simple observation now is that we could save $190 million, and go ahead with a program on a better plane, in my opinion.

Mr. NUNN. Would the Senator repeat the cost comparison between the A–7 and the A–10? I believe the Senator said the per unit cost of the A–10 is now $3.2 million; is that correct?

Mr. HUGHES. Yes, that is correct.

Mr. NUNN. The per unit cost of the A–7, what is that? Does the Senator have that?

Mr. HUGHES. There is approximately $30,000 difference per plane, if you add the $125 million already spent.

Mr. NUNN. What was the figure the Senator pointed out that we could equip the Air National Guard for? How many A–7s could they get in exchange for this A–10 program, at the same time?

Mr. HUGHES. Well, the planes are of comparable expense, so there would be 24 for $70 million, and so on, on up. You would get 24 A–7–Ds for the price of 24 A–10s.

Mr. NUNN. Does the Senator know whether the Air Force has any current plans for equipping the Air National Guard?

Mr. HUGHES. Yes. As I stated in the opening part of my remarks, I would say to the distinguished Senator from Georgia that they are starting with three squadrons this year. The committee added 24 A–7's which could also be used for that purpose. What this amendment would do is enable the number to be 48 rather than 24, and increase the rapidity of the transition from F–100's to A–7D's.

Mr. NUNN. Does the Senator have a figure regarding how many A–7's the Guard actually needs now, to bring their equipment up to date?

Mr. HUGHES. Approximately 300 more.

Mr. NUNN. At the rate we have funded this year, it would take, then, according to my rough calculations, about 15 years to bring them up to date; is that right?

Mr. HUGHES. Unless we increase the rate of the buys, yes, it would, and unless they increase the rate of transition of A–7–D's out of the Air Force to the Air National Guard in the future, rather than holding them there.

Mr. NUNN. Has the Senator asked the Air Force what they intend to do about that? Are they increasing their request for fiscal 1975, or are they simply going to allow the Air National Guard not to be properly equipped for that length of time?

Mr. HUGHES. According to the Guard people at home, they have indicated to me their expectation is that this will be increased; but as far as any reliable information we have, to answer the question specifically, I have not asked the Secretary of the Air Force for a projected plan in the future.

If the Senator will recall, in committee we passed a resolution requesting that they make a study and report back to us on the needs for this transition and improvement. I am not aware of future plans, as I stand here at this moment, on the need for this transition.

Mr. NUNN. I share the Senator's views on the need to properly equip the Air National Guard. Those men are well trained. They certainly stand above the average reserve unit we have in this country in point of preparedness, from my understanding.

I think the Senator from Iowa performed a service in the committee from the standpoint of bringing this up. As the Senator knows, I was not here last year, but as I understand, the TAC–AIR Subcommittee and again the full committee really mandated the Air Force to conduct the trials last year, and that somehow never came about.

I believe that the Senator from Iowa may well have expedited and certainly has given an incentive for the Air Force to agree to have this fly-off, so I do think the Senator has performed a useful service in bringing the point up; and although I have not at the present time decided how I will vote here, in the light of the Air Force announcement that they will have a fly-off, I commend the Senator for making these valid points.

Mr. HUGHES. I thank the Senator from Georgia. The credit is due, however, to the distinguished chairman of the TAC–AIR Subcommittee, the Senator from Nevada (Mr. CANNON). He has kept the pressure on them and constantly kept their nose to the grindstone, and he is the Senator who deserves all the credit in this particular field. I am simply going farther than he determined to go at this particular moment in time, based on my own judgment rather than his.

Mr. TOWER. Mr. President, will the Senator from South Carolina yield me about 2 minutes?

Mr. THURMOND. Mr. President, I yield 2 minutes to the Senator from Texas.

Mr. TOWER. Mr. President, the Senator from Arizona (Mr. GOLDWATER) is necessarily absent today. He had wanted to speak in opposition to this amendment. I ask unanimous consent that his remarks in opposition be printed in the RECORD at this point.

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

STATEMENT BY SENATOR GOLDWATER

The honorable Senator has proposed cancellation of the A–10 aircraft system. Gentlemen, I am familiar with the deliberations in the Senate Armed Services Committee, and I assure you there is a clear need for a close air support system. The A–10 aircraft system uniquely provides the capabilities for the close air support of our soldiers in the field.

When you are out on the front as a soldier and the weather is bad, a group of tanks may well attack your position. You need an aircraft system that can move in and help kill the tank in the bad weather.

When you are out there and there is a sudden change of enemy action that threatens your position and the lives of your fellow soldiers, you want quick response.

When you are out there securing a defense position, you need a close air support system with large payloads to help secure your position. This in turn can save many of your troops' lives.

These kinds of requirements have been put into the design of the A–10 system, and this is the only aircraft system that meets these requirements:

It can operate in bad weather under low ceilings,

It can kill enemy tanks,

It can fly from very near, short, and unimproved runways.

It can keep the target in sight at all times and can minimize time over enemy lines by its high maneuverability,

It can survive while in the hostile area thru the special design of the A–10 aircraft system.

As I have stated before, the A–10 aircraft system is the only existing aircraft system that can perform to these demanding requirements.

We have gone through a history of programs where costs have escalated. This, generally, has been for several reasons, such as technical unknowns, unrealistic specifications, concurrency, poor cost control, etc. This was the major reason for utilizing the prototype competition and the fly-before-you-buy concept. You have a better defined system (fewer technical risks), greatly reduced specifications changes, and greatly reduced concurrency between development and production. Also, all system and subsystem items have been built and tested; therefore, knowledge of the costs should be firm.

This close air support requirement followed exactly that approach thru the A–9 and the A–10 prototype development and vigorous fly-off. The A–10 system was selected as the winner after this lengthy process. The Congress of the United States has been a partner and a participant in this new approach to procurement. I, personally, feel it will save the country many dollars.

Thus, gentlemen, we have in the A–10 the only system that meets all of these requirements. We have in the A–10 a system that has been scrutinized like no other system ever committed to production, thus assuring small technical risk and high confidence in the costs. I recommend, therefore, that this body support the recommendations of the Senate Armed Services Committee.

Mr. TOWER. Mr. President, I would also point out that the views expressed by Senator Goldwater are not necessarily my own.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, I hold the distinguished Senator from Iowa in great affection and esteem, but I shall have to oppose his amendment.

THE NEED FOR THE A–10

The value of close air support of ground forces has been conclusively demonstrated in every major conflict since World War I. The attack aircraft provides an extremely mobile and flexible means for the application of concentrated firepower on particular targets. Close air support—responding flexibly to the requirements of the combat situation—can be massed to respond to the most critical threat anywhere along the battlefront.

To satisfy the need for a close air support aircraft in the mid-1970's, a durable aircraft with exceptional maneuverability and firepower is required. This is especially true in view of the need to have

a weapon system which can effectively counter the massive number of tanks and other armored vehicles possessed by the Warsaw Pact nations. It is in this connection that the Air Force, in May 1970, released a formal request for proposal to U.S. airframe contractors asking them to submit designs for an attack aircraft—designated the A–X—which would be optimized to perform the close air support mission. The ensuing competitive prototype process recently has resulted in selection of the A–10 version of the A–X as the preferred aircraft for further development.

Because of its capabilities for high sortie rates and large ordnance payloads, the A–10 will be able to sustain great pressure against a massive and well-armed force. The A–10 has a quick turnaround capability and the speed to move rapidly across the battlefront to meet an attack or to support an offensive. The A–10 is optimized for discriminating, accurate ordnance delivery in very close proximity to friendly troops.

Taken together, the range, payload, and loiter characteristics of the A–10 provide a good capability in responding to ground force requests for close air support. Moreover, significant dividends would result from the A–10's ability to operate from shorter, less-prepared surfaces than needed for alternative aircraft. Therefore, for example, in a conflict in Europe, it would be virtually impossible for Warsaw Pact forces to damage the basing structure to the extent that A–10 operations would be seriously impaired.

Mr. President, I feel that we should proceed with this program because of the great service that it offers to our combat troops. We know the value of assault helicopters and how they have aided our troops. The division commanders in Vietnam have testified and made statements as to the value of these helicopters. They have saved thousands of lives in Vietnam. But of course the Army ground troops also need support from fixed wing airplanes.

I favor both weapons systems. Combat troops need all the support they can get. It is the man on the ground—as Senator STENNIS has said many times, the man with the mud on his boots, who needs all the help we can give him to save his life and to enable him to wage an offensive against the enemy.

If the A–10 can save lives, which we think it can, along with the helicopter, both will be very worthwhile to our forces in fighting in combat.

It is for these reasons, Mr. President, that I feel the program should not be killed and that we should go along with it.

I hope that the Senate will reject the Hughes amendment.

THE A–10: A COST EFFECTIVE AIRCRAFT

Mr. JAVITS. Mr. President, for years many in Congress have sharply criticized the Department of Defense for designing needlessly sophisticated and unnecessarily expensive weapons systems. In my judgment, many of those systems that we are being asked to approve in the context of the present military authorization bill are still far too costly, and do not improve our national security to a compensable extent.

However, in some areas we are beginning to see our criticisms of regrettable design and procurement policies bear fruit, and I believe it would be significantly counterproductive for us to turn around and disparage Defense Department efforts that successfully keep the cost of a weapons system low as a result of a prudent and rational design approach.

The A–10 close ground-support aircraft program is an example of such a sensible approach. By modern standards, the A–10 is cheap and will perform the close ground-support role specifically assigned to it in an inexpensive but extremely effective manner. Therefore, I urge defeat of the amendment offered by Senator HUGHES to completely terminate this cost-effective program.

The Senate Armed Services Committee has already reduced funds for this program from the $142.4 million requested for research and development, advance procurement and 10 prototype aircraft, to $92.4 million for research and development only and six prototypes. While this decision is, in my judgment, regrettable, I believe it would be far more unwise to terminate the A–10 program.

The question concerning the A–10 program is neither its cost nor its ability, but whether or not aircraft already in our inventory can adequately perform the close ground-support role assigned to the A–10 but for which they were never specifically designed. This matter has been exhaustively studied by the Air Force, which has concluded that not only is the A–10 more survivable and effective for the close ground-support role, but also cheaper and easier to maintain.

Finally, Mr. President, there is the question of the impact of terminating the A–10 program on Suffolk County, Long Island, N.Y., where Fairchild Industries will produce the A–10. In past years, while the Nation has enjoyed a period of prosperity, the aerospace industry has been depressed with an inordinately high impact on those regions, such as Suffolk County, which rely heavily on the aerospace industry for jobs. Termination of the A–10 program would be a severe shock indeed and unwise in the national interest, as well.

I strongly urge defeat of the amendment offered by Senator HUGHES.

Mr. BROOKE. Mr. President, I greatly appreciate the senior Senator from Iowa's desire for prudence in defense spending. I share this desire. However, in seeking fiscal prudence in defense spending it would be unwise to eliminate systems that are clearly able to perform specific needed functions in a manner far superior to other existing systems. The A–10 is clearly such a weapons system. It will fill the need for the close air support of our ground troops within the parameters established by defense experts far better than any existing aircraft, including the A–7.

The battlefield soldiers need an airplane that can be available immediately to support their fluid battlefield situation. This dictates long loiter times, up to 3 hours, and takeoff from very short takeoff and unimproved runways, 1,500 feet to 3,500 feet. The A–10 meets these requirements through its high thrust and low fuel consumption engines.

The aircraft system to support the ground troops must be able to destroy mobile armor and mobile tanks. This is accomplished by the 30 millimeter tank-killing cannon, specially designed for the A–10, which itself was designed around the gun. This gun has been thoroughly tested and has met all specifications. High maneuverability of the aircraft system to keep the target always in sight was necessary. A large payload with great flexibility in armament to handle a variety of targets was also required. These requirements are built into the A–10.

In bad weather the foot soldier can be without air support for days. His support aircraft must be able to operate in a 1,000-foot ceiling and with a 1-mile visibility. This also dictates high maneuverability and visual contact with the ground. The A–10 is designed to meet these requirements.

Operating in a hostile environment, the aircraft must have built-in survivability. Special consideration for aircraft survivability and pilot protection requires up to 1,200-pound armor plate below the pilot, special fuel tank protection, redundant control systems, capability "one-engine-out" flight, loss of one horizontal and one vertical stabilizer, loss of an outer wing panel, et cetera. These features are designed into the A–10 to allow completion of a mission and/or return safely.

Again, addressing the concern about costs the A–10 aircraft system was "designed-to-cost" to meet the important requirements of providing close air support for the foot soldiers in the field. The costs are well established. The entire process of competitive fly-off between the A–9 and the A–10 for this important mission demonstrated the success of the system.

I would like, also, to address the effectiveness of the A–10 aircraft system for helping maintain the conventional balance of power. For example, in the future, we will likely be bringing home some of our troops from Europe. The A–10—with its capability of carrying large and diverse payloads and its tank killing capacity—will provide support to the remaining troops to preclude being overrun by perhaps thousands of enemy tanks. None of us want more war. If we are to decrease our troop presence in Europe, we would be less than wise not to seek increased firepower in order to maintain some form of credible military capability which must exist if the strategy of flexible response is to remain a viable one.

The A–10 is the only system that can perform precisely the mission of close air support as defined by the Air Force. I hope, therefore, that the Senate will not eliminate this needed program. The amendment by Senator HUGHES should be defeated.

Mr. BUCKLEY. Mr. President, will the Senator from South Carolina yield me 5 minutes?

Mr. THURMOND. I am very pleased to

yield 5 minutes to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized for 5 minutes.

Mr. BUCKLEY. Mr. President, one of the most pressing needs in the modernization of the U.S. Air Force has been the development of a low cost but effective aircraft especially tailored for the mission of directly supporting U.S. ground forces when they are engaged in close combat. In the past, our efforts to develop new aircraft have tended to focus upon missions such as air superiority where the skies need to be cleared of an oppponent's hostile high-performance planes by aircraft such as the F–86 in the Korean war or the F–4 in the 1960's, and the interdiction mission where supplies being brought to the front are attacked and their delivery impeded by attacking aircraft—a good example of the type of aircraft used for this purpose is the A–7. In addition, high-performance aircraft have been developed and procured for the strategic bombing mission such as the B–52.

We have not, however, built aircraft that would enable us to provide the kind of high-grade air support under extremely difficult weather and visibility conditions required to provide manpower support for our infantrymen on the ground. The A–10 fills this vital need for a versatile plane designed specifically for a "close air support" role. This aircraft is able to "loiter" in the region where ground combat is taking place so that air support can be made instantly available to the ground commander who requires it. Moreover, the aircraft is designed to operate at extremely low altitudes permitting the pilot to visually identify targets threatening our forces and attack them with a combination of weapons that are appropriate to the task.

In the past we have been compelled to rely on very fine aircraft such as the F–4 and the A–7 which are high performance, high-speed aircraft with relatively little ability to operate for hours at a time at low speeds and at low altitudes in an efficient manner. As a consequence, our ground forces have been compelled to accept a level of air support that in some cases was not adequate to the threat they faced. This has resulted in a needless loss of lives. The fact that this aircraft is optimized for the purpose will have the added benefit of producing a generation of pilots who are carefully trained for this otherwise much neglected mission of close air support.

The support of troops on the ground is a very difficult one because a mistake of but a few yards can make a tragic difference in an intense firefight. The A–7D, for example, is an excellent aircraft for hitting fixed targets from high altitudes because of its superb bombing accuracy. However, in the role of close air support, the combination of long loiter time and inherent accuracy augmented by the ability of the pilot to maintain visual contact with the battlefield are essential if tragic errors in the bombing of friendly forces are to be avoided—tragedies that were all too frequent in the recent Vietnam conflict. The combination of aircraft for the interdiction and close air support role provided by the A–7 and A–10 provides a uniquely complementing system of aircraft that will, in the first instance, cut down on the flow of supplies to enemy forces on the battlefield, and, in the second instance, the A–10 will inhibit the ability of the opponent to employ effectively what forces he has remaining against our own troops because of the rather dampening effect that 16,000 pounds of accurately delivered explosive ordnance will have on enemy determination.

It is, Mr. President, a mistake in my view to consider the A–7 and A–10 aircraft to be competing systems; rather they represent different classes of aircraft in the same manner that a C–5A transport aircraft is necessarily a much different aircraft than the B–52 bomber. Both are designed to do a certain task and neither can be sufficiently modified to do the task of the other. Modifying the A–7, an aircraft designed for high speed, medium-to-high altitude attack, to become low altitude, low-speed close air support aircraft would result in an aircraft that could no longer carry out either the interdiction mission or the close air support role efficiently. As a consequence, our troops would be deprived of important support vital to their survival when confronted by superior forces on the ground.

The A–10 aircraft uses well known and widely understood technology and as a consequence, is well understood in terms of its eventual cost. On the other hand, converting an aircraft designed for one purpose; namely, the A–7D, for use in another role may well result in unforeseen increases in cost at questionable levels of performance. Moreover, because of the design simplicity and well understood technology employed in the A–10, over $1.5 billion would be saved in operating costs over a 15-year period using the A–10 aircraft rather than the A–7.

Mr. President, the A–10 close air support aircraft represents a sound defense decision, and a good use of what we know to be scarce resources available for commitment to defense purposes.

I urge that the amendment of the distinguished Senator from Iowa be rejected.

The PRESIDING OFFICER (Mr. BUCKLEY). Who yields time?

Mr. TOWER. Does the Senator from Maryland wish time?

Mr. MATHIAS. I would like to have some time. If the Senator has another speaker, I would prefer to wait a few minutes.

Mr. TOWER. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time be charged equally to both sides.

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

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

The yeas and nays were ordered.

Mr. HUGHES. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time be equally charged to both sides.

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

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. TOWER. Mr. President, I yield to the Senator from Maryland such time as he may require.

Mr. MATHIAS. I thank the distinguished Senator from Texas for yielding time to me to discuss the A–10 aspects of the pending amendment offered by the distinguished Senator from Iowa.

I wish to associate myself with the views that were just expressed by the junior Senator from New York, who portrayed the potential of the A–10 very accurately and very succinctly.

I think the effect of the pending amendment offered by Senator HUGHES on the A–10 program would be very unfortunate from the overall point of view of our developing defense capacity and from the equally important point of view of our ability to pay for a developing defense capacity.

This is a project in which I have had a special interest for many reasons, one of them being that it was a subject which was closely studied by the group of Members of Congress known as MCPL, Members of Congress for Peace Through Law, whose interest is in some rational approach to defense problems. Among the projects they studied was this particular procurement item. The A–10 really fits very closely the recommendations that resulted from that study. I would regret that one of the first casualties of this year's defense debate would be one of the programs which seem to be most rational and most reasonable and have the greatest promise for the future.

As the report of the Committee on Armed Services noted a year ago, one of the most important aspects of defense procurement today is that we be able to afford it, that the cost of purchasing defense does not defeat its very purpose and make us weaker rather than stronger.

The distinguished Senator from Mississippi (Mr. STENNIS) has made that very clear in the studies that have been made under the direction of his committee.

The A–10, first of all, gives us a chance to win the price war. The Department of Defense in this case did fix a cost target; and we are faced, unhappily, by many examples of defense procurement in which these cost targets are ignored or certainly missed. In this case, as the Senator from New York knows, the cost target was squarely achieved.

I think this is because of the fact that the program was well conceived and has been well executed, and I think it would

be unfortunate to call a halt to it now just as it looks as if we are going to have a plane that can be afforded and which will do the work for which it was designed. This involves a number of interesting criteria that involve high maneuverability and high survivability. These are all features that are built into the A–10, and which can be achieved with the A–10 to a degree that no other single aircraft now in the air fleet or which is on the drawingboard is likely to meet. It is capable of supporting troops from unimproved, short runways, which no other plane now in the fleet can match.

Therefore, it has the versatility which in itself promises economy. As well motivated as the amendment may be and as well intentioned as I am sure it is, we would find that in the absence of further development of this plane that what we were in fact doing was having to rely more and more on less efficient and more expensive aircraft, and instead of saving and instead of a more economical defense we would have a less economical and less effective air potential.

Therefore, I hope that the pending amendment deleting funds for the A–10 program will be rejected.

Mr. President, I ask unanimous consent to have printed in the RECORD certain material related to this matter.

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

EXCERPTS FROM REPORT ON CLOSE SUPPORT AIRCRAFT: THE AX, HARRIER, AND CHEYENNE

(A Research Paper,* Prepared by Senator CHARLES McC. MATHIAS, Jr., Senator WILLIAM PROXMIRE, and Congressman JOHN F. SEIBERLING)

SUMMARY

During the past five years the Department of Defense has funded, at a cost of nearly $600 million, the development and procurement of three new close support aircraft, the AX, the CHEYENNE, and the HARRIER. Each of these aircraft has been specifically designed to provide close-range, highly responsive aerial fire support to our combat troops in the field, against targets ranging from troops to tanks.

We fully recognize the importance of the close support mission. We do not believe its performance would be aided, however, by continuing with three separate close support aircraft programs, since two of them involve aircraft with at best marginal advantages over existing systems. While there may be some justification for retaining a triad of strategic nuclear deterrents, a triad of new close support aircraft is ridiculous.

Last year the House Appropriations Committee directed the Department of Defense to conduct a comprehensive study of its close support needs and to choose between the aircraft options involved. The only compliance to date has been a six page "interim report" submitted to the Congress by Deputy Defense Secretary David Packard in June. The gist of the report was that the aircraft involved "offer sufficiently different capabilities to justify continuing all three programs at the present time."

The purpose of this report is to do the hard analytical work which the Defense Department itself should have done long ago.

It is our belief that the AX provides the responsiveness, survivability, lethality, and operational readiness which we will need in a close support aircraft in the event of a NATO-Warsaw Pact confrontation in Europe.

The CHEYENNE, on the other hand, does not. Due to limited loiter time and substantial maintenance requirements, it might not be available when needed. And if the CHEYENNE were available, its high vulnerability and poor maneuverability would make it a sitting duck for enemy fire. The fact that the CHEYENNE carries a price tag twice as high as the AX does not make it any more appealing.

We recommend therefore that the CHEYENNE program be terminated immediately and that the AX be designated as the primary system for the future support of Army ground troops in Europe.

We also believe that the HARRIER offers only marginal improvements in the close support capabilities already available to the Marines in the form of the A–4M, and then only in the initial stages of an amphibious assault operation. Therefore, we recommend that the HARRIER program be terminated after the purchase of 60 aircraft, and that no production of the HARRIER be undertaken in the United States at this time.

Our detailed recommendations follow. If implemented, they would result in a savings of approximately $6 billion out of about $12 billion that would be spent in the next ten years if all three aircraft programs were continued.

RECOMMENDATIONS

Roles and Missions

We believe that the Department of Defense, in order to end twenty plus years of inter-service rivalry, should make a firm decision as to which service shall have the responsibility for close-air support of Army ground troops.

We believe that the close-support mission is best accomplished with fixed-wing aircraft at the present time. Given the contemporary limits of rotary-wing technology, and in view of the fact that the Air Force currently maintains the overwhelming preponderance of fixed-wing assets, it is our opinion that the Air Force clearly should be given the primary close support mission for the foreseeable future, provided that the Air Force demonstrates that it will give the Army adequate and continued support.

We also believe that the Department of Defense should clarify the responsibility of the Navy and the Marines, respectively, in providing close-air support for Marine Corps infantry operations.

AX (Air Force)

1. We recommend the continued development of the AX as a high-priority Air Force program, and that Congress approve the Air Force request for FY 72 funding of $47 million.

2. We recommend that the Air Force revise its internal priorities so that the mission of close-air support receives significantly greater emphasis and that the AX project be elevated to a higher priority. In order to ensure that the Air Force is giving proper emphasis to this mission Congress should require from the Air Force a yearly accounting of funds on close-air support.

3. We recommend that Congress act to ensure that the production version of the AX be kept as simple and austere as feasible. We believe that the AX represents a welcome change in procurement philosophy, in its austere and functional specifications, and its competitive development program. This emphasis, which promises a highly effective close-support aircraft at a price of under $2 million, should be continued. Complex and expensive night- and all-weather avionics and armaments should be added only when the AX is fully developed and thoroughly proven through realistic testing, and then only to a fraction of the force.

INTRODUCTION

Over the past five years the Department of Defense has funded, as a cost of nearly $600 million, the development and procurement of three separate aircraft intended for essentially the same mission of close-air support. The job of these aircraft is to provide close-range, highly responsive aerial fire-support for friendly units in the field against targets ranging from troops to tanks. Each aircraft represents a different approach to the mission of close-air support, and each is sponsored by a separate military service. A brief description of each follows:

AX (Air Force)

The Air Force's entry is the AX, a relatively inexpensive and unsophisticated twin-turbofan fixed-wing aircraft operated by a one-man crew. According to the Air Force, the AX is the first U.S. plane specifically designed for the mission of close-air support. The AX will have short take-off and landing capabilities (STOL), exceptionally good payload and long-range abilities, and a high degree of survivability due to its excellent maneuverability, twin engines, redundant control systems, heavy pilot protection, and large amount of armor plating. The AX is likely to fly in excess of 450 knots, and be able to loiter over the battlefield for long periods of time. The AX will carry a maximum load of 16,000 pounds of external ordnance, and will incorporate as its primary anti-tank weapon an internal automatic 30 mm armor-piercing cannon with 1350 rounds of ammunition. The AX will also mount other guns on its wing stations.

The Air Force is requesting $47 million for FY 72 to continue development of the AX. Contracts totaling $60.1 million have been let to two companies, Fairchild-Hiller and Northrup, to construct two prototypes each of the AX as part of a competitive "fly-before-buy" development program. First flight is expected for the summer of 1972 with production to begin late in 1974 and initial operating capability slated for early 1975.

The Air Force hopes to purchase at least 600 of the AX aircraft. Two versions of the AX have been mentioned, the AX–A, which is the standard operational version, and the AX–B, a possible follow-on to the original that would contain advanced avionics for all-weather and night combat capabilities. The Air Force has estimated that the B version, which is still in the conceptual stage, would cost at least $2 million per unit, and 100 AX–B's at $4 million each, the total investment cost for these 600 aircraft will be approximately $1.4 billion. Including probable O&M costs of $2.8 billion, ten-year systems costs for the AX will be approximately $4.2 billion.

Thus if all three aircraft become operational in the numbers desired by their respective sponsors, the cost to the taxpayers for the questionable benefits of a "triad" of close-support aircraft likely will be in excess of $11.5 billion.

Close-air support in Europe

With the end of American military involvement in Southeast Asia, the primary mission environment envisioned for future close-support aircraft is the European theater. There, close-air support would play a key role in any confrontation between NATO and Warsaw Pact forces. Facing numerically superior Pact armored forces, the first priority for our close-support forces on the European battlefield would be to provide effective anti-armor fire. Also critical would be the ability to provide accurate and lethal suppressing fire in support of friendly forces. Since the Cheyenne and the AX are specifically earmarked for the support of Army troops in the European theater, their capabilities will be contrasted here.

The Marines expect the Harrier, to have

*This research report will be circulated to the Committee and to all MCPL Members for their use and individual endorsement.

specialized applications in forward-based attack situations where available ground-basing facilities are at a minimum and where the unusual qualities of a V/STOL attack aircraft could be considered useful. In particular, the Marines foresee use of the Harrier in support of invasion forces against heavily defended beaches, where its carrier and ship-based abilities would also be important. Due to the special nature of its intended mission, the Harrier will receive separate treatment later in this report.

Roles and missions

For over twenty years a dispute has existed as to which service should have the responsibility for close-air support of Army ground troops. This dispute, unmitigated despite a number of Department of Defense directives and inter-service agreements, has led to the current costly controversy between the Air Force and the Army revolving about the AX and the Cheyenne.

The last major organizational agreement between the Army and the Air Force was concluded in 1965. Called the Johnson-McConnell Agreement after the names of Army and Air Force Chiefs of Staff, this agreement set out to eliminate some of the confusing overlaps as to which service was to do what.

Actually, the Johnson-McConnell Agreement did little more than sort out some of the actual hardware involved rather than solve any of the basic disputes. The Army was given authority to develop a rotary-wing "fire-support" system, which it did, and the Air Force, perhaps too confident that no helicopter could challenge fixed-wing aircraft for this mission, continued for a time its low priority effort in close-support systems. The Johnson-McConnell agreement thus led directly first to the development of the Cheyenne and then the AX.

It is little wonder that the Army wants to develop its own aircraft, for in both Korea and Vietnam the Air Force has been poorly equipped to provide close-air support. The AX is the first Air Force plane specifically designed for the close-air support mission, and until now the United States has had the only major Air Force in the world not to have an aircraft tailored solely for this role.

Instead the Air Force has given preference to the more classic missions of strategic bombardment, tactical air-superiority, air-defense, and interdiction. Though experience in Vietnam, Korea, and even World War II demonstrated the marginal utility of interdiction missions, both the Air Force and the Marines have become overburdened in this area at the expense of close-air support. In fact, over the last few years the Air Force has spent nearly all of its tactical-air budget on air supremacy and interdiction bombers.

To meet the requirements of the close-support mission, the Air Force has had to turn to eclectic combinations of ill-suited aircraft, ranging from trainers to World War II fighters and even pre-World War II transports. They have even had to suffer the indignity of asking the Navy for the A–1, a World War II vintage aircraft that has been the mainstay of Air Force close-air support in Vietnam. A table follows of the primary aircraft types used by the Air Force for close-air support in Korea and Vietnam:

Korea: T–6 (trainer), P–51 (WWII fighter).

Vietnam: A–1 (WWII tac. aircraft procured from the Navy), A–37 (attack version of TA–37 trainer), T–28 (armed version of trainer), T–38 (F–5 version), F–4 (Mach 2 fighter-bomber), C–47 (Pre-WWII military transport).

There is little doubt that either service has the capability to perform the close-air support mission. The doctrinaire argument the Army makes for the Cheyenne—that, being an *Army* aircraft, it would work "organically" with troops in the field—can quickly be put to rest. It has not worked that way in Vietnam. Instead, armed helicopters have been supplied from a central control at the Corps level in much the same way as Air Force planes. Moreover, this centralization is likely to increase with the advent of more complicated and expensive helicopters like the Cheyenne, fewer of which will be available.

We believe that the Department of Defense, in order to end the over twenty years of Army-Air Force rivalry, should make a firm decision on which service shall have the responsibility for the close-air support mission.

As will be demonstrated in the following section, fixed wing aircraft like the AX possess an inherent superiority over rotary-wing aircraft for the close-support role. Since the Air Force already operates the preponderance of fixed-wing assets it is our opinion that the Air Force should be given responsibility for close-air support for the foreseeable future, provided that the Air Force demonstrates to Congress annually that it is giving the mission continued and adequate support.

We also believe there to be auxiliary missions to the primary close-support role of the Air Force that can be fulfilled by the Army with its current attack helicopter, the AH–1G Cobra. However, due to the inherent weaknesses in contemporary rotary-wing technology, we see no value whatever in replacement of the AH–1G with a more advanced attack helicopter at the present time.

Key Combat Characteristics

(1) Responsiveness/Loiter

The nature of the close-support mission is such that its first prime requirement is quick aircraft responses. If troops on the ground are being attacked or an observation post or spotter aircraft should sight a moving column of tanks, the aircraft must get to the scene rapidly. Moreover, the nature of most scenarios for a European battle suggest that during the first critical days the action is likely to be in rapid movement. Close-air support will be keyed not to fixed targets but to constantly changing battle lines. Unless an aircraft arrives quickly, it may not know where to go.

Optimum responsiveness is not obtained either through high speed or extreme forward basing. Instead it is best achieved with aircraft that have the ability to loiter over the battlefield for long periods of time. Aircraft already in the air over the front are able to eliminate delays due to take-off, transit time, communications, familiarization, an assignment lags. By contrast, no amount of speed or forward basing can eliminate these delays. Aircraft at forward bases are also likely to be well within reach of the enemy's tactical missiles or artillery.

Its poor response time is one deficiency of the Cheyenne. The Cheyenne is limited by its fuel capacity to what is called "ground loiter" in the immediate vicinity of the combat troops, where it will be well within range of enemy artillery. And even this forward basing will not eliminate frequent trips to its main base for more fuel. Thus the Cheyenne will fly many sorties to provide a limited amount of actual support. And one side effect of its refueling trips could be to aid enemy detection of the main base, bringing on air strikes and artillery harassment.

In contrast, the AX will be able to linger over the battlefield from one to four hours depending on the length of take-off and amount of ordnance carried. Loitering at moderate altitude over the critical areas, the AX will remain virtually secure from hostile fire while being able to respond in under 10 minutes to the needs of either a 100 mile battleline or a 7,500 square mile area.

A specific test of the advantages of fixed-wing, long-loiter, close-air responsiveness was conducted in combat situations in Vietnam in 1969. Nicknamed Misty Bronco, the test used Air Force OV–10As in a joint role of forward air-control and close-air support. The OV–10A, though slower and less maneuverable than the AX, demonstrated the ability of loitering fixed-wing aircraft to bring effective fire-power to bear in support of ground forces within minutes of request. The response time averaged only 5.1 minutes with the majority of that time (3.7 minutes) consumed in obtaining ground clearance to fire. By comparison, helicopter response time in South Vietnam has proved to be in the range of 30 to 45 minutes due to the various delays in getting from the base to the battlefield.

(2) Survivability

Survivability is a second prime requirement for any close-support aircraft called upon to operate in the European theater. In Southeast Asia, both our fixed- and rotary-wing close-air support aircraft have enjoyed total air supremacy and have rarely had to face concentrated enemy fire from the ground. This would not be the case in the NATO-Warsaw Pact confrontation.

On a European battlefield, close-support aircraft will be confronted with a vast array of sophisticated and concentrated anti-aircraft (AA) weapons. In contrast to the under .50 caliber AA threat encountered in less developed countries, the predominant threats in Europe will be .51 caliber and .60 caliber machine guns and 23 mm anti-aircraft artillery (AAA) fire. In addition, close-support aircraft that happen to cross into enemy territory are likely to be menaced by a variety of larger AAA cannons, hostile fire from enemy aircraft, and front-line surface-to-air missiles (SAMs). Another possible threat could be the development of a Soviet equivalent to the U.S. Redeye, a small, man-portable heat-seeking ground-to-air missile.

An aircraft will have to fly through light and medium automatic weapons fire with relative impunity if it is to perform the close-support mission in Europe. Moreover, it will have to fly low enough and slow enough to acquire targets and to engage them with optimum accuracy.

The two characteristics which will work together to determine an aircraft's ability to do this are its vulnerability and its maneuverability.

Vulnerability refers to the physical characteristics of the aircraft itself—the extent of its vulnerable parts and the damage likely if it is hit.

Helicopters are inherently complicated and fragile devices and the Cheyenne will be no exception. It will have a number of very vulnerable components—such as rotors, rotor-heads, gearboxes, and shafts—which are almost impossible to adequately protect. Moreover, it will have an excessively exposed canopy area with the consequence that crew members themselves might easily get hit.

The AX, by contrast, promises to be one of the least vulnerable aircraft in the United States inventory. Recognizing that the ability of an aircraft to take a hit is far more important than its speed, the Air Force has designed it from the bottom up with this basic need in mind.

The biggest dangers if an aircraft is hit are fire aboard the aircraft and loss of its basic control systems. To prevent the first, the fuel tanks on the AX are separated from the ignition and the engines, placed in areas of minimum vulnerability, foam-protected against explosion and fire, and designed so they will leak externally. To prevent the second, the AX incorporates redundant and separated control systems, with the key linkages armored.

The back-up controls of the AX will be fully mechanical, rather than hydraulic, to further reduce exposure to fire.

The next biggest danger is engine loss. The AX will carry two engines to the

Cheyenne's one. Because the engines will be widely separated, there is little danger that a hit in one will result in the loss of both. Because they are duplicating, the aircraft will be quite able to fly even if one engine is gone.

Finally, the AX carries more than twice the armor of the Cheyenne. The AX crew compartment itself is encased in 750 pound bathtub of armor, leaving the pilot vulnerable to most AAA hits only through the plane's small canopy area.

Dr. John S. Foster, Jr., Director of Defense Research and Engineering, summed it up this way in his March 18, 1971 testimony to the Senate Armed Services Committee:

"If the enemy defenses, even in the vicinity of our troops are formidable, if the fire is intense, the AX will probably survive while the Cheyenne will not. It will survive simply because it is a less complicated airplane. I don't believe we can make a helicopter that will take the beating the AX can take."

As far as maneuverability is concerned, the Cheyenne again loses out, with flight characteristics markedly inferior to those of the AX. The Cheyenne is limited to attack speeds well below 200 knots, while the AX has a range from 150–400 knots. The AX can also pull fully seven "g's", as opposed to approximately two for the Cheyenne—1.5 is claimed at 190 kts., 2.13 claimed at 170 knots—this high "g" capability is terribly important, since what it reflects is the ability of the aircraft to deviate from the straight line flightpath which aimed gunfire presumes.

Because helicopters are so vulnerable and unmaneuverable, the Army has argued the case for the Cheyenne on the basis of tactics. It claims that the Cheyenne will be able to fly in a "nap-of-the-earth" profile to mask its presence until it can suddenly "pop up" to fire on its targets from long range, with the wire-guided TOW missile system. These tactics, it says, will keep the Cheyenne alive.

In the fall of 1970, the U.S. 7th Army Air Cavalry conducted a field evaluation in Europe, using Huey Cobras, to test these tactics. While the evaluation has been proclaimed a great success, some of the evidence, as reported in an unclassified write-up of the exercises, casts serious doubt on this conclusion.

It indicates first that the Cheyenne will encounter poor visibility of battlefield targets when operating in "nap-of-the-earth" flight. This finding buttresses one of the long-standing criticisms of the Army's tactics—that the Cheyenne will not be able to actually acquire many targets unless it "pops up" to an altitude of 1,000 feet and then closes to a distance of one-half mile or less for visual target identification.

Under these circumstances, the Cheyenne would be fully exposed for quite some time to hostile enemy fire. After it "popped up", it would require between five and fifteen seconds for target acquisition and fire preparation and as much as another twelve to fourteen seconds after the TOW missile is launched to track it to its target. Thus, for as long as 29 seconds, the Cheyenne could be a shooting gallery target for enemy fire.

The Cheyenne would not have to hover in place while tracking the TOW. It could also "fly down the wire" (along the missile flight path). But this tactic would bring the aircraft even closer to hostile enemy fire. It should be noted in this regard that the Army itself has said that it would be "unacceptable" for the Cheyenne ever to fly behind enemy lines. This recognition of the Cheyenne's vulnerability is fine in theory. In practice, it is highly doubtful whether there would ever be any clear-cut lines in a fast moving European battle.

A second problem revealed by the 7th Army Air Cavalry evaluation is the havoc which power and telephone lines could wreak if "nap-of-the-earth" tactics were employed. Collisions with these lines, extremely difficult to see in flight (especially in marginal weather), could prove to be a major source of losses. A related consideration is the possibility that the wire which guides the TOW could get tangled up in trees.

As an alternative to "nap-of-the-earth" flight, the 7th Army also experimented with flight at tree top level—higher than "nap-of-the-earth" but considerably lower than flight profiles used in Southeast Asia. It was found, however, that even at this altitude the helicopters were "skylined" against the background and were easy enemy targets. Unfortunately, it was also found that "pilots who flew at tree-top level and at relatively higher speeds acquired more targets than those who flew "nap-of-the-earth."

The 7th Army Air Cavalry evaluation casts serious doubt on the ability of the Cheyenne to successfully employ the tactics it has been hoped it could use. There is little chance that it could acquire many targets at the stand-off ranges it is designed for and even less chance it could long survive if forced into the thick of the battle. In fact, seven out of eight senior Army officers who participated in the exercises cited helicopter survivability when questioned about the negative aspects of the exercises.

The Ax will not be burdened by the questionable tactics of the Cheyenne. It will not be restricted to the "friendly" areas of the battlefield. Instead it will loiter over wide areas for long periods of time, above the range of automatic weapons, with the maneuverability, acceleration, and rate of climb needed to rapidly attack defended targets with a minimum of exposure to hostile fire.

These characteristics will be especially important if we do, in fact, face Redeye-type missiles and enemy fighters in Europe. Since no close-support aircraft could hope to match a SAM or a MIG in speed, survivability would depend in great degree on the aircraft's ability to outmaneuver the missile and perhaps the fighter as well till help arrives.

The Cheyenne would have no hope of surviving in this environment. During the Lam Son 719 operation conducted in Laos this past spring, under conditions only remotely as severe as those which would exist in Europe, chopper losses were staggering. The Army reported a total of 94 helicopters shot down between 5 February and 11 March, but other reports, including one in the New York Times, put the loss for the Laos incursion at 219 helicopters. This is the equivalent of 60 per cent of the total Cheyenne buy—Although most of the losses in Laos were of helicopter troop-carriers—"slicks"—such as the UH–1G Huey, the experience of the slicks is applicable to attack helicopters as well, since armed helicopters like the Cheyenne are more likely to engage enemy defenses. Laos particularly demonstrated the severe vulnerability of helicopters to .51 caliber machine guns (12.7 mm). In contrast to this, the Ax, which has over 1000 lbs. of armor to 453 for the Cheyenne, has been specifically designed to safely take fire up to .60 cal. (14.5 mm.).

(3) Lethality/Accuracy

Even if an aircraft can respond quickly and fly through enemy fire with impunity, it will be of little value in the close support mission unless it can deliver lethal and accurate fire against the targets with which it is confronted.

Any close support aircraft operating in the European theater will have to deal with two kinds of targets: "hard" targets such as tanks, armored personnel carriers, and bunkers; and "soft" targets such as command posts, lightly fortified machine-gun and mortar points, and vehicles and troops in the field. The "hard" targets will be both the most important and the toughest to destroy—important because the opposing armored forces will spearhead any enemy advance, and toughest to destroy because they will be camouflaged, mobile, and well protected.

Unguided rockets or bombs will not be adequate against armored vehicles because of their inherently poor accuracy. Needed instead will be small, penetrating warheads (hard core bullets or shaped charges) accurately delivered against them. Our choice, therefore, will be primarily between guided missiles like the TOW and the Maverick, or high velocity, high impact automatic cannons of 30 mm. or larger with armor piercing warheads.

The Cheyenne will not be able to rely on its own gun as an antitank weapon. Like all helicopters, it suffers from high vibration and relative instability, both of which are fatal to accuracy. Even with its rigid rotor which minimizes rotor vibration to a degree, the Cheyenne will be forced to incorporate a very complex and very expensive computer-controlled turret stabilization system to achieve acceptable accuracies. And since this turret system will not accept the high recoil associated with an antitank capable cannon, its weapons will not be usable except against relatively soft targets. The Army readily acknowledges that they will be light armor piercing only.

In February, 1971 the Army attempted to demonstrate to a Congressional audience at its Yuma proving grounds the ability of the Cheyenne to fire its turret weapons simultaneously at two widely separated targets. Despite the unrealistically optimum test conditions (there would be no opportunity for careful preparation by highly trained technicians in a battlefield environment), a malfunction in the Cheyenne's fire control system caused machine gun fire "to be sprayed all over the hillside." Even if similar malfunctions can be prevented on the battlefield, it is doubtful whether the Cheyenne will achieve the accuracies called for in its design specifications, since their attainment is predicated on a minimum of aircraft movement which could well prove fatal if employed in the face of hostile fire.

Since it is incapable of mounting a 30 mm. cannon with the velocity, impact, and accuracy needed to counter enemy armored vehicles, the Cheyenne will have no choice but to use the TOW wire-guided missile as its primary anti-tank weapon. Unfortunately, there are a number of problems with the TOW, which was originally designed for use on the ground.

First, there are the target acquisition and survivability problems alluded to earlier. It is unlikely that the Cheyenne will be able to acquire targets at the stand-off range for which the TOW is designed and unlikely that the helicopter will survive if forced to move closer to its targets.

Second, there is the fact that the TOW can be countermeasured by simple, low power techniques.

Third, there is the high cost and complexity of the missile. For example, the 16 TOW missiles which the Cheyenne will normally carry will cost six times as much as the normal AX payload while providing sixty times fewer actual warheads. And since the TOW system will also be difficult to maintain, costly to repair, and have poor battlefield reliability, these figures probably understate its relative cost disadvantages in terms of functional sorties delivered.

At the Yuma demonstration referred to earlier, the carefully prepared Cheyenne fired two missiles at standing targets under ideal conditions. One of the missiles hit the tank, but the other simply fell out of its launch tube.

This failure is not a good omen. In combat it is unlikely that the Cheyenne will face tanks standing exposed in bright sunshine

on the side of hills. Instead it will have to fire in adverse weather and under high crew stress conditions, at moving targets with good camouflage, and in the face of enemy countermeasures against the missile. All of these factors will gravely compromise the effective use of the wire-guidance system which requires highly accurate optical tracking either during hover or in "down-the-wire" flight.

The AX, on the other hand, will be well suited to delivering lethal and accurate fire against enemy targets. It will have the maneuverability needed to acquire its targets at short range, turn in the one-half mile or less needed to maintain visual acquisition, and then attack in close at a speed slow enough to ensure accuracy yet fast enough to reduce exposure to hostile fire.

Air Force tests conducted in 1965 demonstrate the very high degree of accuracy which can be achieved by the fixed-wing multiple pass strafing such as the AX will be able to deliver. When its new .30 mm. cannon is developed, the AX will also have a weapon of sufficient impact and velocity to pierce any armored vehicle in the Soviet inventory. Moreover, this cannon will be cheaper to maintain and operate than the infinitely more complex TOW.

Finally, the AX will be able to carry up to 16,000 pounds of external ordnance, more than three times as much as the Cheyenne. As a corollary, it will also be able to carry a greater variety of ordnance and engage a much wider range of combat targets.

(4) Operational Readiness Requirements.

(a) *Peak Sortie Rates.* If a close support aircraft is to be counted on when needed, it is vital that it be able to fly 4 to 6 sorties per day, for one or two days, when necessary in emergency conditions—The Army and the Air Force do not use the same definition of a sortie. The Army reports every touchdown as a sortie. Thus one attack mission may be reported as consisting of five to ten sorties. In referring to a peak sortie rate desired of four to six per day we are using the Air Force definition—The main determinant of an aircraft's ability to achieve peak sortie rates is the degree of its overall complexity.

A complex aircraft like the Cheyenne will require its own retinue of highly trained technicians and considerable support materiel wherever it goes, and it will still be under repair much of the time. The Army's current attack helicopter, the Huey Cobra, has spent considerable amounts of time "in the shop" while serving in Vietnam. The much more complicated Cheyenne would no doubt have a worse record. By contrast, a simple aircraft like the AX will have less failures, and thus demanding less maintenance, will fly more.

(b) *Austere Basing Capabilities.* There are several reasons why close support aircraft should be able to operate away from carefully prepared airstrips. For one thing, there are not likely to be airstrips in the immediate vicinity of a battlefield. Even if present, any aircraft operating from them would inevitably cut significantly into its responsiveness, its loiter time, and/or its payload if it could even reach the scene. An added danger of centralized bases is hostile strikes which could eliminate large fractions of the force in one swoop.

Although a helicopter like the Cheyenne would seem at first glance to have advantages in this regard, they turn out to be somewhat illusory in nature.

To begin with, the Cheyenne derives little advantage from its vertical take-off and landing (VTOL) capability. As argued earlier, forward based "ground loiter" is no substitute for long loiter in the air above the battlefield when responsiveness is the point at issue. Due to its vulnerability, the Cheyenne will not be able in any event to sit down in areas really close to hostile fire. In Vietnam, for example, attack helicopters have operated almost entirely from sheltered rear bases with intermediate stops only at secure helicopter clearings. Finally, it must be remembered that vertical take-offs extract an inherent penalty in terms of the amount of fuel and ordnance carried. When fully loaded, even the Cheyenne required room to roll for take-off.

The AX will be able to rely in Europe on the large number of austere dirt and paved airstrips which can accommodate an aircraft with its own short take-off and landing (STOL) capabilities. It is designed to be able to take-off fully loaded from forward areas, hastily prepared dirt airstrips in distances as short as 2,200 feet. The Air Force A–7, by comparison, requires 7,000 feet of hard surface runaway.

In fact, due to its lesser support requirements, it will be possible to disperse the A–X to a far greater number of bases than the Cheyenne, which will have to return far more often to its main base for fuel, ordnance, and repairs. And the helicopters then will be grouped together for possible enemy strikes.

(5) Night and All-Weather Capabilities

An aircraft that could always provide accurate and discriminating fire at night and under all weather conditions would without question be most desirable for the close support mission. The Cheyenne clearly has more sophisticated night and all weather avionics than the AX but it is doubtful what added capabilities they give it.

First, as demonstrated by Air Force experience with the A–1 in Southeast Asia, sophisticated avionics are not needed for effective close air support operations in marginal daylight conditions that kept other more avionics-equipped yet less maneuverable aircraft on the ground. The A–1 also operated at night with equipment no more exotic than flares, using the technique of making multiple, tight, low-speed turns within the duration of the flares.

The time when special avionics would be most helpful—and when aircraft cannot operate without them—is under conditions which combine bad weather and the night. Unfortunately, no package of sensor systems yet developed and none on the horizon has shown any ability to discriminate effectively between friendly and hostile forces. Yet this is a basic prerequisite for close-air support, especially under these conditions.

Despite the fact that the target identification problem remains unsolved, the Cheyenne is designed to incorporate an exotic passive infra-red night-vision system that adds greatly to its complexity and to its cost. In the 7th Army Air Cavalry evaluations referred to earlier, one helicopter troop experienced only 6 per cent of its total acquisitions and only 3.6 per cent of its actual engagements during its night operations. The more advanced equipment on the Cheyenne might make some improvement in that score but not enough to justify the cost.

The AX, by contrast, incorporates no such avionics in its standard operating version, yet its inherent maneuverability will allow it to operate even more effectively in most weather conditions then the A–1 did in Southeast Asia.

If and when avionics are developed which could significantly improve its performance, they could easily be incorporated in a fraction of the total AX force.

(6) Force Structure Implications

Our tactical air strength in any European encounter will depend not only on the quality of the aircraft we have but the numbers in which they are available. Here cost is an all important consideration, and again the AX comes out ahead.

Due to the innovative management techniques being applied to the AX program and the basic simplicity of the aircraft itself, the AX will be less than half as expensive as the Cheyenne. Its lower unit price will translate directly into substantially more aircraft for the money spent, as the following table demonstrates:

$1.2 billion buys:
600 AX, $2.0 million*
222 Cheyenne, $5.4 million*
273 Harrier (UK version), $4.4 million*

In addition to its investment cost advantage, the AX will have lower operations and maintenance (O&M) costs as well. Experience shows that O&M costs usually average out to approximately 20 per cent of investment costs per year. This would put annual O&M costs for the AX at $400,000, compared to $1.08 million for the Cheyennne. This $400,000 is a far cry from the upwards of $1.5 million per year which we are already spending on a number of sophisticated Air Force planes.

The recent revelation that the Air Force is planning to develop an inexpensive "light fighter" to supplement the expensive F–15 is a first welcome indication that greater consideration is being given by the services to the importance of force structure implications in making their procurement decisions. It would not be in keeping with this new trend to replace the $700,000 Huey Cobra with the more than seven times as expensive Cheyenne. The trade-off in numbers is simply not warranted by the few added capabilities actually gained. Given their inherent vulnerability and poor maneuverability, it is quite possible that a sizeable fraction of the small total Cheyenne force could be wiped out during the early stages of a conflict, and that no reinforcements would remain.

* * * * *

ANALYSIS OF THE AX

Development program and procurement approach

A series of innovative management approaches have been initiated for the AX development and procurement program which encompass austere and functional specifications, competitive hardware development, and thorough flight assessments before production approval. These reforms should result in a relatively low RDT&E cost for the AX program with minimal risks while promising a highly effective close-support aircraft at a price under $2 million.

The simplicity of airframe design and minimum of avionics and other complex subsystems incorporated in the AX should assist the program in avoiding the dangers of excessive sophistication and technological overassumption that have in many other programs led to serious schedule and cost difficulties. This emphasis upon design simplicity should be continued, for the nature of the AX mission is not one that requires advanced technology. Rather, the use of proven components will increase mission effectiveness by resulting in a rugged aircraft with a high degree of reliability, ease in maintenance, and minimal support requirements for basing. And, the simplicity of design will make the AX inexpensive enough to enable the Air Force to buy the aircraft in adequate numbers.

The benefits of austere and functional specifications have been followed up on with a full competitive development program, the first since 1956. Two companies, Fairchild-Hiller and Northrop, have been let contracts to build two AX prototypes apiece (the A–10A and the A–1A respectively). This dual hardware development program is a marked departure from the more frequent "paper competition" and "total package" type of contracts that have caused numerous problems in the past with aircraft like the AH–56A (Cheyenne), the C–5A, the F–111 and the F–14.

The actual "fly-off" part of the competitive development program is another feature of

* Program unit costs.

the AX development program. Having the two versions of the AX compete against one another should have a number of positive effects for the program. The competition will identify not only the best aircraft, but also potential problem areas to be solved during later stages of development. The "fly-off" also virtually demands that both contractors produce the best possible aircraft, since lesser effort could clearly result in the loss of the contract.

The net result of these innovations in program management should be the development of a relatively risk-free, highly effective close-support aircraft with a comparatively low price. Although direct RDT&E costs, at an estimated $281.2 million, are not particularly low, the benefits achieved through the competitive development program should in the last analysis result in a better aircraft at a lower total program cost than would be achieved were more conventional management techniques applied.

Air Force priorities

Although the past twenty years of operational experience has clearly demonstrated the importance of close-air support, the Air Force has consistently given this mission a low priority and has thus found itself in both Korea and Vietnam, without an aircraft designed for this mission. The Air Force has instead preferred more glamorous missions and has funneled most of its tactical-air budget into the questionable utility of strike-and-interdiction bombers like the A–7, the F–4, and the F–105.

Given this past preoccupation with interdiction aircraft, it is little wonder that the Air Force did not get the AX program moving until fully a year and a half after the Army had begun development of the CHEYENNE. It seems that only the threat of losing the close-support mission to the Army really convinced the Air Force to develop the AX. But development does not itself ensure that the Air Force will give adequate attention to close-air support in the future.

We are particularly concerned that the Air Force place sufficient wings of the AX in the active force structure before equipping the Air National Guard. We believe that at least five wings (or 600 aircraft) are necessary to ensure that the Air Force will be able to effectively meet the close-support need with the very short notice that will be expected in a potential NATO-Pact confrontation. Assignment of large numbers of the AX total buy to the Air National Guard would most likely result in grave delays in combat deployment of the aircraft and subsequent weakening of tactical strength, due to the time associated with Guard unit activation, transport, and familiarization.

While fully supporting the AX programs, we recommend that Congress monitor Air Force performance of the close-support mission by requiring over the life of the AX program an annual accounting sufficient to show:

(a) continued satisfactory development of the AX

(b) sufficient numbers of the AX in the active forces

(c) adquate spares, training, and flying hours for the AX

(d) adequate provision for close-support munitions

(e) adequate inventory of forward air-control (FAC) aircraft and sufficient training for this important auxiliary mission.

Survivability

Although the relative survivability of the AX is clearly superior to that of other close-support and standard attack aircraft, this comparative edge does not assure that its absolute survivability will permit the really close-in operations desirable in a European battle. To date the Air Force has taken commendable actions in behalf of AX survivability research and development for this aircraft be made a matter of highest priority.

We believe that extensive live-firing tests will be necessary to gauge the absolute survivability of the AX. Since the large payload of the AX allows for the addition of more armor at the expense of marginal ordnance loss, any undesirable vulnerability indications arising from these tests might well be compensated for with a minimum of performance sacrifices and at a relatively low cost.

Avionics, night and all-weather combat systems

In view of the Air Force's demonstrated fondness for sophisticated avionics, and the available space for them in the AX, it is important that avionics expansion be very carefully monitored by Congress to guard against needless cost growth.

Of particular concern is the possible development of a follow-on to the standard AX, dubbed the AX–B, equipped with night and all-weather avionics that would add at least $2 million to the cost of the basic aircraft. As discussed in the section dealing with the characteristics of the close-support mission (see pages 7 to 16) the utility of sophisticated night and all-weather combat delivery systems are sufficiently questionable to place cost-effectiveness of an AX–B in serious doubt at this time.

The 7th Army Air Cavalry field evaluations this year, in which only 3.6% of one troop's total engagements and only 6% of total acquisitions occurred after sunset, convincingly demonstrated the limited effectiveness of any aircraft, be it fixed or rotary-wing, operating at night in a European combat situation.

A NATO-Pact confrontation in Central Europe will almost certainly be highly mobile, with battle lines changing so quickly that the whole concept of front-lines becomes clouded. Under these conditions, the inability of any night-all-weather sensor system currently available or on the horizon to discriminate between friendly and hostile targets gravely compromises the operations of close-support aircraft. The very nature of the close-support mission requires that the aircraft be able to provide effective fire against enemy targets in very close proximity to friendly forces, and it is not at all clear that this prerequisite will be met.

In view of the operational, technical, and financial risks involved, development of an AX–B should be undertaken only with the greatest of care. Any proposed "B" version of the AX or major avionics additions to the standard aircraft should be carefully screened in realistic tests. These tests should be conducted with targets and tactical postures representative of battlefield conditions and with particular attention given to the safety of friendly troops in the field. Early evaluations of the operational effectiveness of a follow-on AX–B might be projected by using a portion of the 13 OV–10A nighttime forward air control and strike designation aircraft being developed for the Air Force Pave Nail program, provided that they were suitably modified for ordnance delivery test to a configuration similar to that of the Marine Corps YOV–10D (NOGS) Night Observation Gunship. If the AX–B should receive production approval, we recommend that it be procured in small percentages of the total buy.

The Maverick Missile

Despite the almost ensured success of the AX 30 mm cannon in the anti-tank mission, the Air Force has recently pressed for incorporation of the electro-optically guided Maverick terminal-homing missile as a major component of AX anti-tank effectiveness. The use of this missile which is guided by a type of television that enables it, once fired, to be completely independent of the aircraft, has less supporting evidence than almost any other aspect of AX effectiveness. Due to the inherent limitations of the Maverick, extremely serious doubts exist that this missile will have any useable anti-tank capabilities.

Studies have shown that it is highly unlikely that camouflaged tanks can be visually acquired at sufficient distances, given realistic European battlefield conditions of compromised visibility and diverse terrain, to allow firing of the Maverick before its minimum launch range restrictions are encountered.

Furthermore, the time required for visual lock-on with the Maverick is at least 2½ times the aiming time for the strafing pass required for the 30 mm. cannon. As demonstrated by experience in Vietnam with the Walleye electro-optical guided bomb, the increase in targeting time that a Maverick delivery necessitates renders the aircraft much more vulnerable than would a dive-bombing or strafing delivery.

The limitations in acquisition and aiming time for the Maverick will in all probability require a Maverick-carrying aircraft to make first a purely *acquisition* pass and then return for a separate *engagement* pass. Even with this second pass there is hardly any assurance that between the time of the initial entrance pass and the second approach the target will not have moved to another position which again makes it impossible to engage within the Maverick's range limitations. In addition, multiple passes for acquisition and engagement increase exposure time to the dense hostile fire that will be encountered over the European battlefield.

Given the extremely high cost of the Maverick and associated launch equipment (approximately 50 times more expensive per round than a 30 mm cannon burst), the serious doubts as to Maverick acquisition and targeting characteristics, and additional doubts that exist as to the ease with which the Maverick can be countermeasured, we recommend that there be no Maverick installation for the AX.

Development procedure for the 30 mm cannon

The Air Force has let contracts to General Electric and Philco-Ford for competitive development of the 30 mm high-performance cannon. This cannon will be the primary armament of the AX and its performance a key determinant of AX combat effectiveness. But while the cannon is being developed under management procedures similar to those used for the AX airframe, including a "shoot-off" between the two contractors, present plans do not call for incorporation of the cannon into the AX airframe "fly-off" itself.

Since the cannon is acknowledged by the Air Force to be the "pacing item" of AX systems development and because of its importance to aircraft operating effectiveness, we believe that the Air Force should take actions to make cannon and airframe development parallel, so that the gun can be included in the airframe "fly-off".

The approximately six-month delay in the "fly-off" competition that would be entailed is fully justified by the importance of the cannon to the AX system. The cost of such action would be small by comparison to total program cost.

If the airframe "fly-off" were to incorporate the cannon "shoot-off" the competitive development program would take on valuable new dimensions, enabling decisions on both airframe and cannon to be made more realistically. Parallel cannon development will also protect against later failures in the cannon program, which, if the gun was not incorporated integrally into airframe development, might lead to serious program slippages and downgrading of overall system performance.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. I yield to the Senator from Nevada.

Mr. CANNON. Mr. President, I oppose the amendment of the Senator from Iowa (Mr. HUGHES), which would cut off funds for the A–10—A–X—research and development program and, therefore, would have the effect of terminating that program.

I support the position of the Armed Services Committee on the A–10 program, which calls for a flyoff between the A–7D and the A–10 in order to determine the future of the A–10 program. I would like to explain why the committee has taken its position and why we believe that a flyoff, using operational pilots, is required.

Let us review some history of the A–X, or A–10, program. When our forces first went into Vietnam, back in the early to mid-1960's, the propeller driven A–1 Skyraider airplane was the primary aircraft used for close air support of troops in combat. The plane operated well in the relatively low level of antiaircraft defenses which existed at that time, and its excellent bomb-carrying capacity, long airborne loiter time, and good maneuverability at low speed allowed it to operate in the poor weather conditions of low ceilings and restricted visibilities which often occur in Southeast Asia. The A–1's operated low-and-slow, but this tactic was a viable one early in the conflict.

As the Vietnam war went on, the A–1's were attrited and, since it was no longer in production, the Air Force began to seek a replacement close air support airplane. The initial concept was to build a turboprop-powered airplane with similar characteristics to the A–1. By the time contracts were let in 1970 for prototypes of the A–X airplane, as the new program initially was designated, the switch had been made to a jet powered plane, but the original A–1 type of characteristics of large bomb load, long loiter time, and good maneuverability at low speeds still were retained.

In 1971, there were a number of different development and procurement programs for close air support attack airplanes and for armed helicopter gunships, and the Armed Services Committee undertook a special review of close air support programs to see if there was any overlap or duplication and whether any programs could be eliminated. I served as chairman of the special subcommittee that looked into that issue. We held hearings in the fall of 1971 and issued our report in June 1972.

During testimony on close air support operations in Southeast Asia, we were told of the great buildup in the level of enemy antiaircraft defenses that had occurred as the war went on, both in South Vietnam and in the other areas of combat. Marine and Navy pilots were using high speed swept-wing attack airplanes, the A–4M and A–7E, in close air support and interdiction missions, using high speed attacks for survivability in high defense areas and using new computer-aided bombing systems to increase bomb-release standoff range to stay away from small arms fire at low altitudes. At this same time, the A–X was proceeding in development based on the old A–1 concept of operating low and slow while doing close air support.

The Close Air Support Subcommittee, in its report, supported continuing the A–X prototype development program, which was for two contractors each to build two protoype airplanes and then have them participate in a flyoff to pick the better A–X plane. We did recommend, however, that the Air Force take the A–X prototypes and have them also flyoff against the existing close air support airplanes, the Marine A–4M and Air Force A–7D—twin of the A–7E. Our report stated that operational pilots, ones recently experienced in combat, should participate in this side-by-side flyoff in order to validate that the A–X concept of operating low and slow was still a viable attack tactic when faced by modern heavy antiaircraft defenses. I might note that the full Armed Services Committee also adopted this recommendation for the operational evaluation flyoff with the existing close support airplanes, at the same time as it approved the A–X R. & D. request a year ago in fiscal year 1973.

In the interim between the report last year and this year's committee action, the Air Force deployed its A–7D into combat in Southeast Asia, with excellent results. The A–7D is loved by the pilots who fly it and assessed by the A–7D Wing commander as the best close air support airplane in the world today. Since the A–7D is operational in the Air Force now and the A–4M is not, the latter plane need not be included in the flyoff.

Also since last year the Air Force has gone into engineering development on the winning A–X prototype, called the A–10 and designed by Fairchild Hiller, with a full-scale development contract awarded in March of 1973. The Air Force did not let operational pilots flyoff the A–10 against the existing airplanes but instead did a systems analysis study to validate the A–X low-and-slow concept. Earlier, in my Tactical Air Power Subcommittee report, I pointed out the questionable assumptions used in that study which appeared biased to favor the A–X and I will not repeat them again today. Let me just say that the committee was more convinced than ever after reviewing the study that the opinions of operational pilots, ones with recent combat experience, should be obtained to choose between the A–10 and A–7D as the better airplane for close air support in a modern heavy intensity air defense environment.

This flyoff would not have to be too long or complex. The main point of the flyoff is to take experienced combat pilots and let them fly both airplanes, the A–10 prototype and the A–7D, and them make a judgment as to which airplane they would rather fly in combat. The two airplanes will have greatly different flight characteristics, since the A–10 flies slow but maneuvers well when slow, while the A–7D is operated much faster and its avionics are used for standoff attacks.

Pilots could take the A–10 and fly it the way it would be flown in a heavy defense area, flying it in close to the targets for strafing attacks with a cannon, and maneuvering sharply around in the target area at A–10 attack speeds. They also could take the A–7D and fly it the way it would be flown in its best way in a heavy defense area. The attack speeds would be faster, and bomb drop distances presumably would be longer, because of the capabilities of the avionics in the airplane. But the pilots could evaluate whether the avionics, in fact, could be used on the first pass or on the second pass, and whether the A–7D could acquire targets in poor weather without slowing down too much.

The whole point of the flyoff is to evaluate the greatly different operating characteristics and attack profiles of the A–10 and A–7D.

Operational pilots can judge between these two greatly different types of airplanes and can give the A–10 a fair evaluation using the existing prototype, because it is the basic differences in flight characteristics and attack profiles which are to be evaluated, and not the level of development of the airplanes.

SUMMARY

I hope I have explained in these remarks why the committee has recommended the operational evaluation type of flyoff between these planes for the last 2 years. I believe the requirement still exists and indeed, I have been informed by Gen. George Brown, Chief of Staff of the Air Force, that the U.S. Air Force now will conduct this flyoff, in an objective and unbiased manner, and planning for it now is underway. I, myself, would not make any judgments or predictions on which airplane would win the flyoff. But I do believe that the pilots who would have to fly the planes in combat should be the ones to make that decision. Therefore, I recommend that the amendment of the Senator from Iowa, which would terminate the A–10 program, be rejected, and that the committee position be suported on this matter.

I may say one further thing, Mr. President, in connection with the flyoff. The entire operational concept should be evaluated with respect to a high density environment such as we would have in a battle in the European theater today, the concept of whether it is necessary or desirable to attempt to base an aircraft close to the frontline so it is able to operate from short runways, and whether it is the operational concept that it should be able to circle in close to the troops, where the Strela missile and other high density missiles and weapons are operated from the ground, and whether or not that type of aircraft could survive in that kind of environment.

Mr. THURMOND. Mr. President, if the distinguished Senator from Iowa is ready to yield back his time, I am willing to yield back my time.

Mr. HUGHES. Mr. President, I would like to commend the distinguished chairman of the Tactical Air Power Subcommittee for getting the flyoff and making sure it is a comparable flyoff which will determine the real capabilities of each of these planes. He worked hard and long at it. He really pressed for it. Now he has achieved that decision. He deserves great

credit for bringing it up so we can determine the relative merits of the planes. I presume that will be the position of the Senate today, but it does not alter my position that there is a need for the A–7D. We have an almost obsolete balance of planes. We need to continue improvements. We cannot afford not to have the A–10, and I believe the A–7D can better perform the functions needed than the A–10 as presently known.

I am ready to yield back my time.

Mr. THURMOND. Mr. President, I yield back the time on our side.

Mr. HUGHES. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time on the amendment of the Senator from Iowa has been yielded back.

The question occurs first on the amendment of the Senator from Iowa (Mr. HUGHES) No. 490. 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 Texas (Mr. BENTSEN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Utah (Mr. MOSS), the Senator from Illinois (Mr. STEVENSON), the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that, if present and voting, the Senator from Illinois (Mr. STEVENSON) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BROCK), the Senator from New Hampshire (Mr. COTTON), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from Nebaska (Mr. HRUSKA), and the Senator from Ohio (Mr. SAXBE) are necessarily absent.

I further announce that the Senator from Utah (Mr. BENNETT), the Senator from Colorado (Mr. DOMINICK), and the Senator from Ohio (Mr. TAFT) are absent on official business.

I also announce that the Senator from Oklahoma (Mr. BELLMON) and the Senator from Kansas (Mr. PEARSON) are absent because of illness.

I further announce that, if present and voting, the Senator from Ohio (Mr. TAFT) would vote "nay."

The result was announced—yeas 25, nays 59, as follows:

[No. 404 Leg.]

YEAS—25

Abourezk	Hart	Mondale
Bayh	Hartke	Muskie
Biden	Hathaway	Nelson
Brooke	Hughes	Packwood
Burdick	Javits	Pell
Case	Mansfield	Proxmire
Clark	McGovern	Ribicoff
Fulbright	McIntyre	
Gravel	Metcalf	

NAYS—59

Aiken	Church	Gurney
Allen	Cook	Hansen
Baker	Cranston	Haskell
Bartlett	Curtis	Helms
Beall	Dole	Hollings
Bible	Domenici	Huddleston
Buckley	Eagleton	Humphrey
Byrd,	Eastland	Inouye
Harry F., Jr.	Ervin	Jackson
Byrd, Robert C.	Fannin	Johnston
Cannon	Fong	Long
Chiles	Griffin	Magnuson
Mathias	Randolph	Stevens
McClellan	Roth	Symington
McClure	Schweiker	Talmadge
McGee	Scott, Pa.	Thurmond
Montoya	Scott, Va.	Tower
Nunn	Sparkman	Tunney
Pastore	Stafford	Weicker
Percy	Stennis	Young

NOT VOTING—16

Bellmon	Goldwater	Saxbe
Bennett	Hatfield	Stevenson
Bentsen	Hruska	Taft
Brock	Kennedy	Williams
Cotton	Moss	
Dominick	Pearson	

So Mr. HUGHES' amendment (No. 490) was rejected.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. TOWER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE MILITARY SERVANT AMENDMENT

Mr. PROXMIRE. Mr. President, I was extremely pleased to note the overwhelming acceptance by the Senate of the philosophy that the military services can do without many of their military servants.

Under the provisions of the amendment accepted by a vote of 73 to 9, the number of military servants cannot exceed 218. This is based on a formula of not more than one aide for three-star generals and admirals, two aides for four-star generals and admirals and a total of three aides for members of the Joint Chiefs of Staff.

It should be clearly noted that it is the intent of this amendment to place a numerical limit on military servants and not authorize servants for generals or admirals not now permitted to have these services. Therefore, the actual number of aides assigned under this amendment could be below the 218 figure since not all three- and four-star generals are in public quarters and thus require aides.

ORDER LIMITING TIME ON ROLLCALL VOTES

Mr. MANSFIELD. Mr. President, I ask unanimous consent that rollcall votes take only 10 minutes from now on, with the warning bell to sound after 2½ minutes.

Mr. TOWER. Mr. President, would the Senator please restate that unanimous-consent request?

Mr. MANSFIELD. Ten minutes on rollcall votes, including this one, and the warning bells to sound after 2½ minutes.

Mr. TOWER. Mr. President, would this rollcall vote take 15 minutes?

Mr. MANSFIELD. This rollcall vote would take 10 minutes, and all rollcall votes from now on.

Mr. TOWER. Mr. President, I would be inclined to object, because Members have not been informed.

Mr. MANSFIELD. All right. I ask unanimous consent that after this rollcall, all other rollcalls during the day consume 10 minutes, with the warning bell to sound after 2½ minutes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

AMENDMENT NO. 491

The PRESIDING OFFICER. The question recurs on Hughes amendment No. 491. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Utah (Mr. Moss), the Senator from Illinois (Mr. STEVENSON), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that, if present and voting, the Senator from Illinois (Mr. STEVENSON), would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BROCK), the Senator from New Hampshire (Mr. COTTON), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from Nebraska (Mr. HRUSKA), and the Senator from Ohio (Mr. SAXBE) are necessarily absent.

I further announce that the Senator from Utah (Mr. BENNETT), the Senator from Colorado (Mr. DOMINICK), and the Senator from Ohio (Mr. TAFT) are absent on official business.

I also announce that the Senator from Oklahoma (Mr. BELLMON) and the Senator from Kansas (Mr. PEARSON) are absent because of illness.

I further announce that, if present and voting, the Senator from Ohio (Mr. TAFT) would vote "nay."

The result was announced—yeas 20, nays 64, as follows:

[No. 405 Leg.]

YEAS—20

Abourezk	Gravel	Metcalf
Biden	Hart	Muskie
Church	Hartke	Nelson
Clark	Hathaway	Pell
Cranston	Hughes	Tower
Eagleton	Mansfield	Weicker
Fulbright	McGovern	

NAYS—64

Aiken	Fannin	Montoya
Allen	Fong	Nunn
Baker	Griffin	Packwood
Bartlett	Gurney	Pastore
Bayh	Hansen	Percy
Beall	Haskell	Proxmire
Bible	Helms	Randolph
Brooke	Hollings	Ribicoff
Buckley	Huddleston	Roth
Burdick	Humphrey	Schweiker
Byrd,	Inouye	Scott, Pa.
Harry F., Jr.	Jackson	Scott, Va.
Byrd, Robert C.	Javits	Sparkman
Cannon	Johnston	Stafford
Case	Long	Stennis
Chiles	Magnuson	Stevens
Cook	Mathias	Symington
Curtis	McClellan	Talmadge
Dole	McClure	Thurmond
Domenici	McGee	Tunney
Eastland	McIntyre	Young
Ervin	Mondale	

NOT VOTING—16

Bellmon	Goldwater	Saxbe
Bennett	Hatfield	Stevenson
Bentsen	Hruska	Taft
Brock	Kennedy	Williams
Cotton	Moss	
Dominick	Pearson	

So Mr. HUGHES' amendment (No. 491) was rejected.

AMENDMENT NO. 516 AS MODIFIED

Mr. MONDALE. Mr. President, I call up my amendment No. 516, as modified, and ask unanimous consent that its reading be dispensed with.

The PRESIDING OFFICER (Mr. HELMS). Without objection, it is so ordered, and the amendment will be printed in the RECORD.

The text of the amendment is as follows:

On page 23, after line 24, insert a new section as follows:

"SEC. 304. (a) Reductions in the active duty personnel of the Armed Forces made during the fiscal year ending June 30, 1975, may be made by the Service Secretaries concerned, under such regulations as the Secretary of Defense shall prescribe, from both Regular and Reserve personnel without regard to any provision of law relating to retention or continuation of members of the Armed Forces on active duty, except provisions of law relating to members of the Armed Forces who have eighteen or more but less than twenty years of service for retirement purposes.

"(b) It is the sense of the Congress that in carrying out any reduction in the active duty personnel of any branch of the Armed Forces during the fiscal year ending June 30, 1975, such reduction should be applied, to the extent practicable, by reducing the number of active duty personnel in each grade of such branch by the same percentage figure."

Mr. MONDALE. Mr. President, the American taxpayer is today being asked to support peacetime military spending at a higher level than in any year during the war just ended.

This is the first time in our Nation's history that the defense budget has risen after a war.

One of the reasons for the high Pentagon budget is manpower costs which, even if narrowly defined, in fiscal year 1974 consume 56 percent of the defense budget, compared with 41 percent in fiscal year 1963. If manpower costs are defined more broadly and we include such things as hospital construction, construction of troop housing at training centers and so forth, we come to the alarming result that 62⅔ percent—$2 out of every $3—of the defense budget is manpower related. To put this in perspective, the Soviet Union spends about 30 percent of its budget on manpower.

The Armed Services Committee, after weeks of testimony from military manpower experts, thorough review of the military manpower requirements report for fiscal year 1974, and careful deliberation, voted unanimously to reduce the Defense Department's proposed active duty end strength of the armed services by 156,100.

These reductions amount to about 7 percent of the total end strength requested by the Defense Department for fiscal year 1974 and would reduce strength about 9 percent below the fiscal year 1973 end strength. Based on present pay costs, this reduction, once fully effective, will save $1.6 billion annually.

I congratulate the Armed Services Committee for taking this responsible action. I share the committee's concern that the United States maintain a fully adequate defense capability; but one that is also efficient and balanced.

The committee has addressed the manpower issue, but not the related issue of grade escalation. Commonly referred to as "grade creep," this phenomenon is an increase in average grade level which has produced a grade structure so top-heavy that it is shaped not like a pyramid but like a balloon.

Mr. President, recent congressional reports have brought to public attention some truly staggering facts about the promotion practices and grade structure of the armed services. Comparisons were made of the number of high ranking officers in the current force with World War II and the Korean war levels.

These reports showed that:

There are more three- and four-star generals and admirals in uniform today than there were at the height of World War II, when there were over 12 million men and women in uniform compared with about 2.4 million today.

Today there are some 900,000 fewer officers in uniform than there were in 1945, but we have 5,000 more colonels, lieutenant colonels, Navy captains and commanders.

Twenty-five years ago, more than half of our officers were below the grade of captain—O–3; today two-thirds of our officers are captain or higher.

The Pentagon, in carrying out any manpower cuts, would be required to turn grade creep into grade gallop.

This is due to a multitude of existing statutes which, in effect, provide tenure for all regular officers after 3 years' service. In a sense these officers serve indefinitely. They can only be relieved from active duty if they are separated from the service in compliance with a particular statutory provision.

Hence, the Pentagon would be forced to make these reductions solely from among officers and enlisted personnel in the lower grade ranks. Everyone agrees—including representatives of the Armed Forces who have directly contacted me—that the inability to dismiss tenure officers is a very serious problem. It becomes more serious now that new manpower reductions are likely.

The Department of Defense recognizes this problem and has repeatedly promised Congress that legislation would be proposed to eliminate the inequality in implementing force reductions.

Mr. President, this legislation has been promised for almost 3 years. As recently as last May the Secretary of Defense sent to the Congress his report on officer grade limitations in which he stated that appropriate legislation to establish new permanent officer grade limitations would follow shortly. This legislation still has not been sent up.

I had originally intended to offer an amendment which would have required the Secretary of Defense, in implementing whatever manpower reduction is passed by Congress, to reduce all grades in each military department by the same percentage figure.

But I have come to believe that there are genuine questions of equity for those officers who have devoted their careers to military service, and efficiency in carrying out these cuts in such a short period. I therefore decided to modify my approach in offering this amendment.

First, my amendment would—for purposes of carrying out the troop reductions provided in this bill—relax existing tenure laws so as to give the Secretary of Defense the flexibility to release both officers and enlisted men, regardless of the type of commission held, regular or reserve.

I want to point out that my amendment provides an exemption for officers with over 18 but less than 20 years of service. They will continue to be protected as they approach their retirement; this is in keeping with the "sanctuary zone" practice which has been in effect for years.

My approach is designed to strengthen the Department of Defense by making it possible to keep the younger enlisted men in the military and to more easily preserve a lean combat strength.

Second, my amendment states that it is the sense of the Congress that the Secretary of Defense, in implementing whatever manpower reduction is finally mandated by the Congress, should, to the extent practicable, reduce all grades in each military department by the same percentage figure.

This does not set a new precedent. Rather, it parallels the "hump legislation," which was passed in 1959 and 1960 to relieve the "hump" in officer strength created in World War II and the Korean war.

Mr. President, I am hopeful that if this amendment is passed, the Pentagon would be motivated to submit shortly new legislation entirely revamping the complex of laws which govern the promotion, mandatory and involuntary retirement, and separation of officers on active duty. For example, the Officer Grade Limitation Act of 1964 expires next year and must be carefully reviewed.

I am pleased to note, however, that the Pentagon has taken a first step toward this by recently submitting legislation that would modify the provisions in current law regarding tenure for officers in grade O–5 and O–6—colonel and lieutenant colonel in Army and Air Force; captain and commander in Navy.

I hope that this is an indication that the Pentagon is prepared to move. In the meantime, I urge prompt and thorough consideration of this legislation by the Armed Services Committee.

Mr. President, I would like to make note at this point the main explanations traditionally offered by the military as to why grade creep exists. The principal reasons are that:

First, as weapons and functions have become more complex there is an increasing requirement for officers with more training, higher levels of education, and more experience; and

Second, the rapid promotion process is needed to provide for the all volunteer force and keep morale high.

I would agree that, to some extent, their case has validity. But I believe that it is being carried too far. It is in the upper grades where the grade creep occurs and the military services have little trouble in maintaining the required man-

power in the upper officer and enlisted grades.

In addition, recent pay raises provided to lower ranking personnel have eliminated the argument that grade creep was in part necessary because military compensation was inadequate in the lower grades.

In December 1970, the President, through the Office of Management and Budget, announced a program directed toward reducing the average grade for civilian government personnel and gaining control of the grade escalation—creep—in the general schedule. This program resulted in reducing the average grade level for civilians in the fiscal year 1973 Federal budget. In June 1972, further instructions were issued to the executive departments encouraging them to take full advantage of the expected substantial acceleration of retirements during June to achieve lower grade levels. Similar steps must be taken by the military services to hold military grade levels in check.

It is imperative that a long-term policy concerning the entire range of manpower issues related to the military grade structure, promotion, and retirement policies be developed by the Pentagon. For example, I would hope that some of the grade creep can be removed by allowing the number of personnel holding middle and upper level grades to come down through retirements.

If not, then Congress will be forced to act and require the kind of overall reduction that members of the body have considered. Observers often say that the Pentagon would rather give up battleships than bullets. I hope this will not be true as our defense structure adapts to a new world situation.

Mr. President, now that the United States has finally brought to an end its involvement in the Indochina war, this year is a particularly appropriate time to attack the grade creep problem without overall harm to any of the military services. I hope that my amendment will be a first step to prompt future action to reduce grade creep and the rapidly increasing costs of military personnel.

Mr. SYMINGTON. Mr. President, we have had a brief opportunity to examine Senator MONDALE'S amendment and I would like to say that I am impressed with the Senator's understanding of this important subject of manpower and the obvious study and homework that he has done.

It is my understanding that this amendment would give the Secretary of Defense a free hand for this year to make the manpower reduction recommended by the committee in such grades and ranks as he deemed appropriate to the national security. That means he could release regulars and reserves, officers and enlisted men without regard to any other provision of law that would guarantee them tenure. At the present time, enlisted men and Reserve officers are not guaranteed tenure by statute. The main impact of this provision would be to allow him to release regular officers. These officers generally can only be released now for cause or for failure to be promoted after they have reached 3 years of service but before they have reached 28 years.

We have heard informally from the various services in the Defense Department that they need this kind of legislation to help protect the combat forces and to help keep down grade creep, which is one of the most serious problems faced today by the Department. Without it, there may be a heavy tendency to let go the youngest men who tend to be in the combat units and keep the more senior people who are in the headquarters and support areas.

I think we can all support the idea Senator MONDALE expresses on keeping down the grade creep we have all seen. Something must be done about them and this will keep the pressure on.

Finally, I want to mention that the whole grade structure issue must come up for detailed review next year. We have not had such a complete review in 25 years and the committee intends to make a thorough and detailed study of the complex question during the next year. Senator MONDALE'S amendment will provide a needed temporary solution until that work can be completed.

The amendment follows:

Appropriate officials of the Army have conferred with the Committee staff and they desire the enactment of Section 304A with several minor changes.

First, they desire that exclusions be only those between 18 and 20 years, rather than 17 to 20 years, since the 18 years are spread throughout other provisions of law on this general matter.

Second, it is desired that the authority be extended to June 30, 1975, rather than end on June 30, 1974.

The Army plans that there will be further officer reductions next year. In order to avoid any gap in authority, and to allow for orderly planning, they desire that the authority be granted until June 30, 1975.

The Army has already announced that about 4900 officers will be released this year, mainly captains and lieutenants, all of whom are Reservists. If any further cuts are made by the Congress in the Army strength, these reductions will be partly from the officer corps. The Army desires to reduce its ratio of officers to total strength. What this amendment does is to affect only Regulars and permits them to eliminate non-productive regulars as a part of the reduction program.

I may point out that as a formal position the Department of Defense has not submitted a position on this amendment.

The only category affected are regular officers who might be eliminated prior to the expiration of their normal tenure.

Mr. President, I ask the able Senator from Minnesota whether these suggested changes meet with his approval.

Mr. MONDALE. Yes, I discussed this matter with the distinguished manager of the bill, the Senator from Missouri. He made these suggestions earlier, and I have accordingly modified my amendment to incorporate the suggestions by the Defense Department, both of which I think are eminently sound.

What I sought to do here was to encourage and permit the Defense Department to move as fully as possible to deal with the problem which necessarily follows the personnel cuts mandated by the Committee on Armed Services—namely, the problem of forcing the Pentagon to make their reductions solely from among officials and enlisted personnel in the lower ranks. My amendment allows the Secretary to take these cuts proportionately from all grades and ranks, in a way that does not interfere with the judgment of the Defense Department as to what best serves the interests of a sound defense structure.

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

Mr. SYMINGTON. I am glad to yield to the distinguished senior Senator from Arkansas.

Mr. McCLELLAN. I want to make sure I correctly understand the amendment. Does it apply only to commissioned personnel?

Mr. SYMINGTON. No, it applies to everybody. The effect probably would be mostly on officers.

Mr. McCLELLAN. Let us try to understand this now. As I understand the amendment, it requires a percentagewise reduction, a reduction in every category. Is that correct?

Mr. SYMINGTON. First, all those who are not officers do not have tenure anyway.

Mr. McCLELLAN. Then, it applies only to officers.

Mr. MONDALE. My original amendment was a tough amendment that would require a percentage cut from every rank.

Mr. McCLELLAN. That is what I had before me. That is what I want to make certain is corrected here.

Mr. MONDALE. It applied to both commissioned and non-commissioned officers. I changed it to a sense of Congress resolution, rather than a mandate, so that the secretary could take these cuts to the extent practicable.

Mr. McCLELLAN. The amendment originally would have required them to make cuts in personnel where skills were scarce irrespective of the urgent need to retain them. I want to make certain that will not be the consequence of this provision.

In other words, they may need mechanics and need them badly, but under the Senator's original amendment, if they were required to cut across the board they would have to discharge people who were in short supply and thus further reduce the skills and thereby increase the need.

Mr. MONDALE. That is correct. The amendment in that form was never introduced. As I talked with officials of the Department of Defense, with the Committee on Armed Services, and with the distinguished floor manager of the bill, the complexity of this matter, as well as the difficulty the Defense Department would have in implementing the proposal, became apparent. I, therefore changed it to a "sense of the Congress" resolution, providing that these reductions be made to the extent practicable and consistent with the best interests of a sound defense structure.

Mr. McCLELLAN. Did the Senator say possible or practical?

Mr. MONDALE. I say practicable.

Mr. McCLELLAN. Very well.

Mr. MONDALE. To the extent practicable.

Mr. McCLELLAN. I think that is all right, but I did not want to see an across-the-board requirement for a reduction in those areas where there might be an urgent need to retain skills. They are having trouble now getting mechanics and others with special skills and to request an across-the-board reduction of those would do a great disservice and injury to the services.

Mr. SYMINGTON. I agree with the chairman.

Mr. McCLELLAN. That has been corrected?

Mr. SYMINGTON. That has been corrected.

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

Mr. SYMINGTON. Mr. President, I yield to the distinguished ranking minority member of the committee, the distinguished Senator from South Carolina (Mr. THURMOND).

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I wish to express myself in accord with the statement of the able chairman of the Committee on Appropriations.

The way the amendment was first drawn was objectionable and I could not have gone along with it; but the way it has been amended I understand the effect would be different.

To take the amendment in two parts, the first part, section 304(a) would merely allow the secretaries of the services the authority in making reductions to choose the most outstanding officers, and whether in the regular service or the reserves.

Mr. MONDALE. That is correct.

Mr. THURMOND. After all, it would be very difficult for anyone to object to that because we certainly want the most competent people we can get.

As to the second part of the amendment, section 304(b), that is not mandatory. That is merely a sense-of-the-Congress provision, to the extent practicable.

Personally, I would like to see that section left off. I do not know if the Senator would do so or not but the point is that it is not mandatory but rather a sense-of-the Congress provision and the services would have discretion to follow their own judgment. Is that correct?

Mr. MONDALE. The Senator is correct and I hope he might accept it in this form. The previous proposal mandated an arbitrary 7-percent reduction at each grade level. After discussions with the Armed Services Committee and the Department of Defense, I quickly saw the problem to which the Senator from Arkansas has referred. So the amendment was introduced in this way. This amendment, I might add, follows the tradition of "hump" legislation which was passed following World War II and the Korean war to relieve what is called "bloated" grade levels. I have altered the amendment to read as the Senator from South Carolina described.

Mr. President, I hope the amendment is agreed to.

Mr. THURMOND. Mr. President, in view of the modification of the amendment as originally drawn, and as it is now worded and interpreted by the author, the distinguished Senator from Minnesota (Mr. MONDALE), we are willing to accept the amendment on this side.

Mr. SYMINGTON. Mr. President, I thank the able Senator. Section 304(a) is, in effect, permissive. The word "may" in that section is the word of primary impact in that situation.

On this side we are prepared to accept the amendment and we yield back the remainder of our time.

The PRESIDING OFFICER. Does the Senator from Minnesota yield back his time?

Mr. MONDALE. I yield back my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment of the Senator from Minnesota, as modified.

The amendment was agreed to.

The PRESIDING OFFICER. Pursuant to the previous order, the Chair lays before the Senate the amendment of the Senator from Iowa (Mr. HUGHES), amendment No. 492, which the clerk will state.

The legislative clerk read as follows:

The Senator from Iowa (Mr. HUGHES) proposes amendment No. 492.

The amendment is as follows:

On page 23, after line 24, add the following:

(b) Section 412 of Public Law 86-149 is further amended by adding at the end thereof a new subsection as follows:

"(f)(1) Beginning with the fiscal year which begins July 1, 1975, and for each fiscal year thereafter, the Congress shall authorize the maximum number of active duty personnel of the Armed Forces of the United States that may be assigned to duty or otherwise deployed at any one time in each major geographical region of the world outside the United States; and no funds may be appropriated for any fiscal year beginning on or after such date to or for the use of the active duty personnel of any component of the Armed Forces of the United States unless the maximum number of active duty personnel of the Armed Forces of the United States that may be assigned to duty or otherwise deployed at any one time in each major geographical region of the world outside the United States for such fiscal year has been authorized by law.

"(2) Beginning with the fiscal year ending June 30, 1974, the President shall submit to the Congress a written report not later than January 31 of each fiscal year recommending the maximum number of active duty personnel of the Armed Forces of the United States that may be assigned to duty or otherwise deployed at any one time in each major geographical region of the world outside the United States during the next fiscal year and shall include in such report justification of the maximum assignment or deployment recommended for each region and an explanation of the relationship between the recommended maximum assignment or deployment and the national security and foreign policies of the United States in effect at the time.

"(3) The maximum limitation with respect to any major geographical regions of the world for any fiscal year shall not apply if (A) members of the Armed Forces of the United States are engaged in armed hostilities in such region pursuant to a commitment of the United States under an international agreement, and (B) the President has publicly proclaimed the necessity for exceeding such limitation because of a state of armed conflict in such region involving the Armed Forces of the United States and has so notified the Congress to that effect.

"(4) No funds may be expended for the maintenance or support of any member of the Armed Forces of the United States assigned to duty or deployed in any major geographic region of the world outside the United States in any fiscal year unless funds have been specifically authorized for such purpose for such fiscal year by legislation enacted after the date of enactment of this Act; and, subject to the provisions of paragraph (3), no funds may be expended for the maintenance and support of any member of the Armed Forces of the United States assigned to duty or deployed in any major geographic region of the world outside the United States in any fiscal year if the number of members of the Armed Forces of the United States assigned to duty or deployed in such region at any time in such fiscal year exceed the number authorized by law to be assigned to duty or deployed in such region in such fiscal year.

"(5) As used in this subsection, the term 'United States' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States."

Mr. HUGHES. Mr. President, the question of overseas deployments of American forces is a very important one in this year's debate on the military procurement bill. My amendment No. 492 is in no way intended to compete with the many proposals on troop levels which have been offered to the Senate.

On the contrary, this amendment seeks to go beyond these current proposals to establish a regular procedure by which the Congress can decide how many American military personnel should be stationed overseas in peacetime in the major geographical regions of the world.

Amendment No. 492 builds upon the procedures begun in 1970 when the distinguished Senator from Indiana (Mr. BAYH) introduced legislation requiring annual authorization of manpower levels for each of the services. In order to carry out this task, the Defense Department has been required to submit a detailed manpower study, including justifications of overseas deployments, and this study has been the basis for extensive hearings in the Armed Services Committee.

Basically, this amendment would require, beginning next fiscal year, that the Congress each year authorize the maximum number of Armed Forces personnel who can be assigned or deployed overseas to each major geographical region of the world. In order to provide the Commander in Chief appropriate flexibility in wartime, there is a section saying that these limitations would not apply in any given region if, first, U.S. forces are engaged in armed hostilities pursuant to a commitment of the United States under an international agreement and second, if the President publicly proclaimed the necessity for exceeding the limitation and notified the Congress to that effect.

This idea is not new, although it has never come before the Senate prior to this year. In February of 1972, the Research and Policy Committee of the Committee for Economic Development, headed by the former Director of the Arms Control and Disarmament Agency William C. Foster, issued a report on "mili-

tary manpower and national security" which had a similar recommendation.

We recommend that, at a minimum, the Congress should explicitly authorize by major overseas areas the numbers of troops that may be deployed outside the United States. This requirement will furthermore provide a responsible occasion for public debate, and an orderly procedure for overseas troop deployment. Constructive and informed debate will require informative and candid submissions by the executive branch, supported by a rationale that relates the deployments to specified policies, commitments, and contingencies. (Some testimony would undoubtedly have to occur in executive session, with editing for security before release.)

There will still be challenges to the administration's commitment of troops to Europe, or to Southeast Asia. But a responsible procedure should permit the Congress to question without necessarily challenging, to compromise rather than to confront, to alter deployments in an orderly fashion over time rather than by sudden drastic shifts of policy, and to assert a posture of unity and decisiveness both at home and abroad.

Mr. President, that statement by the Committee for Economic Development sums up quite well the intent of this amendment—to provide an orderly procedure for congressional determinations of overseas troop deployments in cooperation with the executive branch.

The Defense Department, as might be expected, opposes this idea. A report by the General Counsel's office says that this proposal raises serious constitutional questions about the President's ability to act as Commander in Chief.

There are constitutional questions on both sides of this issue, in my opinion, but no definitive constitutional answers. A study prepared earlier this year for Senator FULBRIGHT by the Congressional Research Service noted that—

The specific authority to deploy troops abroad in peacetime has not been subjected to a critical judicial test for the purpose of delineating the boundary between the legislative and executive authority.

That same study continued:

Almost every substantive aspect of the Armed Forces is an appropriate subject for regulation by the Congress; and, since the President is entirely dependent on the Congress for the forces he commands, it follows that Congress can control, directly or indirectly, the objectives for which these forces are used, at least during times of peace.

I would point out, in addition, that the Congress has in the past imposed restrictions on the deployment of forces overseas, such as in language in selective service acts forbidding the sending of draftees outside the Western Hemisphere or outside the United States without at least 4 months' training.

When the budget was much smaller and individual line items were considered in detail by the Congress, money had to be provided each year to support individual bases both at home and abroad.

These past actions stand as precedents for the kind of congressional authorization envisioned by this amendment.

The Defense Department raises other objections to this proposal which I wish to answer. One is that a troop ceiling would deny the President the flexibility needed for a show of force. My view is that a show of force means nothing unless we are willing to engage in hostilities as a last resort. And in that case, only the Congress can properly authorize such a commitment or a commencement of hostilities—just as it could authorize a change in the troop ceiling.

In any event, nothing in this legislation would prevent the President from requesting an excess ceiling or supplementary legislations, such as to provide for an extra carrier task force for the Middle East.

Another criticism by the Pentagon is that this amendment would inhibit the use of forces for noncombat relief operations, such as those during the Nicaraguan earthquake, or for training exercises.

If such a situation arose, I believe that the Congress would readily grant an increase in the ceiling for humanitarian purposes. And I would be willing to consider any corrective amendment which might be offered to deal with this situation, such as, say, permission for a 30-day waiver for a 5-percent excess of the ceiling for noncombat operations. This is a minor point which could easily be resolved.

The more important point is that we do not want truly humanitarian operations to provide a loophole for covert operations. We have been down this road before—when "advisers" in Indochina in fact directed combat operations, and when training exercises were the cover story for a planned invasion of Cuba. We need troop ceilings to inhibit that very sort of secret, unauthorized war.

Perhaps the weakest objection raised by the Defense Department to this proposal is that it would be cumbersome and difficult to implement. Yet the same letter from the General Counsel's office says:

The Secretary of Defense already imposes strength ceilings on major geographic areas.

In these circumstances, I believe that the same control and oversight procedures now used to keep overseas deployments in line with departmental decisions could be used to verify and maintain adherence to congressional limitations.

In short, this amendment No. 492 gives the Congress an orderly procedure for setting overseas troop deployment ceilings in peacetime. It does not affect in any way the operation of either a future war powers bill or the inherent powers of the Commander in Chief in wartime.

Regardless of what we do this year on the question of overseas troop levels, I believe that this amendment would provide a mechanism for careful, cooperative consideration of these questions in the future.

The PRESIDING OFFICER. Who yields time?

Mr. SYMINGTON. Mr. President, I regret that I must oppose the amendment proposed by the distinguished Senator from Iowa (Mr. HUGHES). I fully recognize and I am sympathetic with the concerns which I know moved him to propose this amendment. I believe all of us share the views that the United States has acquired a habit since World War II for excessive involvement in the affairs of nations overseas, and many of us would like to see reductions in the American forces stationed in such far-flung corners of the world—and I certainly feel that way about it—but I would suggest that the amendment in question is not the most effective method of accomplishing these objectives.

First of all, the amendment proposes an annual detailed report to be delivered to Congress on January 31 of each year. This report would discuss the U.S. military deployments in detail and recommend the number of U.S. forces to be deployed in each geographic region of the world. This type of report is important, but I want to point out that there is already an Annual Military Manpower Requirements Report which is the result of an amendment 3 years ago by the distinguished Senator from Indiana (Mr. BAYH).

Mr. HUGHES. Mr. President, will the Senator yield to me so I may request the yeas and nays?

Mr. SYMINGTON. I am glad to yield.

Mr. HUGHES. Mr. President, I request the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. SYMINGTON. Mr. President, this report is an extremely valuable document which the committee uses in its deliberations in the annual manpower authorization request. Because the committee was somewhat disappointed with lack of detail in justification for overseas deployments this year, the committee recommended in the bill now before the Senate an improvement and a strengthening in the reporting requirements for that annual report. This year, for the first time, it is required by law that the annual manpower report contain—

A detailed discussion of . . . the manpower required to be stationed or assigned to duty in foreign countries and aboard vessels located outside the territorial limits of the United States, its territories, and possessions.

The Senators who are interested will find it at the bottom of page 23 of the committee bill.

The reporting requirements recommended in the amendment proposed by the Senator from Iowa would add to this another detailed manpower report to be delivered merely 2 weeks before the annual report which we have been receiving for 3 years. I would submit that, in light of the committee-recommended changes and in light of the mere 2 weeks' difference in time, it would be redundant to ask the Department of Defense to prepare another and entirely separate manpower report covering the same material.

May we turn to the authorization provision in the amendment by the Senator from Iowa.

His amendment requires annual authorization by law for the maximum number of active duty personnel in the U.S. Armed Forces that may be assigned to duty or—and I may emphasize this—otherwise deployed at any one time at any "major geographic region of the world outside the United States." Under

the amendment proposed by the Senator from Iowa no funds may even be expended for the maintenance or support of any member of the U.S. Armed Forces deployed in any major geographic region unless such funds have been authorized by law. This provision would seriously hamper the flexibility of not only the President but even of local theater commanders to deploy their forces as military requirements would dictate. I am not arguing the constitutional issue of whether or not Congress has the right to restrict deployments in that way, although I would point out that Congress power in this area of peacetime deployments is far less clear than Congress clear constitutional right to approve the use of military forces in a war.

Even assuming that Congress has the power to restrict peacetime overseas deployments and prohibit such deployment without legislation, let me point out what serious restrictions this amendment would create.

According to the provisions in the bill it is not clear what constitutes a "major geographic region of the world." In an area which borders on several major geographic regions, such as the Mediterranean Sea, the amendment could be interpreted to require legislation before an aircraft carrier could move from the Western Mediterranean to the Eastern Mediterranean.

Awaiting legislation for tactical movements of this kind is simply not wise, as we see it. The delay could seriously restrict our ability to reenforce our forces in time of crisis and could thereby contribute to endangering those armed forces.

Moreover, the delay required by annual authorization could restrict such beneficial military operations such as disaster relief similar to that recently undertaken to assist the victims of the earthquake in Nicaragua. If Congress is not in session and the annual geographic ceiling must be exceeded to conduct a disaster relief operation, what should we do? Should we await the return of Congress before earthquake victims could be helped?

In addition, I would like to point out that the amendment as written could actually encourage the President or military commanders to use the armed forces in hostilities. This is because the restrictions in the amendment do not apply to armed forces engaged in hostilities. Thus, there would be an incentive for the President or local military commander to provoke or engage in hostilities in a conflict if that were the only way they could obtain the legislative authority to re-enforce their troops or naval units.

Finally, the amendment as proposed would require exceedingly complex accounting systems and mountains of paperwork for the Department of Defense and military services. Whenever a ship sailed across a line which demarcated one geographic region from another, an accounting system in the Pentagon would have to adjust the manpower totals for the two regions, and this could require compensating adjustments in other regions. This is a recipe for more bureaucratic chaos, as we see it.

Again, I want to commend the distinguished Senator from Iowa for his concern about this important subject. But I believe the most effective way to deal with retsrictions on United States forces deployed overseas is the war powers legislation currently being considered in a conference with the House. With that legislation we are on clear constitutional grounds and we do not need to add to it a further complex and unworkable procedure such as proposed in this amendment.

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

Mr. SYMINGTON. Mr. President, I will be glad to yield to the distinguished senior Senator from Arkansas.

Mr. McCLELLAN. Mr. President, I would ask the distinguished Senator from Missouri in charge of the bill to assume that we had had this statute in effect at the time of the missile threat from Cuba or assume that a similar situation would arise, would it then be necessary for Congress to pass another law or resolution authorizing the President of the United States to transport air power or naval power from the Pacific to the Atlantic in order to meet that threat?

Mr. SYMINGTON. Mr. President, I think the Senator's point is well taken. The Senator well knows that if we had to immediately deploy SAC to other parts of the world where it had not been deployed, it would have been very difficult.

Mr. McCLELLAN. The question concerns whether this measure had been law at the time of the Russian missile threat in Cuba. Congress would have had to pass another law authorizing the President to transfer military strength and forces fom the west coast to the east coast, if such were needed.

Mr. SYMINGTON. Mr. President, if I may say, this measure does not apply inside the United States.

Mr. McCLELLAN. Cuba is not inside the United States.

Mr. SYMINGTON. The Senator is, of course, correct. It would apply only outside the United States.

Mr. McCLELLAN. Mr. President, if we were to move our troops down to Cuban waters, they would be outside of the United States. If we then wanted to bring our forces from the Pacific to the Atlantic in order to be in a strategic position to defend against that kind of threat, we would have to have new legislation. Is that statement correct?

Mr. SYMINGTON. It would be my impression that the Senator is correct.

Mr. McCLELLAN. Suppose that Congress were not in session.

Mr. SYMINGTON. That was the point I brought out.

Mr. McCLELLAN. I know that. I just wanted to emphasize that. I do not believe that this is practical at all with respect to national security or survival.

Mr. SYMINGTON. Mr. President, as the Senator knows, and as I mentioned before, there is only a 2-weeks difference, the way it is written in the national military requirement report that we passed 3 years ago. In addition to that, there has been a great deal of effort devoted to the war powers legislation which also would deal considerably with this problem if it were to become acute.

Mr. THURMOND. Mr. President, would the Senator yield?

Mr. SYMINGTON. Mr. President, I would be glad to yield to the distinguished Senator from South Carolina.

Mr. THURMOND. Mr. President, I want to say that the able Senator from Arkansas has put his finger right on a point that is very applicable. I think it shows the danger of this amendment. That fact in and of itself ought to kill the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, I yield myself such time as I may require. I rise in opposition to this amendment. There are three major reasons that I oppose the amendment, first on constitutional grounds, second on functional grounds, and third for conceptual reasons.

As to the constitutional grounds, it improperly arrogates functions to the legislature that are allocated by the Constitution to the Executive.

CONSTITUTIONAL DIFFICULTIES

The Constitution designates the President as Commander in Chief of the U.S. Armed Forces. As such, it is his responbility, not that of the Congress, to determine the level and distribution of the U.S. Armed Forces around the world.

The Constitution also places responsibility for U.S. foreign policy with the President. In peacetime, the distribution of U.S. Armed Forces overseas is determined primarily by the foreign policy objectives and treaty commitments of the United States. The Congress may legitmately influence the direction of U.S. policy by means of its constitutionally granted power of the purse, but it may not properly claim direct authority over the deployments of U.S. Armed Forces abroad as these forces are used as instruments of U.S. foreign policy.

Now as to the second ground, the functional ground, it would tend to impair the efficiency of a U.S. response to possible crises and, thereby, weaken our national security. The amendment would deprive the United States of the necessary flexibility in its response to crises short of actual hostilities. A vital part of this flexibility is the ability rapidly to shift armed forces from one part of the world to another where they are suddenly needed.

The amendment's provisions for admitting flexibility in crisis are seriously inadequate. They cover only instances of actual armed conflict, whereas in fact the need for rapid redeployment is more likely to arise in connection with suddenly increased tensions and the potential for armed conflict whose outbreak a quickly increased U.S. presence would be intended to deter. For example, the amendment could prohibit effective response to another Berlin crisis or another Cuban missile crisis—as referred to by the distinguished Senator from Arkansas—where no overt conflict had occurred and where its outbreak was effectively prevented by a rapid U.S. response.

The amendment also does not provide for the problems that arise in connection with differentiating the regions to which our troops afloat are assigned. This difficulty is most apparent with reference to the Mediterranean, wherein our deployments might be considered as applicable either to Europe, North Africa, or the Middle East. Flexibility of response, I repeat, to be maintained in such a situation, when an impending crisis, requires the prompt assertion of a U.S. presence is essential, and yet the limits previously assigned for the permissible number of troops for the region in question would greatly handicap the execution of the President's constitutional duties.

The third reason I have assigned, as I said in the beginning, the conceptual one, rests on the faulty assumption that a certain pre-specified number of troops would be capable of responding to an unexpected crisis in any given part of the world with any adequate means for rapidly shifting requirements.

The United States may estimate beforehand to the best of its ability the number of U.S. Armed Forces personnel required to maintain stability and U.S. interest in any region of the world, but there is no way to guarantee that these a priori estimates will remain accurate in the face of rapidly changing conditions. The amendment, nevertheless, assumes that such accurate predictions may be made and that numerical correlations may be drawn beforehand between the number of U.S. troops in any region and the national security needs of the United States.

Mr. President, for these reasons, it seems to me that the Senate could not afford to pass an amendment of this kind. I am convinced that it would not be in the best interests of this Nation. I am convinced that it would not be constitutional. It would be unwise and, in a measure, irresponsible.

I therefore hope that the amendment will be rejected.

The PRESIDING OFFICER. Who yields time?

Mr. HUGHES. Mr. President, I respectfully disagree with the constitutional issues posed. I think Congress has every right—not only the right but also the responsibility—to make a decision such as required in this amendment. I think that every point that has been raised against the amendment could be eliminated by a simple modification of the amendment.

There is no competition between this amendment and the war powers bill. One is complementary to the other, and this amendment applies only to peacetime. I am not going to make the effort to modify the amendment, because not only would it require unanimous consent, but also, I do not think the amendment is that popular. I think it serves the purpose of discussion here today—that Congress consider this matter, that it be a matter of consideration in the future, and that we do have a vote on it.

Some of the questions as to the invasion of the right of the Commander in Chief to make these basic decisions of where troops are deployed, that the only right Congress has is the right of the power of the purse, I believe to be completely erroneous. Not only do we have the right to make those decisions; we have the responsibility. No one wants to put himself into what I would consider the ridiculous position of being unable to move an aircraft carrier from the Atlantic to the Pacific or to move it in maneuvers. There are procedures to take care of that responsibility.

So far as the duplication of reports already required from the Pentagon is concerned, I think that matter also could be handled. I do not believe there is any competition between the two reports. By a simple addition, the required material could be included in the reports given to us.

I think we should assume the responsibility of making the basic decision in peacetime, in the major geographic regions of the world, as to troop concentrations, and control it at the legislative level rather than at the administrative level, in the Whie House.

The points on the amendment have been made; I think the discussion has been excellent for the Senate; and I am ready to yield back the remainder of my time.

The PRESIDING OFFICER. Is all time yielded back?

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

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

The PRESIDING OFFICER. All time on the amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from Iowa. 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 Texas (Mr. BENTSEN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Utah (Mr. MOSS), the Senator from Illinois (Mr. STEVENSON), and the Senator from Indiana (Mr. BAYH) are necessarily absent.

I further announce that, if present and voting, the Senator from Illinois (Mr. STEVENSON) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BROCK), the Senator from New Hampshire (Mr. COTTON), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from Nebraska (Mr. HRUSKA), and the Senator from Ohio (Mr. SAXBE) are necessarily absent.

I further announce that the Senator from Utah (Mr. BENNETT), the Senator from Colorado (Mr. DOMINICK), and the Senator from Ohio (Mr. TAFT) are absent on official business.

I also announce that the Senator from Oklahoma (Mr. BELLMON) and the Senator from Kansas (Mr. PEARSON) are absent because of illness.

The result was announced—yeas 22, nays 62, as follows:

[No. 406 Leg.]

YEAS—22

Abourezk	Hartke	Nelson
Biden	Haskell	Pell
Case	Hathaway	Proxmire
Church	Hughes	Ribicoff
Clark	Mansfield	Tunney
Cranston	McGovern	Weicker
Gravel	Metcalf	
Hart	Mondale	

NAYS—62

Aiken	Fannin	Montoya
Allen	Fong	Muskie
Baker	Fulbright	Nunn
Bartlett	Griffin	Packwood
Beall	Gurney	Pastore
Bible	Hansen	Percy
Brooke	Helms	Randolph
Buckley	Hollings	Roth
Burdick	Huddleston	Schweiker
Byrd, Harry F., Jr.	Humphrey	Scott, Pa.
Byrd, Robert C.	Inouye	Scott, Va.
Cannon	Jackson	Sparkman
Chiles	Javits	Stafford
Cook	Johnston	Stennis
Curtis	Long	Stevens
Dole	Magnuson	Symington
Domenici	Mathias	Talmadge
Eagleton	McClellan	Thurmond
Eastland	McClure	Tower
Ervin	McGee	Williams
	McIntyre	Young

NOT VOTING—16

Bayh	Dominick	Pearson
Bellmon	Goldwater	Saxbe
Bennett	Hatfield	Stevenson
Bentsen	Hruska	Taft
Brock	Kennedy	
Cotton	Moss	

So Mr. HUGHES' amendment (No. 492) was rejected.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the amendment was rejected.

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

The motion to lay on the table was rejected.

(The following proceedings, which occurred during the address by Senator SYMINGTON, are printed at this point in the RECORD by unanimous consent.)

ORDER TO RECOMMIT NOMINATIONS TO THE FOREIGN RELATIONS COMMITTEE

Mr. FULBRIGHT. Mr. President, after a discussion with the distinguished majority leader, there had arisen a question about three nominations that are at the desk. We reported four nominations, one as ambassador. Mr. Scali, our principal representative to the United Nations already has the rank of ambassador. The other three Mr. Bennett, Mr. Schaufele, and Miss White were reported favorably, but without the title of ambassador.

I make just a comment preparatory to asking unanimous consent that these three nominations be recommitted to the Foreign Relations Committee.

I was asked today to schedule a meeting of the Foreign Relations Committee so that we may reconsider the nominations of Mr. Tapley Bennett, Miss Barbara White, and Mr. William E. Schaufele, Jr., so they may be given the title of Ambassador while they serve as alternate of deputy representatives of the

United States to various organs of the United Nations.

These nominations were reported to the Senate on September 18, after they had been considered by the Committee on Foreign Relations and after the Committee had decided to give the title of Ambassador only to Mr. Ferguson, who was the only one of the four to be a full "representative of the United States of America" to an organ of the United Nations, namely the Economic and Social Council. Each of the others, Mr. Bennett, Miss White, and Mr. Schaufele, Jr., were to be deputies or alternate representatives of one kind or another.

It has been rumored that a quorum of the committee was not present when these nominees were considered. The fact is that the following individuals spoke directly on the subject and the record so shows:

Senators SPARKMAN, SYMINGTON, CHURCH, AIKEN, CASE, GRIFFIN, and myself.

The records of the committee also show that a full quorum of the committee was present. The transcript does not show when individual members may have left the room for an early lunch, to take telephone calls, see members of their staffs, or other activities.

In any case, no point was made that there was no quorum present. The matter was discussed at great length.

For some time the committee has been disturbed about the proliferation of the title of ambassador.

If it is the will of the Senate that we should have five ambassadors in New York—with all the emoluments of office that go with that title—including, I presume, limousines, apartments, and so forth—all for the purpose of helping the United States in its protocol problems, then I believe the U.N. participation act—the basic law—should be changed to authorize five ambassadors to the United Nations.

In a report of last year on the nomination of Harold B. Malmgren, and this is contained in Executive Report No. 92–21, 2d session, 92d Congress, on May 5, 1972, the committee had this to say:

> In view of the foregoing, the Committee on Foreign Relations takes this opportunity to state that henceforth the committee will be most reluctant to approve individuals given the title of "Ambassador," unless that person has been nominated by the President as the duly accredited representative of the U.S. Government to a foreign country or to an international organization as authorized by law.

And I emphasize "is authorized by law."

Again this year, in the report on the nomination of John R. Stevenson on August 1, the same language was repeated that I have just read, and, in addition, the following:

> Over the years the committee has become increasingly concerned about the use of the title of "Ambassador" for individuals serving in positions not involving accreditation to a foreign government. In the committee's view, the rank of Ambassador should be reserved for the representatives of our country to another country—the sense in which the title of Ambassador is used in the Constitution—and not be used by negotiating personnel within the bureaucracy. Excessive use of the title of "Ambassador" tends to denigrate the role of the duly accredited American representative to each country and creates confusion as to who is actually the official spokesman of the U.S. Government.

Those were two expressions prior to the meeting on the 18th; and the committee, after fully discussing this matter, reported the five nominations that had been recommended as ambassadors. Two of them were approved. One of them, of course, Mr. Scali, is the representative to the United Nations as authorized by law, and the other is our representative to the Economic and Social Council.

After studying this matter, it occurs to me that it may well be that Mr. Ferguson also is not really, as I understand the law, authorized under the law. I want to read for the RECORD the law itself that makes this clear. I have it here. This is the United Nations Participation Act of 1945. Section 2(a) reads as follows:

> The President, by and with the advice and consent of the Senate, shall appoint a representative of the United States to the United Nations who shall have the rank and status of Ambassador Extraordinary and Plenipotentiary and shall hold office at the pleasure of the President. Such representative shall represent the United States in the Security Council of the United Nations and may serve ex officio as representative of the United States in any organ.

And so on; I shall not read the rest of it.

> (b) The President, by and with the advice and consent of the Senate, shall appoint additional persons with appropriate titles, rank, and status to represent the United States in the principal organs of the United Nations and in such organs, commissions, or other bodies as may be created by the United Nations with respect to nuclear energy or disarmament (control and limitation of armament). Such persons shall serve at the pleasure of the President and subject to the direction of the Representatives of the United States to the United Nations.

And so on; making it very clear, I think, to any reasonable person that that clause authorizes the appointment of one representative of the U.S. Government to be Ambassador, and all the others to be representatives with appropriate titles, but not ambassadors, if I read that correctly at all.

What I suggest, to resolve the matter so far as the committee is concerned, is that an amendment to the basic law be proposed by the administration or one of their spokesmen to provide for five ambassadors to the United Nations, if that is what they want. I do not personally approve of it, but that is a matter for the Senate to determine.

But in order for it to be regular and proper, regular and legal, and to solve the matter after all this long period of bickering about it—and the Department has not respected the express wishes of the committee—I would like to suggest to the minority leader that this matter be resolved by an amendment to the basic law, so that Congress is clearly on record as favoring the creation of five ambassadors to the United Nations.

We had this matter up with respect to the number of U.S. Ambassadors in Paris at one time. We had, I believe, four or five Ambassadors in Paris, and I objected strenuously to that, and it is true no longer.

So I ask unanimous consent, Mr. President, that Executive Calendar Order Nos. 304, 305, and 307 be recommitted to the Committee on Foreign Relations.

The PRESIDING OFFICER. As in executive session, is there objection? The Chair hears none, and it is so ordered.

Mr. McGEE. Mr. President, I wonder if it would be appropriate for the Senator to yield.

Mr. FULBRIGHT. If the Senator wishes.

Mr. McGEE. I thank the Senator for taking the right step in this instance. As the Senator knows, when we have meetings, we all get caught up and spread pretty thin, trying to do lots of things.

This issue was of much concern to me, especially in view of my having served up there last year and having been involved with these particular individuals. This fact was well known. But at the time, because we were considering Dr. Kissinger's nomination, we had spent a good part of the morning on this, with the understanding that we were bypassing these earlier ambassadorial nominations.

Mr. FULBRIGHT. Temporarily.

Mr. McGEE. Temporarily; that is correct. Temporarily. So the time continually was being used up, as we moved most of the items of consideration along. At about 20 minutes to 1 or whatever it was, some of us had a commitment at a luncheon for Prime Minister Bhutto from Pakistan. It was already running late, and I was one of those who finally made a run for what was already a late luncheon. But I guess it was either a careless understanding on my part or no understanding that we were going to dispose very quickly of a matter that had been of such a significant controversy; so I express my guilt in that respect. Again, it was a case of being spread too thin.

But in my opinion, this was a very serious move by the committee, and in the light of matters now pending at the United Nations, a very complicating move, with some negative fallout consequences.

One of our major responsibilities while there last year was to get the American assessment to the budget of the United Nations cut back to 25 percent, where it was originally intended to be, but which, because of the force of world events, the disproportionate international economies, the outcome of World War II, and all, was never followed through on.

In debating at the U.N. the 25th issue, one of the charges leveled against us was that we (the U.S.A.) was determined to downgrade the United Nations. Our reassurances to our critics were that no downgrading was intended. And that our public record of commitment to the U.N. would bear this out.

Well, Mr. President, although that 25th issue was won by the U.S. delegation during the 27th General Assembly of the U.N., by a vote of 81–27, doubts among our critics have lingered on. And in fact our credibility is very much on the line.

Even now the U.N. General Assembly has yet to approve the new budget. Thus, this recent action by the Foreign Rela-

tions Committee and disputed parliamentary circumstances, has already had the effect of starting new criticism of our position at the U.N.

This is most unfortunate—and, if I may add, totally unnecessary.

The committee itself should have the opportunity to assess this controversial issue, with all of its implications, as an issue unto itself, rather than during a quick wind-up of a lengthy executive session which had been devoted primarily to the nomination of Dr. Kissinger.

There is much to be said for the presence of several U.S. Ambassadors at the U.N. The U.N. is not the same as another country, but rather an assemblage of 135 independent governments. As each of our recent Ambassadors to the U.N. has testified, it is physically and diplomatically impossible for one man, heading the U.S. Delegation to keep on top of all the requirements and demands of multination diplomacy, particularly of such wide and numerous dimensions.

Yet each member state is represented by its own ambassador who in turn demands to deal at least with his own rank.

For this reason among others, it has been recognized for some time to have several members of the U.S. mission with the rank of ambassador.

Last year, during my service as a member of the U.S. delegation, both Ambassador Tapley Bennett, and Ambassador William Schaufele served in regular responsible roles.

I would point out, Mr. President, two obvious consequences from this set of circumstances:

First, some member states immediately concluded upon reading in the press that the Foreign Relations Committee had cut out at least three ambassadors for the U.N., that this was a blow aimed at the United Nations.

Second, that, since two of the ambassadors, Bennett and Schaufele, were regularly stationed at the U.N. and were well-known in their ambassadorial roles among most U.N. delegations from other governments, the United States had decided to downgrade its own participation.

I am confident, when I say, Mr. President, that this was not the intent of the Committee—or those members who are said to have voice voted. Rather, the news story comment, appearing this morning in the Washington Post (from unnamed sources), asserted that the committee intended only to embarrass this administration as a reminder that the Senate committee was going to exert a stronger role in the future.

I cannot believe this to be an accurate reflection of full committee sentiment, or to the best of my knowledge, of any committee members.

But it does point up the hazards of action of a controversisal type, acted upon in haste or even amid some confusion.

So it is with this background material and personal comment that I want to commend my committee chairman for his initiative in returning the names of the Ambassadors in question to the committee for further consideration.

And I conclude by expressing my personal hope that we who serve on the Foreign Relations Committee will weigh carefully the requirements of our Nation's role at the U.N., particularly as it is involved in the issue of the current ambassadorial personnel required by the U.S. mission at the U.N.

We got that done last year——

Mr. SYMINGTON. Mr. President, if the Senator will yield, I agreed to yield for 5 minutes to the Senator from Arkansas.

Mr. McGEE. Oh, I am sorry, I did not realize the Senator had yielded to the Senator from Arkansas. Does the Senator have anything else in the way of time?

Mr. SYMINGTON. I would be glad to have the Senator continue, but I have told a lot of Senators we were about ready to vote on this matter. The Senator from South Carolina was anxious to speak, and I merely wanted to present what the parliamentary situation was.

Mr. McGEE. I apologize to the Senator from Missouri, because I did not realize that was the setting. I merely wanted to commend the Senator from Arkansas for moving this back into the committee, where we might give it another run-through, and I want to support him in that move.

Mr. FULBRIGHT. Mr. President, I ask unanimous consent, as a part of my remarks, that this excerpt from the United Nations Participation Act of 1945, from which I have quoted, be printed in the RECORD.

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

4. THE UNITED NATIONS PARTICIPATION ACT OF 1945, AS AMENDED

(Public Law 264, 79th Congress [S. 1580], 59 Stat. 619, approved December 20, 1945, as amended by Public Law 341, 81st Congress [H.R. 4708], 63 Stat. 734, approved October 10, 1949; Public Law 86–707 [H.R. 7758], 74 Stat. 797, approved September 6, 1960, and by Public Law 89–206 [S. 1903], 79 Stat. 841, approved September 28, 1965)

An act to provide for the appointment of representatives of the United States in the organs and agencies of the United Nations, and to make other provision with respect to the participation of the United States in such organization

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 "United Nations Participation Act of 1945".

SEC. 2. (a)[1] The President, by and with the advice and consent of the Senate, shall appoint 1 person a representative of the United States to the United Nations who shall have the rank and status of Ambassador Extraordinary and Plenipotentiary and shall hold office at the pleasure of the President. Such representative shall represent the United States in the Security Council of the United Nations and may serve ex officio as representative of the United States in any organ, commission, or other body of the United Nations other than specialized agencies of the United Nations, and shall perform such other functions in connection with the participation of the United States in the United Nations as the President may, from time to time, direct.

[1] As amended and restated by sec. 1(a) of P.L. 89–206, 79 Stat, 841, September 28, 1965 (22 U.S.C. 287).

(b)[1] The President, by and with the advice and consent of the Senate, shall appoint additional persons with appropriate titles, rank, and status to represent the United States in the principal organs of the United Nations and in such organs, commissions, or other bodies as may be created by the United Nations with respect to nuclear energy or disarmament (control and limitation of armament). Such persons shall serve at the pleasure of the President and subject to the direction of the Representative of the United States to the United Nations. They shall at the direction of the Representative of the United States to the United Nations, represent the United States in any organ, commission, or other body of the United Nations, including the Security Council, the Economic and Social Council, and the Trusteeship council, and perform such other functions as the Representative of the United States is authorized to perform in connection with the participation of the United States in the United Nations. Any Deputy Representative or any other officer holding office at the time the provisions of this Act, as amended, become effective shall not be required to be reappointed by reason of the enactment of this Act, as amended.

TIME LIMITATION ON AMENDMENTS

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator yield me some time?

Mr. HUGHES. Mr. President, I will yield time to the Senator from West Virginia.

Mr. ROBERT C. BYRD. I thank the Senator from Iowa.

Mr. President, the following requests have been cleared with the managers on both sides of the aisle and with the leadership.

I ask unanimous consent that at such time as the Eagleton amendment dealing with NAIR, which has to do with machine tools, is laid before the Senate and made the pending question, there be a limitation of 2 hours, to be equally divided, and that the time on any amendment to an amendment be limited to 30 minutes, the time to be divided and controlled in accordance with the usual form.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the distinguished Senator from Arizona (Mr. GOLDWATER) calls up his amendment which provides for keeping the production lines open on the M–16 rifle, there be a limitation of 2 hours, with a limitation of 30 minutes on any amendment to an amendment in relation thereto, to be divided and controlled in the usual form.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as amendment No. 513, to be offered by the distinguished Senator from Wisconsin (Mr. PROXMIRE), is called up—this amendment would reduce the number of admirals and generals—and is made the pending question, there be a limitation of 2 hours, with 30 minutes on any amendment to an amendment agreement to be in the usual form.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as the amendment to be offered by the distinguished Senator from Minnesota (Mr. HUMPHREY)—which would prohibit the Blue Angels and Thunderbirds aerial combat teams from performing outside the United States—is called up and made the pending question, there be a limitation of 2 hours, with 20 minutes on amendments to amendments, the agreement to be in accordance with the usual form.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that tomorrow, after the two leaders or their designees have been recognized under the standing order, the Senate proceed to the consideration of the AWACS amendment to be offered by Mr. EAGLETON; and that Mr. EAGLETON'S amendment on NAIR be taken up upon the disposition of the AWACS amendment, and that the Senate then take up the amendment by Mr. GOLDWATER on the M–16 rifle.

If the Humphrey amendment is considered today, I ask unanimous consent that tomorrow the Senate then proceed, following the M–16 rifle amendment, to the consideration of the Proxmire amendment, No. 513.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order at any time to order the yeas and nays with one show of hands on any or all of the foregoing amendments.

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

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

Mr. ROBERT C. BYRD. I yield.

Mr. TOWER. Did the Senator include in his request an understanding that the limitation on the amendment of the Senator from Arizona (Mr. GOLDWATER) shall be contingent upon his approval?

Mr. ROBERT C. BYRD. I did not request a limitation on the second amendment by Mr. GOLDWATER, but only on the one relating to the M–16 rifles.

I think we should have an understanding that if the 2-hour limitation on the Goldwater amendment does not meet with the approval of the distinguished author of that amendment, who is not here today, he may vitiate it if he so chooses.

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

Mr. ROBERT C. BYRD. I yield.

Mr. PASTORE. I have no objection to make. I was wondering, in view of the fact that tomorrow is Saturday, and we have quite an imposing program, whether we could not stay a little later tonight and take up some of the amendments?

Mr. ROBERT C. BYRD. We will take up the amendment yet today by Mr. HUMPHREY. We also still have the Hughes amendment on which to act.

Mr. MANSFIELD. Mr. President, I think we ought to get home at a reasonable hour and come in at 9 o'clock tomorrow morning. Some of us need a little rest.

Mr. PASTORE. Most of the amendments to be considered at that time are 2-hour amendments, and we are not coming anywhere close to 2 hours.

Mr. SYMINGTON. Some of us would like to go to the swearing-in ceremony of Dr. Kissinger at 11 o'clock. Perhaps we could arrange the voting so that that could be done, and we could get back quickly.

Mr. MANSFIELD. The same arrangement will be made for that situation as was made today for the funeral of our late associate, Tom Vail, but the business will keep on going.

Mr. SYMINGTON. I thank the able majority leader.

Mr. ROBERT C. BYRD. I thank all Senators for their courtesy and cooperation.

The PRESIDING OFFICER. The Chair inquires of the Senator from West Virginia if he is also asking that the unfinished business be laid down after the two leaders have been recognized.

Mr. ROBERT C. BYRD. I did not hear the Chair.

The PRESIDING OFFICER. Is the unfinished business to be laid down after the two leaders finish tomorrow?

Mr. ROBERT C. BYRD. Yes.

I ask unanimous consent that tomorrow, after the two leaders or their designees have been recognized under the standing order, the Senate resume consideration of the unfinished business.

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

(This marks the end of the proceedings which were ordered to be printed at this point in the RECORD.)

DEPARTMENT OF DEFENSE APPROPRIATION AUTHORIZATION ACT, 1974

The Senate continued with the consideration of the bill (H.R. 9286) to authorize appropriations during the fiscal year 1974 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test and evaluation, for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each reserve component of the Armed Forces, and the military training student loads, and for other purposes.

The PRESIDING OFFICER. Under the previous order the Chair lays before the Senate amendment No. 493 of the Senator from Iowa (Mr. HUGHES).

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending amendment be laid aside temporarily and in its place the amendment of the Senator from Minnesota (Mr. HUMPHREY) be taken up.

The PRESIDING OFFICER. Is there objection?

Mr. SYMINGTON. Mr. President, reserving the right to object, and I shall not object, is that the last amendment tonight?

Mr. MANSFIELD. We hope not.

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

The amendment of the Senator from Minnesota will be stated.

The assistant legislative clerk read as follows:

At the appropriate place in the bill, insert the following new section:

SEC. —. Notwithstanding any other provision of law, none of the funds authorized by this or any other Act may be used to send Air Force, Army or Navy aerial acrobatic teams, or any necessary supporting equipment, outside of the United States for the purpose of performing aerial acrobatics or other public aerial demonstrations.

The PRESIDING OFFICER. The Chair wishes to inquire of the Senator from Minnesota if this is the amendment on which there is to be 1 hour of debate.

Mr. HUMPHREY. I understand there is to be 30 minutes to a side. I have no intention of using that amount of time and I hope those managing the bill will give me their attention.

The PRESIDING OFFICER. The Senate will be in order. Senators deserve to be heard. Senators will be seated.

The Senator may proceed.

Mr. HUMPHREY. Mr. President, this amendment is directed toward the restriction of the use of military aerial acrobatic teams, confining their use for recruiting purposes and whatever other purposes may be underscored, within the United States and its territories.

There are four major aerial teams representing the Department of Defense, and needless to say, they are spectacular. Many of us have seen them. They surely have brought a sense of pride to all of us who claim citizenship in this country. One of them is the Thunderbirds of the Air Force, the Blue Angels of the Navy, the Silver Eagles of the Army, which is a helicopter team, and the Golden Knights of the Army, which is a parachute and precision landing team.

The Department of Defense, according to the General Accounting Office, does not include the activities of these teams in their $22-million-a-year public affairs budget. The total cost of these teams for the calendar year 1972 was $5,800,000—that is, for the special services that they performed.

Recently, the Washington Post and other newspapers reported that the Air Force Thunderbirds will perform a month long "good will tour" in Latin and South America which will cost about $700,000, at a minimum. The Post reported that aside from the actual F–4 jets which cost $1,500 a day to operate, the Air Force would need to send five KC–135 jet refueling tankers and two C–130 transport planes for the 81-man operation.

I might also point out that each of these Air Force jets burns 2,000 gallons of jet fuel per hour. The use of jet fuel is one of the fuel demands that contributes to the present heating oil shortage in this country.

If the main purpose of these teams is recruitment—that is what they are supposed to do, according to the descrip-

tion of the work of the teams—I doubt that we are going to get much recruitment in Latin America or, at a later time, in Africa or Asia or Europe, or wherever else they may be.

If the purpose of these teams is to sell military hardware or to encourage young men and women to enter a military career, insofar as military hardware is concerned, that is pretty well taken care of by the purchasing of the Department of Defense right with the local suppliers; and insofar as foreign buyers are concerned, we have a number of salesmen of military equipment that are working on all the possibilities in every one of the military defense offices in every country around the world.

If the purpose of these aerial teams is to encourage recruitment in the air forces of other countries, I suggest we have no obligation to act as the recruiting agent of those countries.

I might also add that there is a risk involved. This year the Navy's Blue Angels had two crashes. A pilot was killed at a Lake Charles, La., accident in July, and the Navy suspended the demonstrations after that accident. The demonstrations have been resumed, but the Navy uses less expensive and slower jets.

The Blue Angels have traveled outside the United States. They went to the Paris Air Show, which is an international air show that I think has some special considerations. I do believe that was a proper expenditure of public funds in light of the international competition that is so evident in that air show.

There is no argument, as far as I am concerned, with these teams being used for recruitment purposes in the United States or to fulfill engagements that local officials might ask within the United States. These are American teams, they are American pilots, and they belong right here in the United States.

They are, however, a rather expensive recruiting tool, but they have become effective. However, to use them in foreign countries is not in the best interests of the Government, as I see it, or of the American taxpayers. I think there are other ways to show our good will and that we are a great power. The risk is rather large and too much for the little return it will bring.

We do not restrict the Navy in terms of calls of ports of entry. I am not suggesting that. These teams have a special function, and they are far from what we would call combat teams or even defense forces. They are for advertising, propadanda, and entertainment. I think if we are going to do that, we should confine those activities to the United States.

This is not a major item in the bill. It is just another way of showing we can tighten up on the defense budget without crippling the defense establishment or weakening the security of our country. These teams are now going to Latin America. The next place will be Africa or somewhere else.

I submit that while the figure of $700,000 is not much, it is worthy of our consideration, when I stop and think that we are still having trouble getting funds for our school lunch program and still having trouble getting funds for the school milk program. I think we would do more good if $700,000 were sent as relief to our friends in Nicaragua or if it were sent to help the victims of earthquakes or famine, rather than expend money like this at a time when there is a shortage of fuel, when I find our budget is in a serious situation. And it might be well if we did not have too much of a military presence in Latin America, in light of charges now being made—charges with which I do not agree, but charges that are being made.

That is my argument.

I would just hope that the Senator in charge of the bill and the ranking Republican Member would see the merits of this amendment. I am not interested in a rollcall vote; I am interested in results. If the distinguished Senator from Missouri and the distinguished Senator from South Carolina, both men of wisdom and good judgment, would like to accept this amendment now, we could get on with the business of the Senate and save time and save the taxpayers some money.

Mr. SYMINGTON. Mr. President, I yield to the distinguished Senator from South Carolina, and then we can vote on the amendment.

Mr. THURMOND. Mr. President, as I understand it, the main objection to the Thunderbirds, the Blue Angels, the Silver Eagles, and the Golden Knights is that this program costs too much money. The cost is not very much—something over $5 million. That is chickenfeed, a small sum compared to the amount of planes we sell. They are flying these planes for us, and it results in selling hundreds of them overseas. In that way we have helped our financial situation and our balance of payments. Instead of being a detriment from the financial standpoint, this has really been an asset to our financial structure.

In addition to that, even if it were not, is it not great that we have such skilled fliers and such modern planes that can go to other countries and show the people of those countries the prestige and the might of America? And is it not good that we can participate in air shows and bring fame to America? Is that not worthwhile and worth the cost? I think it is. I think any occasion we have to show the skill of our pilots and the powerful planes we have, and what a great country we have, and the prestige that is carried with it, is worthwhile.

Then, under this amendment, if any of the Golden Knights or others want to participate in competition, it would be prohibited. Competition is the very heart of our form of Government. It is competition that has made this country great. We ought to be allowed to let our people participate in competitive matters and go to other countries to do so.

I hope that the Senate will reject the amendment.

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

Mr. THURMOND. Mr. President, I yield to the Senator from Louisiana.

Mr. LONG. Mr. President, I have heard stories of the tremendous impression that has been made on people all over the world by some of our distinguished Americans going there. For example, the Senator from Minnesota told me that on occasion he escorted some of our astronauts to these international meetings. He told me of the tremendous impression they made on the people of the world.

It seems to me that if we do not let these planes fly into other countries, there will be more air shows booked at the various installations in the United States. The planes will still be used as much as if we had them go to Mexico and to other countries to perform. They will be performing in San Antonio or some other place on this side of the border and will be using up the same amount of fuel.

In the last analysis, it is a matter of whether we think it might be desirable for the people of the world if we were to let these highly competent and skilled men demonstrate their skills and the good equipment that the United States makes. Why should we be limited to showing it to our own people?

It seems to me that if we are going to spend all of this money to develop something extremely good and to develop some very fine skill in some of our men, something that anyone in the world would admire, there is no harm in demonstrating it.

These men that have achieved this degree of skill will, of course, entertain the American people when they perform in air shows in this country.

It might demonstrate that we could do something other than dropping bombs with those planes.

Mr. THURMOND. Mr. President, I think the Senator is right.

The Blue Angels flew their planes at the Paris Air Show. It made a magnificent impression on the people there.

Are we going to deny the people engaged in this project the right to go and demonstrate their skill as pilots and demonstrate the great planes that this Nation has produced.

Mr. LONG. Mr. President, if the Senator wants to exclude the Paris Air Show, is there not an affront implicit to the other nations of this hemisphere in the fact that we would not be willing to let them go to Mexico, Canada, or South America?

What is there about our neighbors in the Americas that makes them second-class citizens compared to the Parisians?

Mr. THURMOND. Mr. President, we would want them to go there, and if they are not allowed to go to Canada or Venezuela or some other place, it would seem to the people of that country that we are not as friendly to our neighbors as we are to the people across the ocean.

Mr. LONG. Mr. President, if the Venezuelans want to put on a big show and impress the people of the world, it seems to me that it is an affront for the Congress of the United States to say that they cannot go there but we think enough of the Parisians to let our men perform there. I like the French people. I am one myself by ancestry. Some of them would say, "It is fine for them to go to the Paris air show. The people in the United States do not care how much they are going to spend on that.

However, the United States does not think enough of us to let them come to our air show."

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

Mr. THURMOND. I yield.

Mr. HUMPHREY. Mr. President, I would like to say that I was intrigued with the characterization of this as being chicken feed—some chicken. This kind of money is not being used for any good purpose that I can think of. We do not need to have aerial acrobatic teams going around the world to let them know that we have a good air force. If we need that, then, I think we need to buy some advertising to announce to the world that December 25 is Christmas. The people of the world know about our planes.

I have listened to the argument about selling F–4 planes. I thought the advertising cost was to be paid by the manufacturers. The Government of the United States does not make the planes. The Government of the United States buys them. If someone else wants to buy the F–4 planes, let them do it.

If the company that makes those planes wants to advertise them, let them advertise it. By the way, they are able to advertise and deduct the expense as a business expense. I do not know why that should be the case, because they do not have much competition. They do not particularly need to demonstrate their skill. The main place to demonstrate our skill in aviation, as far as I am concerned, is right here in the United States.

We have many young men who might want to go into the Air Force, the Army, or the Navy. We are having a tough job recruiting them.

It has been suggested that this particular team might go to Brazil or Chile. The last place that we need these planes is down there.

Mr. PASTORE. Mr. President, it is rather cold there.

Mr. HUMPHREY. It would be cold, and it might be a chilly reception that they would receive.

This is another way of saying to the military that there are things to do and there are things not to do. They seem to want the Thunderbirds and the Blue Angels and others to go out and demonstrate their skills. How many times have I asked for them in my home State and they said that they could not come. I will tell the Senator that they will get more recruits from Minnesota than they will from Brazil, and we are the ones who pay the taxes. The Brazilians do not.

We like to see the pilots fly around the blue skies of Minnesota. If there is some money to spend for demonstrations, why not send the money there? Why not send it to Rhode Island or to Nevada. As a matter of fact, we ought to have an international air show in Nevada, and we do.

Mr. PASTORE. Mr. President, they cannot come to Rhode Island because the Navy saw fit to close down our Rhode Island base.

Mr. HUMPHREY. That was because we could not afford it.

Mr. PASTORE. The Senator is correct.

Mr. HUMPHREY. Mr. President, we cannot afford to have the Blue Angels, so we send them to Chile where it is real cold.

Mr. PASTORE. The Senator is correct.

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

Mr. HUMPHREY. I yield to my friend, the Senator from Kentucky.

Mr. COOK. Mr. President, I have listened today with great interest and amazement. I agree that in the skies our airplanes are beautiful. However, when they go to foreign countries to perform, they are weapons of war. I do not think that there is any question about the fact that they constitute weapons of war. I do not think they constitute anything other than that. They are wanted there for that purpose.

For anyone to say that we should send them to the Paris Air Show, I would point out for the $5 million that it costs to send them there we could put them all in one big airplane and show them all here at one time. And it would not cost anything like $5 million.

This was established for the purpose of recruiting people in the United States to go into the Armed Forces.

I have voted against every amendment on this bill so far because I think that this country should be strong and I think that we in this country should have the knowledge that we are strong and that the other people of the world should have it. However, we should not flaunt it in their faces.

So I want to associate myself with the remarks of the Senator from Minnesota, because when the people in these countries see these aircraft, they understand one thing: They understand that they are used to drop bombs, and they are used to kill.

I do not know what business the U.S. Government has to put $5 million into its budget to sell airplanes for private industry. If they want to sell those airplanes, let them sell them.

If they want to bring individuals from foreign countries—may I say if you have 10,000 people in Paris watching the Blue Angels, there may be four individuals in all 10,000 who represent countries that may want to buy aircraft. So I only say we have got to understand and realize that the military potential in this country to stay strong remains here, and what we are really saying when we send them overseas for these exhibitions for poor people who have nothing to eat and no place to live, and no automobile to drive in, is, "Your country wants to buy some of these, and you better behave."

Do you know what it does? I would suggest that probably when those many thousand individuals in those countries watch them, they are probably more frightened than they are delighted.

As a matter of fact, if we really think the airplane is so beautiful as a military instrument of war and destruction that we have to show it to the rest of the world, then let us increase the funds for it in this bill, instead of decreasing them. And let us take a company of men overseas, and show them, in a short, cute exercise, how we can secure the whole airport. Why not take a few tanks over there, so we can show them how we can cut off all the streets and roads to the airport? If we really want to show them our might—and that is exactly what we are doing—let us not limit it to the sophistication and the beauty of an airplane. Obviously airplanes are beautiful as we see them in the sky, but they are also very destructive; they also kill.

I would suggest, if we establish these things to recruit men into the service of the United States and inspire dedication to their country, let us do it in this country. Maybe it is about time, in relation to the strength of our Nation, that we confine that strength to the knowledge within ourselves that we have it. Let the rest of the world know about it, but do we have to flaunt it?

I was rather amazed at some of the remarks about the fact that we sell some of these airplanes, and they are beautiful, and all that sort of thing, because when they are over a country like Brazil today, they are over a country that functions as a direct result of military operations, and has for years. Or if they had gone to Chile, they would have gone to a country that is completely and totally distraught right now. Chile does not need an air show.

I say to Senators, take into consideration how you feel about the military strength of your country, and whether you want to scare the rest of the world with it, or whether you want to have a knowledge in your own country that you are strong, that you know it, and that you want to maintain that strength, but that you do not want to throw it in everyone's face throughout the world.

Mr. President, I ask the Senator from Minnesota if he will add my name as a cosponsor of his amendment.

Mr. HUMPHREY. I am happy to do so, and I thank the Senator from Kentucky for his very moving and powerful argument.

Mr. THURMOND. Mr. President, I yield myself such time as I may require.

I just want to say, in reply to the argument of the distinguished Senator from Kentucky, that we do not go into other countries unless we are invited. We go there to take enjoyment and pleasure to the people who ask us to come there.

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

Mr. THURMOND. Yes.

Mr. COOK. We are invited by those respective governments and I would suggest to the Senator that he review some of those governments in relation to the people, and then evaluate the reasons for which we truly are invited.

Mr. THURMOND. Well, Mr President, of course we have nothing to do here with choosing governments of other countries. That is a matter for the people in each country to do, and it is not our business to tell them what kind of a government they should have. We go there at their request because they want us there.

If you go to an airshow anywhere in this Nation, you will find the biggest

crowd of almost anyplace you can go to. Football games sometimes have 60,000 or 80,000 people. Airshows will have over 100,000 people, because there you have got the common man, the man who is not able to go to a lot of other kinds of entertainment. If you take these Blue Angels and Thunderbirds to different parts of the world, the people there have a chance to see planes and see pilots that they have never seen before. They appreciate it. They want it. They would not invite us there otherwise. The people would not attend unless they enjoyed it.

It is not a matter of flaunting our power. It is not that at all. It is a matter of goodwill that we are carrying to those countries. It is a matter of free entertainment we are taking to those countries. It is a matter of making friends with the people of those countries where we take those planes.

Mr. President, this is a matter that I feel is important to our Nation's image overseas. It is something we can do, and without great expense; and I hope we will continue to do it.

Mr. COOK. Mr. President, will the Senator from Minnesota yield me 30 seconds?

Mr. HUMPHREY. I yield.

Mr. COOK. On that basis of this fine, clean entertainment, it is just amazing to me that we do not have an item in this budget to take war games to different countries, so that we could pack the stadiums with friendly people who wanted to see our war games.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, if the Senator from Minnesota is prepared to yield back his time, I yield back the remainder of mine.

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

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Minnesota.

Mr. PASTORE. I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. HELMS). All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Minnesota (Mr. HUMPHREY). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Florida (Mr. CHILES), the Senator from Mississippi (Mr. EASTLAND), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Utah (Mr. MOSS), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

I further announce that, if present and voting, the Senator from Illinois (Mr. STEVENSON) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BROCK), the Senator from New Hampshire (Mr. COTTON), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nebraska (Mr. HRUSKA), the Senator from Ohio (Mr. SAXBE), and the Senator from Pennsylvania (Mr. SCOTT) are necessarily absent.

I further announce that the Senator from Utah (Mr. BENNETT), the Senator from Colorado (Mr. DOMINICK), and the Senator from Ohio (Mr. TAFT) are absent on official business.

I also announce that the Senator from Oklahoma (Mr. BELLMON) and the Senator from Kansas (Mr. PEARSON) are absent because of illness.

The result was announced—yeas 54, nays 28, as follows:

[No. 407 Leg.]

YEAS—54

Abourezk	Haskell	Mondale
Biden	Hatfield	Muskie
Brooke	Hathaway	Nelson
Burdick	Helms	Nunn
Byrd, Harry F., Jr.	Hollings	Pastore
Byrd, Robert C.	Huddleston	Pell
Case	Hughes	Percy
Church	Humphrey	Proxmire
Clark	Inouye	Randolph
Cook	Jackson	Ribicoff
Cranston	Johnston	Roth
Dole	Magnuson	Sparkman
Eagleton	Mansfield	Stennis
Ervin	Mathias	Symington
Fulbright	McClellan	Talmadge
Gravel	McGee	Weicker
Hart	McGovern	Williams
Hartke	McIntyre	
	Metcalf	

NAYS—28

Aiken	Fannin	Schweiker
Allen	Fong	Scott, Va.
Baker	Griffin	Stafford
Bartlett	Gurney	Stevens
Beall	Hansen	Thurmond
Bible	Javits	Tower
Buckley	Long	Tunney
Cannon	McClure	Young
Curtis	Montoya	
Domenici	Packwood	

NOT VOTING—18

Bayh	Cotton	Moss
Bellmon	Dominick	Pearson
Bennett	Eastland	Saxbe
Bentsen	Goldwater	Scott, Pa.
Brock	Hruska	Stevenson
Chiles	Kennedy	Taft

So Mr. HUMPHREY's amendment was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. CHURCH. Mr. President, on behalf of the distinguished senior Senator from New Jersey (Mr. CASE) and myself, I send an amendment to the desk.

The PRESIDING OFFICER. An amendment by the distinguished Senator from Iowa is pending.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Hughes amendment be laid aside until tomorrow.

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

The amendment of the Senator from Idaho will be stated.

The legislative clerk proceeded to read the amendment.

Mr. CHURCH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

At the end of bill insert the following:

SEC. —. Notwithstanding any other provision of law, upon enactment of this Act, no funds heretofore or hereafter appropriated may be obligated or expended to finance the involvement of United States military forces in hostilities in or over or from off the shores of North Vietnam, South Vietnam, Laos, or Cambodia, unless specifically authorized hereafter by the Congress.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a time limitation on this amendment of 30 minutes, with a time limitation on any amendment thereto, debatable motion, or appeal in relation thereto of 20 minutes—all time to be equally divided and controlled in accordance with the usual form.

I have cleared this with the managers on both sides of the aisle.

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

Mr. CHURCH. Mr. President, the purpose of this amendment is to secure a permanent restatement of the present laws regarding the total ban on Federal funding of U.S. military activities in, over, or from off the shores of Indochina, without the express consent of Congress.

Twice now—Public Law 93–50 and Public Law 93–52—such provisions of law have been enacted and signed by the President. The only reason why this amendment is in order arises from the happenstance that these two provisions of law are a part of acts which expire by their own terms. One provision is currently contained in Public Law 93–50, the Supplemental Appropriations Act, and it reads as follows:

SEC. 307. None of the funds herein appropriated under this Act may be expended to support directly or indirectly combat activities in or over Cambodia, Laos, North Vietnam and South Vietnam or off the shores of Cambodia, Laos, North Vietnam and South Vietnam by United States forces, and after August 15, 1973, no other funds heretofore appropriated under any other Act may be expended for such purpose.

The second provision of a similar nature is Public Law 93–52, the continuing resolution for fiscal year 1974, and it reads as follows:

SEC. 108. Notwithstanding any other provision of law, on or after August 15, 1973, no funds herein or heretofore appropriated may be obligated or expended to finance directly or indirectly combat activities by United States military forces in or over or from off the shores of North Vietnam, South Vietnam, Laos or Cambodia.

Mr. President, the continuing resolution expires on September 30. The Supplemental Appropriations Act, by its own terms, also will expire. The purpose of this amendment is simply to reenact—and make permanent—what the Senate has twice approved, the House has approved, and the President has signed. Congress now legislates a final end to our part in the civil conflict in Indochina.

Furthermore, when Dr. Henry Kis-

singer appeared before the Committee on Foreign Relations last week, he made clear that the administration accepts this provision of law and that the President intends to abide by it.

I ask unanimous consent to have printed at this point in the RECORD the questions I put to the next Secretary of State, together with his replies that relate to this amendment, taken from the official record of the committee's proceedings.

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

QUESTIONS AND REPLIES

PRESENT PERIOD OF CONSTITUTIONAL CRISIS

Senator CHURCH. Dr. Kissinger, in the view of many people in the country today, we are living through a period of acute constitutional crisis that takes the form of excessive use of Executive power. There are any number of illustrations. For one, the impoundment by Presidential decision of congressionally appropriated funds for lawful programs, a practice that continues despite the fact that the courts, thus far, have declared it to be unlawful. The crisis is also exemplified by the last two wars which have been fought on Executive initiative and waged under the argument that there is an inherent power in the Presidency that permits him to engage in foreign wars without the specific consent of Congress. And, at present, it is reflected in the speculation in the press as to whether or not the President intends to comply with a Federal court order concerning the notorious White House tapes. If the position were to prevail that he need not comply with the court order on final appeal, I would think that 500 years of Anglo-American progress toward government under law would be seriously imperiled.

PUBLIC LAW 93-50

It is against that background that I would like to ask you two questions concerning two provisions of present law. One of those provisions, in its original form introduced by Senator Case of New Jersey and myself, is now Public Law 93-50, a part of the Supplemental Appropriations Act. It reads as follows:

None of the funds herein appropriated under this act may be expended to support directly or indirectly combat activities in or over Cambodia, Laos, North Vietnam and South Vietnam or off the shores of Cambodia, Laos, North Vietnam, and South Vietnam by U.S. forces, and after August 15, 1973, no other funds heretofore appropriated under any other act may be expended for such purpose.

From your initial statement, I take it that you view this provision of law as binding upon the President and that you would advise the President, as Secretary of State, to conform to it. Am I correct?

Mr. KISSINGER. That is correct, Senator.

Senator CHURCH. I have great personal respect for you. I welcome that answer for, had it been the opposite, I could not support your confirmation.

COOPER-CHURCH AMENDMENT

There is another provision of law that has been known as the Cooper-Church amendment reenacted several times over by the Congress. I would like to read it to you and then ask you a question or two relating to Cambodia today. It reads: "In line with the expressed intention of the President of the United States, none of the funds authorized or appropriated pursuant to this or any other act may be used to finance the introduction of U.S. ground combat troops into Cambodia, or to provide U.S. advisers to or for military, paramilitary, police, or other security or intelligence forces in Cambodia."

The first question I would ask of you, Dr. Kissinger, is whether or not that provision of law is being complied with?

Mr. KISSINGER. To the best of my knowledge, it is.

TELEVISION NEWS SHOW, SHOWING U.S. COLONEL WITH CAMBODIAN FORCES

Senator CHURCH. About a month ago, I watched a national network television news program which showed an American colonel, as I recall his rank, in the field in Cambodia with Cambodian forces. The film showed him pointing in various directions on the battlefield, discussing what must have been matters of tactical concern, with Cambodian soldiers in uniform, and opening a map and discussing with reference to the map and the terrain, what he had to say. The Cambodians were listening very intently to what must have been his advice.

Assuming that this film was actually taken in Cambodia, as it was purported to be, and that the camera accurately recorded the event, would not that colonel be acting as a military adviser, contrary to the provisions of the law?

Mr. KISSINGER. Senator, I honestly do not know anything about that event, and it is very difficult for me to speculate. If the colonel was advising Cambodian troops in combat actions he was acting in violation of the law.

But let me make a general comment. The Vietnam war was conducted in an atmosphere of extraordinary bitterness within this country, I would say on both sides of the discussion, in which both sides believed that very grave issues of national policy were involved; under those conditions it is possible that things were done that seemed overwhelmingly in the national interest and that that was considered the primary criterion.

If what I have said to this committee is to have any meaning, then it would be totally inappropriate for me as Secretary, or as adviser to the President, to behave like a sharp lawyer and to try to split hairs and find some legal justification for something clearly against the intent of the law. So I think the better answer to give you, Senator, is to say, that when the law is clearly understood—and it will be my job to make sure that I clearly understand the intent of the Congress—we may disagree with it, but once the intent is clear we will implement not only the letter but the spirit. If such an event occurred as you describe, I will do my best to have it stopped.

Senator CHURCH. Dr. Kissinger, I want to thank you for that assurance and, knowing you as I do, I am certain that you will follow through with it.

Mr. KISSINGER. Thank you.

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

Mr. CHURCH. I yield.

Mr. CASE. Mr. President, the distinguished senior Senator from Idaho and I are very pleased to join in submitting this amendment. It is in line with previous collaboration we have had on similar matters. As he has said, it is acceptable to the administration; it changes nothing in existing law.

I hope that the leadership on both sides find it possible to accept the amendment, and we can dispose of it without a record vote.

Mr. SYMINGTON. Mr. President, I will accept the amendment.

Mr. THURMOND. Mr. President, the Senate and the entire Congress have approved this particular amendment several times, I believe. In view of that fact, I think it would be useless to oppose it. We will accept the amendment and take it to conference.

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

Mr. THURMOND. I yield back the time on this side.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Idaho (Mr. CHURCH).

The amendment was agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SYMINGTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 514

Mr. PROXMIRE. Mr. President, I call up my amendment No. 514.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 30, between lines 2 and 3, insert a new section as follows:

"SEC. 703. (a) The second sentence of the first section of the Act entitled 'An Act to authorize the making, amendment, and modification of contracts to facilitate the national defense', approved August 28, 1958 (72 Stat. 972; 50 U.S.C. 1431), is amended by inserting '(1)' immediately after 'shall not be utilized', and by striking out the period at the end of such section and inserting in lieu thereof a comma and the following: 'or (2) to obligate the United States in any amount in excess of $20,000,000, except with the prior approval of the Congress.'.

"(b) The second sentence of section 302 of the Defense Production Act of 1950 (50 App. U.S.C. 2092) is amended by inserting '(1)' immediately after 'except that' and by striking out the period at the end of such section and inserting in lieu thereof a comma and the following: 'and (2) no such loan may be made in an amount in excess of $20,000,000, except with the prior approval of the Congress.'.

"(c) Section 2307 of title 10, United States Code, is amended by adding at the end thereof a new subsection as follows:

"'(d) Payments under subsection (a) in the case of any contract, other than partial, progress, or other payments specifically provided for in such contract at the time such contract was initially entered into, may not exceed $20,000,000, except with the prior approval of the Congress.'.

"(d) Section 18(a) of the Military Selective Service Act (50 U.S.C. App. 468) is amended by inserting before the period at the end of the first sentence a comma and the following: 'except that no order which requires payments thereunder in excess of $20,000,000 shall be placed with any person, except with the prior approval of the Congress'.

"(e) Whenever any department or agency of the Federal Government requests or recommends approval by the Congress of any action requiring such approval under the first section of the Act entitled 'An Act to authorize the making, amendment, and modification of contracts to facilitate the na-

tional defense', approved August 28, 1958 (72 Stat. 972; 50 U.S.C. 1431), under section 301 or 302 of the Defense Production Act of 1950 (50 App. U.S.C. 2092), under section 2307 of title 10, United States Code, or under section 18(a) of the Military Selective Service Act (50 U.S.C. App. 468), the Comptroller General of the United States is authorized to fully investigate the need for and the potential consequences of such approval by the Congress. In conducting any such investigation the Comptroller General shall have access to the complete financial records of any private business enterprise which is the proposed beneficiary of any such action requiring prior approval of Congress.

"(f) The amendments made by this section shall not affect the carrying out of any contract, loan, guarantee, commitment, or other obligation entered into prior to the date of enactment of this section.".

On page 30, line 3, strike out "SEC. 703" and insert in lieu thereof "SEC. 704".

Mr. PROXMIRE. I modify the amendment so as to strike from page 3 beginning with line 3 and extending through line 20; and on line 21 the letter (f) should be changed to (d).

The PRESIDING OFFICER. The amendment is so modified.

The modified amendment is as follows:

On page 30, between lines 2 and 3, insert a new section as follows:

"SEC. 703. (a) The second sentence of the first section of the Act entitled 'An Act to authorize the making, amendment, and modification of contracts to facilitate the national defense', approved August 28, 1958 (72 Stat. 972; 50 U.S.C. 1431), is amended by inserting '(1)' immediately after 'shall not be utilized', and by striking out the period at the end of such section and inserting in lieu thereof a comma and the following: 'or (2) to obligate the United States in any amount in excess of $20,000,000, except with the prior approval of the Congress.'.

"(b) The second sentence of section 302 of the Defense Production Act of 1950 (50 App. U.S.C. 2092) is amended by inserting '(1)' immediately after 'except that' and by striking out the period at the end of such section and inserting in lieu thereof a comma and the following: 'and (2) no such loan may be made in an amount in excess of $20,000,000, except with the prior approval of the Congress.'.

"(c) Section 2307 of title 10, United States Code, is amended by adding at the end thereof a new subsection as follows:

"'(d) Payments under subsection (a) in the case of any contract, other than partial progress, or other payments specifically provided for in such contract at the time such contract was initially entered into, may not exceed $20,000,000, except with the prior approval of the Congress.'.

"(d) Section 18(a) of the Military Selective Service Act (50 U.S.C. App. 468) is amended by inserting before the period at the end of the first sentence a comma and the following: 'except that no order which requires payments thereunder in excess of $20,000,000 shall be placed with any person, except with the prior approval of the Congress'.

"(e) The amendments made by this section shall not affect the carrying out of any contract, loan, guarantee, commitment, or other obligation entered into prior to the date of enactment of this section.".

On page 30, line 3, strike out "SEC. 703" and insert in lieu thereof "SEC. 704".

Mr. PROXMIRE. Mr. President, I have discussed the amendment with the manager of the bill (Mr. SYMINGTON) and with the distinguished Senator from South Carolina (Mr. THURMOND). It is my understanding that with this modification they are willing to accept the amendment.

I will explain the amendment quite briefly.

Mr. President, first I ask unanimous consent that the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.) be listed as a cosponsor of the amendment.

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

Mr. PROXMIRE. Mr. President, the amendment would reassert congressional control over backdoor financing of defense contractors. In light of the Lockheed bailout, the C5A and Cheyenne problems, the purchase of stock in floundering companies, unusual loans to Grumman, and a host of other relatively unknown examples, it is clear that Congress has no real control over bailouts and back-door financing.

BYRD-PROXMIRE AMENDMENT OF 1970

Once before we addressed this problem with regard to loans made under the Defense Production Act. A Byrd-Proxmire amendment subsequently was accepted by the Senate in a 75 to 0 vote and was passed by the House to become law on August 13, 1970. The Byrd-Proxmire amendment provided that any loan or guarantee made under the Defense Production Act section 2091 shall not exceed $20 million without the approval of Congress. It was necessary due to the rather open ended language of that act and was designed to curtail unlimited loans to contractors.

UNUSUAL ADVANCE PAYMENTS

That did not shut off the back-door financing, however. Instead of invoking section 2091, the Defense Department turned to title 10, United States Code, section 2307. Under this provision, emergency, advance and other payments can be made to a distressed contractor up to the total dollar amount of his contracts without any proof of work completed. In effect, they are loans whereby the contractor can keep his cash position solvent. This was the law used to provide Grumman with "loans" for the F–14 program.

DEFENSE PRODUCTION ACT, SECTION 2092 APP.

There is another way to get around the congressionally imposed $20 million level. The Defense Department can make use of the loan and loan guarantee authority in a companion section to 2091 of the Defense Production Act. Since the $20 million level only applies to one section—2091—it leaves section 2092 open for exploitation. By its terms, section 2092 applies directly to the President and to those who are delegated his authority. It essentially contains the same powers as in section 2091. According to the General Counsel of the Department of Defense, section 2092 has not been used since it was enacted in 1950. Nonetheless, the authority is there ready to be invoked.

VAST EXECUTIVE POWERS IN PUBLIC LAW 85–804

By far the most extensive powers given to the President and the Department of Defense reside in Public Law 85–804—title 50, section 1431, United States Code. This law allows the President or any department he authorized to enter into contracts or modify contracts without regard to other laws if it would "facilitate the national defense." It also allows for advance payments.

The authority is delegated to the Secretaries of Defense, Army, Navy, and Air Force, and can be further delegated. Above $50,000 in obligation, the action must be approved by a Deputy Assistant Secretary or by a departmental Contract Adjustment Board. The Department of Defense must report to Congress by March 15 of each year with an accounting of the actions under this law of the previous year.

A review of these annual reports indicates that Public Law 85–804 has been used to obligate $700 million from 1959 to 1972. This is a staggering amount of money to be obligated by a back-door technique. It has been used to purchase stock as collateral in the GAP Instruments Corp., of Long Island. It has been used to provide financing for the ill-fated C5–A airplane and Cheyenne helicopter programs. It is the broadest and most flexible contract modification law on the books. The Department of Defense can virtually take any action it desires simply by stating that it would "facilitate the national defense."

EVEN THE SELECTION SERVICE ACT HAS EMERGENCY PROVISIONS

Our review of existing emergency legislation also has uncovered a little known provision of the Selective Service Act, title 50, section 468, which remains in force since the national emergency of 1950. It does not appear that the extensive authority given the President under the Selective Service Act has been used, but it could be. In fact there have been strong hints that use of this act was under consideration as a technique to compel Grumman to produce F–14's.

The Selective Service Act permits the President, after receiving advice from the National Security Resources Board, to place orders for military goods and compel production by seizing the plant if necessary. In fact the President can take over a defense plant and run it as he sees fit simply by declaring it is in the interests of national security.

"Fair and just compensation" is required for any products furnished but there is no definition of what is fair and just.

NEEDED CONGRESSIONAL APPROVAL FOR BACKDOOR FINANCING

My amendment would take the concept so readily accepted by Congress in 1970—the idea of a $20 million limit without congressional approval—and apply it to these other laws that permit backdoor financing. In no way does it cut off emergency authority of the Department of Defense or the President. It simply requires that any action involving obligations of Federal resources over $20 million must first be approved by Congress. If Congress says OK, then they go through. But Congress can also say "No" and that is the authority it does not now have. Each individual case would be debated on its merits. There would be less chance of backdoor bailouts.

For those who would be concerned about the limitation of Presidential authority in an emergency, there are two sound points to consider. First, Congress can always give its approval as I am sure it would in an emergency.

Second, and even more important, the President has extensive emergency authority to meet any circumstances without the laws in question. Under title 10, the President has two sections—4501 and 9501—which give him vast authority to place orders for defense goods, transfer production, insure production, and seize facilities if necessary. The qualifying time phrase is "in time of war or when war is imminent." Similar provisions exist in title 50, United States Code, section 82.

It is obvious, therefore that loopholes must be plugged while still allowing broad leeway in time of national emergencies. My amendment would do just that.

A SUMMARY OF RELEVANT LAWS

Mr. President, the following is a short summary of the current legislation that enables the Department of Defense to take such extraordinary actions without prior congressional approval:

First, 50 U.S.C. 1431: National defense contracts, authorization and official approval. Public Law 85–804:

This section empowers the President to authorize Government agencies to amend or modify contracts, and to make advance payments on contracts, when the President believes such action would facilitate the national defense. This section applies only during a national emergency.

As implemented by Executive Order 10789—1958—agencies may take the actions specifically enumerated in the section, as well as "modify or amend or settle claims" and "enter into agreements—modifying or releasing accrued obligations."

Other parts of the Executive order make the following provisions, among others:

Proper records must be kept and made available for public inspection unless disclosure would harm the national security.

A report to the Congress of all actions taken during the previous year under the section must be made by March 15.

Advance payments may be made only after obtaining adequate security.

The Comptroller General has access to "directly pertinent" corporate records, subject to certain limitations in section 1433.

A contract amendment may not increase the price to an amount higher than the lowest rejected bid of a responsible bidder.

Second, 50 United States Code App. 2092: Loans to private business enterprises. Defense Production Act:

This section allows the President to provide for direct loans to private business enterprises to expedite the national defense. Loans may be extended only to the extent that they are "not otherwise available on reasonable terms." Statutory termination date is June 30, 1974, as extended. The previous section 2091, which provides for loan guarantees, was amended in 1970 to include a $20 million limit on guarantees unless approved by Congress.

Third, 10 U.S.C. 2307: Advance payments:

This section allows heads of agencies to make advance, partial, progress or other payments, not to exceed the unpaid contract price, only if the contractor provides adequate security.

Fourth, 50 United States Code App. 468: Utilization of industry. Selected Service Act:

This section authorizes the President to compel producers to fulfill defense contract obligations. Nonfulfillment includes failure to fill an order "within the period of time prescribed by the President" and failure to furnish articles at the contract price, among others. In the event of noncompliance, the President is authorized to take immediate possession of any facility and to operate it to produce the contract material. This section applies only during a national emergency.

Mr. President, I ask unanimous consent that my exchange of correspondence with the General Counsel of the Department of Defense be placed in the RECORD at this point, except for his lengthy appendices.

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

CONGRESS OF THE UNITED STATES,
Washington, D.C., February 15, 1973.

Mr. J. FRED BUZHARDT,
General Counsel, Department of Defense, Washington, D.C.

DEAR MR. BUZHARDT: I am undertaking a review of the emergency legislation now on the statute books which might be used by the President or the Department of Defense as authority for providing emergency relief to defense contractors in various kinds of financial difficulty.

I have read your testimony of January 15th on this subject before Senator Byrd's Armed Services Subcommittee on General Legislation, and I would much appreciate it if you would answer the following questions which that testimony brings to my mind.

(1) In your testimony you cited three statutory provisions which might be used by the Department as authority for emergency relief:

Title 50, Section 1431 U.S.C. (P.L. 85–804).

Title 50, Section 2091 U.S.C. App. (Defense Production Act).

Title 10, Section 2307 U.S.C. (Advance and Other Payments).

Would you please provide me with a detailed record of the use made by the Department of these provisions during the past three years—the dates of each action taken, the names of the corporations or other beneficiaries involved, and the dollar extent of each obligation or commitment? (My interest in Title 10, Section 2307 U.S.C. is limited to advance payments and other payments of an emergency nature which may have been made, not to customary progress payments provided for in contracts when entered into). Would you also provide me with a separate record of those occasions on which these provisions have been used, at *any time* since they became effective, to provide a corporation or other beneficiary with relief in excess of $20 million?

(2) You did not refer in your testimony to Title 50, Section 2092 App. (which applies by its terms to the President alone). Title 50, Section 2092 App. authorizes the President to loan (or guarantee loans) to private business enterprises under specified circumstances beneficial to the national defense. Would you please provide me with a detailed record of the use made of this provision during the past *three* years?

Would you also provide me with a separate record of those occasions when it has been used, at *any* time since it became effective, to provide a private business enterprise with aid in excess of $20 million?

(3) You did not refer in your testimony either to Title 50, Section 468 App. U.S.C. or to Title 50, Section 1152 App. U.S.C., which provisions were referred to as the "Selected Service Act" and the "War Powers Act" by the Navy last year in testimony to the Tactical Air Power Subcommittee of the Senate Armed Services Committee. The Navy suggested in that testimony (at page 3812 of Volume 6 of the Committee's FY 1973 authorization hearings) that these provisions could be invoked to compel defense contractors on the F–14 to continue production of the planes. Is it *your* opinion, also, that either or both of these provisions would be legally applicable to compel continued production of the F–14 by those F–14 contractors unwilling to continue production without a restructured contract? If you believe that Title 50, Section 468 App. U.S.C. would be applicable, how would the "fair and just compensation" called for by subsection (d) of that section be determined (would it be the *costs* of continued production, the existing contract price, or something else instead)? If you believe that Title 50, Section 1152 App. U.S.C. would be applicable, how would the price to the government of continued production be determined under that section? Would you please provide me with a detailed record of the last *five* times *each* of these Sections has been used to compel production of a major weapon system program—the dates of each action, the names of the contractors involved, the dollar magnitude of the production work in question, and a precise explanation as to how the price of that work to the government was determined?

I would deeply appreciate it if you could provide me with answers to the above questions by March 5, 1973. Should you be reluctant, in light of present negotiations regarding the F–14, to answer how those questions which refer directly to that program, I would accept immediate answers to all other questions (including those regarding the historical use of Title 50, Sections 468 App. and 1152 App.) and a later reply to the F–14 related questions. Mr. Ron Tammen of my staff (Ext. 55653) would be happy to assist you in responding to this request.

Sincerely,

WILLIAM PROXMIRE,
Subcommittee on Priorities and Economy in Government.

GENERAL COUNSEL OF THE
DEPARTMENT OF DEFENSE,
Washington, D.C., March 7, 1973.

Hon. WILLIAM PROXMIRE,
Chairman, Subcommittee on Priorities and Economy in Government, Joint Economic Committee, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to your letter to February 15, 1973 in which you asked for certain information in connection with your review of legislation which provides for financial assistance to contractors.

Pursuant to section 4 of Public Law 85–804 (50 U.S.C. 1434), the Department of Defense annually provides a report to the Congress of actions taken under that authority. I am providing as Enclosure 1 a copy of each year's report with the exception of the report for calendar year 1972 which is in the process of preparation. A copy of the 1972 report will be sent to you when it is

transmitted to the Congress within the next few weeks.

Enclosure 2 represents information compiled by the military departments in response to your inquiry concerning actions taken under section 301 of the Defense Production Act (50 U.S.C. App. 2091) and 10 U.S.C. 2307.

Authority to take loan action under section 302 of the Defense Production Act (50 U.S.C. App. 2092) was delegated to the Secretary of Treasury and to Director of the Office of Emergency Preparedness by section 310 of Executive Order 10480, as amended. We understand that no loan action by those agencies has been taken under this authority for many years and we have been unable to find any record in the Department of Defense which would indicate the extent Defense contractors were ever involved in such loans since enactment of that provision in 1950. You may wish to make further inquiry of those agencies.

We find no record of the use by the Department of Defense of section 18 of the Selective Service Act (50 U.S.C. App. 468) since its enactment in 1968. In the light of present negotiations concerning the continuance of the production of the F–14, we would prefer not to give an opinion as to the provision's applicability to the situation at this time.

The provisions of 50 U.S.C. App. 1152 are no longer in effect. As indicated in 50 U.S.C. App. 645, the provisions of section 1152(a) were to remain in force until June 30, 1949, or until June 30, 1950 in the case of contracts or orders for tin and tin products. (The only extension beyond these dates was in connection with import controls on fats, oils, rice, and rice products, in which case the final expiration date was August 1, 1951. See note following 50 U.S.C. App. 1152.) Additionally, it should be noted that the national emergency declared on September 8, 1939 and referenced in section 1152(a)(1) was terminated on April 29, 1952 by Presidential Proclamation No. 2974. We have found no record which indicates the extent this authority was used prior to the expiration.

I trust the foregoing information will meet your needs.

Sincerely,

J. FRED BUZHARDT.

Mr. SYMINGTON. Mr. President, speaking for this side of the aisle, I am very glad to accept the amendment. I think it is a superb amendment. It is wise and constructive and it brings expenditures under more control of Congress as we previously thought they were in legislation we had passed heretofore.

I commend the Senator from Wisconsin and the Senator from Virginia for bringing this legislation before us. We are glad to be able to accept it.

Mr. THURMOND. Mr. President, we feel this amendment does have merit and we are willing to accept it and take it to conference.

Mr. PROXMIRE. Mr. President, I yield to the Senator from Virginia.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. HARRY F. BYRD, JR. Mr. President, I am glad to join with the distinguished and able Senator from Wisconsin in cosponsoring this amendment. It would prevent the Department of Defense from making loans in excess of $20 million without the approval of Congress.

I introduced similar legislation on January 11 of this year, and following the introduction of that legislation the Subcommittee on General Legislation of the Committee on Armed Services held a hearing on it. A major purpose of the hearing was to try to delineate how many sections of the code there are under which the Department of Defense can make loans to defense contractors.

Mr. President, I have before me a transcript of the hearing which occurred on Monday, January 15, 1973. In that hearing it was established that there are at least four sections of the code under which loans can be made by the Defense Department to these two defense contractors: One is 85–804, another is 2307, another is the Defense Production Act. Then, there is another section dealing with salvage operations. The matter of salvage operations presents a very slight problem and I do not think it is a matter of great concern. But there are four sections of the code under which the Department of Defense can act.

Mr. President, this matter first came to my attention in 1970 when the Penn Central Railroad was in difficulty. It was proposed and the administration was considering loaning to the Penn Central Railroad the sum of $200 million and using as authority the Defense Production Act. I began to look into that act to find out what the ceiling was in the code for loans under the Defense Production Act. I found there was no ceiling. I introduced legislation along with the able Senator from Wisconsin to place a ceiling of $20 million so far as the Defense Production Act is concerned.

The Department of Defense found these other sections of the code under which they could act. For example, in the Grumman case, the loan was $54 million.

So I think something along the line of the Proxmire-Byrd amendment should be agreed to. I was willing to cooperate with the Department of Defense to work out something whereby legislation would not be necessary. After the hearing on January 15 held by the Subcommittee on General Legislation of the Committee on Armed Services it was agreed between the committee and the Department of Defense that the Department of Defense would work with the staff of the committee to work out an arrangement which would be agreeable to Congress and the Department of Defense so that legislation would not be necessary. But I have been informed by the committee, and in searching my files in my office I find that the Department of Defense has not complied with what I thought was a proposal that we had agreed upon.

I am glad to support the proposal of the able Senator from Wisconsin.

Mr. President, in that connection I ask unanimous consent to have printed in the RECORD the transcript of the hearings held before the Subcommittee on General Legislation of the Committee on Armed Services on Monday, January 15, 1973, because it deals in some detail with this question of loans.

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

DEPARTMENT OF DEFENSE COMMITMENTS TO DEFENSE CONTRACTORS, MONDAY, JANUARY 15, 1973

[Before the U.S. Senate Subcommittee on General Legislation of the Committee on Armed Services, Washington, D.C.]

The Subcommittee met, pursuant to call at 10:00 o'clock a.m. in Room 231, Russell Senate Office Building, Senator Harry F. Byrd, Jr., (Chairman of the Subcommittee) presiding.

Present: Senators Byrd (presiding), and Hughes.

Also present: John T. Ticer, Chief Clerk, George H. Foster, Jr., LaBre R. Garcia and John A. Goldsmith, Professional Staff Members.

Senator BYRD. The Subcommittee will come to order.

Today the Subcommittee on General Legislation will take testimony concerning the policies of the Department of Defense in making financial commitments to contractors.

I understand that we will hear from The Honorable J. Fred Buzhardt, General Counsel, Department of Defense.

This hearing has been prompted by loans totaling some $54 million, made to the Grumman Corporation, an aircraft manufacturer.

In July of 1970, I introduced an amendment to the Defense Production Act that was intended to limit financial commitments to defense contractors to $20,000,000.

At this point I will read into the record the text of that legislation:

"Except with the approval of the Congress, the maximum obligation of any guaranteeing agency under any loan, discount, advance or commitment in connection therewith entered into under this section, shall not exceed $20 million."

The amendment was applied to a provision of the Act dealing with loan guarantees. This amendment was approved by the Senate on a vote of 75 to zero, and subsequently was passed by the House and in Conference and became law on August 13, 1970.

This amendment resulted from the fact that the loan provisions of the Defense Production Act were open-ended. It was my view that a limitation should be placed on loans to contractors. The Senate vote of 75 to zero on my amendment indicates that the Senate was of the same view.

It was my understanding that the Byrd amendment in 1970 would fix a limit in the area of large loans to contractors. But the Grumman loan indicates that this is not the case.

As I understand it, the Navy has provided some $54 million to Grumman under the provisions of Section 2307 of Title 10 of the U.S. Code, entitled "advance payments." This arrangement requires Grumman to pay 6⅞ percent interest on the outstanding balance of funds and allows the Navy to place some limitations on the activities of the contractors such as dividend limitations, salary increases and others.

I have introduced legislation—S. 328—which would limit these so-called "advance payments" to $20 million per contract. Today's session will be, in effect, a hearing on S. 328 and the committee would be glad to hear the suggestions and recommendations of the Department of Defense.

It is the Subcommittee's intention to determine just how many various ways remain for the Department of Defense to provide commitments of money to contractors without the prior approval of Congress, or without any limitations on amount, regardless of any semantic interpretation of such terms as "loans" or "advances."

At this point the Committee will call on Mr. Buzhardt to make any comment that he would care to make.

STATEMENT OF J. FRED BUZHARDT, GENERAL COUNSEL, DEPARTMENT OF DEFENSE; ACCOMPANIED BY: LAWRENCE E. CHERMAX, COUNSEL, OFFICE OF NAVY COMPTROLLER; COLONEL BRUCE BENEFIELD, CHAIRMAN, CONTRACT FINANCE COMMITTEE, DEPARTMENT OF DEFENSE; AND JAMES P. NASH, ASSISTANT GENERAL COUNSEL, DEPARTMENT OF DEFENSE

Mr. BUZHARDT. Thank you, Mr. Chairman.

First, let me respond to your opening statement and say that the loan agreement with the Grumman Aircraft Corporation, as you pointed out in your opening statement was not made under the provisions of the Defense Production Act, which was amended in July 1970, in respect to guaranteed loans.

That Act, as you pointed out correctly, was unlimited, open-ended insofar as guaranteed loans are concerned. The advance payments made to the contractor in the Grumman case were made under the provisions of Section 2307 of Title X of the United States Code. This, however, is not an open-ended authority to make loans to contractors. Inherently the limitation is the amount of the contract which has been negotiated with the contractor, and beyond that amount there is no authority to make a loan to a contractor in 10 U.S.C. 2307. Accordingly, that limitation does stand with reference to advance payments, and cannot be exceeded by the Department.

So, in effect, Congress——

Senator BYRD. If I might interrupt you at that point, in this particular contract that would provide, what is the maximum that you could go into this contract in advance payments?

Mr. BUZHARDT. Well, it would be all the contracts with the particular contractor, Senator, not just the one contract but on any given contract, we can go to the amount that the Congress has authorized and appropriated for that contract. We can go further.

Senator BYRD. It would be a very substantial amount if you went to the maximum.

Mr. BUZHARDT. Yes, sir, it would be a substantial amount. In practice, however, this type of loan is usually, and in this case it is true, limited to the amount of work in progress, the value of the amount of work in progress on the particular contracts to which the loan is related, and it is within the annual appropriation amounts that the Congress has provided on the particular contracts which are involved. So that we have nothing beyond the specific amounts which the Congress has acted on as annual appropriations. So that it is not really open-ended at all. There is a very precise limitation. What is involved here is the method by which you make the funds available to the contractor.

Normally, progress payments are paid to a contractor during the performance of the contract. In this particular case the progress payments are based on 80 percent of the obligations incurred by the contractor and the loans are actually made on the 20 percent retainage which the contract provides for. Instead of just increasing the rate of progress payments the Department, in taking a more conservative view to financing the contractors, has seen fit to make these advance payments as loans so the company will have to pay interest and so that the special conditions can be attached to the agreement to advance this money in order to protect the taxpayers' investment about it such as the limitations on disposal of property, the prohibition against payment of dividends while the loan is outstanding, and the prohibition against increase of salaries, mortgaging the property and that kind of thing. The statute provides that as security for the loan the government will have first lien on work in performance and inventory as well as any remaining amounts which are in the fund created by the advance payments. So we really don't have at all an open-ended authority to loan under the provisions of 10 U.S.C. 2307.

Now, I should mention, of course, we have not used it in this case, there is another provision of law, we are talking about any provisions that we had, which is Public Law 85-804 which gives authority under certain prescribed conditions for the Department to amend the contract without consideration. This is a very unusual procedure but in that event funds could be advanced beyond that limitation.

Senator BYRD. Is it your interpretation that if two or three million dollars, to take some figure, were appropriated for a contract then the Department could advance this entire amount to the contractor?

Mr. BUZHARDT. It would depend on the performance of the work, Mr. Chairman, as to whether we could and that certainly would depend on the performance as to whether we would. I believe legally we could absent any special constraints, advance that fund for financing.

Now, as a matter of practice, these funds are only advanced under very exceptional circumstances and only advanced with a relationship being established on the work in progress, and the amount of work that is completed on the contract as time progresses.

Senator BYRD. You say the funds are only advanced in unusual circumstances.

Mr. BUZHARDT. That is correct, Mr. Chairman.

Senator BYRD. So what you are doing in regard to this particular advance is an unusual—is unusual, is that correct?

Mr. BUZHARDT. It is an unusual circumstance, yes, Mr. Chairman.

Senator BYRD. Well, how many other instances do you have where you have made, where you now have loans or advances outstanding?

Mr. BUZHARDT. Let me see, Mr. Chairman, I believe I have a list of them, Mr. Chairman, there are a number of them, advance payments, I have not actually counted them here that we have made that are outstanding since 1972. I might mention that there are really three categories here. In some cases the advance payments are used in the larger amounts to foreign governments where we are, where they are producing under a contract with our government. We advance the money in those cases so that they may proceed with the financing. The foreign government does not bear the burden of financing.

Senator BYRD. You are speaking now of foreign governments?

Mr. BUZHARDT. Yes.

We also have, the primary case in which it is used in with some non-profit contractor, universities——

Senator BYRD. Let's get down to cases which would be similar in nature to the Grumman case. That is a private profit-making corporation.

Mr. BUZHARDT. Let me say first there are roughly 60 altogether that are outstanding, and if you will give me just a moment I will count them to see how many cases we have outstanding, commercial companies. There are about eight, I believe, outstanding, Mr. Chairman. I will be glad to check that figure and count more precisely but I believe there are eight cases in which they are outstanding.

Senator BYRD. How many of those eight exceed $20 million?

Mr. BUZHARDT. Only one, Mr. Chairman.

Senator BYRD. Only the Grumman one?

Mr. BUZHARDT. Yes, sir.

Senator BYRD. So with the exception of Grumman, the Department has stayed within the $20 million limitation within the legislation set forth of 1970.

Mr. BUZHARDT. We have stayed within that limitation altogether, Mr. Chairman, if we are speaking of guaranteed loans. In fact, I don't believe there has been a use by the Department of Defense of the Defense Production Act provisions since it was extended in 1970. In the case of advance payments, Grumman is the only case in which the loan is as much as or exceeds $20 million that is outstanding at the present time.

Senator BYRD. You say the Grumman case is the only——

Mr. BUZHARDT. Only commercial.

Senator BYRD. The only commercial loan that exceeds that?

Mr. BUZHARDT. Yes, sir.

Senator BYRD. You have other loans that exceed that but not the commercial loan?

Mr. BUZHARDT. I believe that is the case, yes, sir. And those loans that exceed that I believe are to foreign governments. Advance payments we are speaking of here rather than——

Senator BYRD. Advance payments to foreign governments.

Mr. BUZHARDT. Yes, sir.

Senator BYRD. What governments would be involved in that?

Mr. BUZHARDT. The United Kingdom, I believe, is the largest example, Mr. Chairman.

Senator BYRD. And what type of contract do you have with the United Kingdom that would require——

Mr. BUZHARDT. These are primary co-production agreements, the Harrier aircraft and some engines that are involved for aircraft that we procure.

Incidentally, I might mention, Mr. Chairman, where we produce or we agree to sell to foreign governments defense materiels that they reciprocate where we buy for their account they advance the funds with which we buy. In other words, it is not a one-way street.

Senator BYRD. To get back to the commercial loans, this is the only commercial loan that exceeds $20 million?

Mr. BUZHARDT. That is correct.

Senator BYRD. No, in your remarks you pointed out that the funds involved in the F-14 procurement are appropriated funds. What the subcommittee is interested in primarily is the question of the proper use of appropriated funds. The questions arise in this connection such as what assurance do we have that the taxpayers' money has been properly safeguarded. What does the F-14 procurement arrangement tell us about the fiscal policies of the Department of Defense?

Mr. BUZHARDT. Mr. Chairman, of course we have—while I don't want to get into the details because of the status of the situation, let me assure you that the taxpayers' money, the taxpayers' interest, is most protected by using this approach. There could have been an alternate approach, of course, to increase the percentage of progress payments that are paid, which is done from time to time and in such case you would just advance 80 percent, advance some higher percentage.

In order to better protect the taxpayers' interest the rate of progress payments was not increased but rather the money was advanced as an advance payment or loan so the contractor would have to pay interest. It is limited by the contract amount, and quite well secured by work in progress on all of the contracts with which it relates. It would not, for instance, relate to the option for lot 5 under the Grumman contract, which has not been accepted by the company but only to the first four lots which are firmly under contract at this point. It does not relate to work on an option that has not yet been settled and accepted. So that the taxpayers' interest is best protected by this, and in addition you have the limitations that are placed on the company which are also designed precisely for this, so that the resources for the company cannot be squandered and the collateral is available to insure that the government does not lose money on advance payments.

Senator BYRD. It is not the primary purpose of this hearing to explore the details

of the Grumman case but rather to look at the overall policies of the Defense Department with regard to loans, advances and other financial assistance to contractors. Some background on the Grumman case is, of course, necessary and on that point I might note that it is my understanding that the original loan or advance, if you prefer it, but it is certainly a loan, but if you want to say advance it is all right with me, I think it is a loan by any name, was in the amount of about $20 million. A total of $54 million, I believe, was reached in two additional increments, is that correct?

Mr. BUZHARDT. That is correct.

Senator BYRD. Also I think it is interesting that the Navy apparently has financed long lead time procurement by Grumman of materials for airplanes which the contractor says it cannot build at the contract price, isn't that correct?

Mr. BUZHARDT. That is correct, Mr. Chairman, to some extent, to a limited extent.

Senator BYRD. In other words, the government has advanced, loaned money or advanced money——

Mr. BUZHARDT. That was not an advance payment, Mr. Chairman. That was a provision in the contract that requires prior to the exercise of the option the payment of funds to procure from subcontractors long lead time items. The contract price that, I believe, about six months before the exercise of any option for a new lot of production that small amounts of money will be advanced or paid for the procurement of the long lead time items.

Senator BYRD. Yes, but it is correct that the Navy has financed long lead time procurement by Grumman of materials for airplanes which the contractor says that it cannot build at the procurement price?

Mr. BUZHARDT. That is correct or the contractor announced that he cannot build.

Senator BYRD. Certainly this strikes me as a risky use of the taxpayers' monies. But it is not so much the details of the particular case that interests the subcommittee as it is the policy implications. So I would like to proceed first to the use of the Defense Production Act to assist contractors.

It seems to me that this Act of 1970 clearly gave the intent of the Congress in regard to, and I will use the exact language, "In regard to loans, discounts, advances or commitments in connection with defense contracts, that they shall not exceed $20 million."

Now Section 2307——

Mr. BUZHARDT. Mr. Chairman, if I might note the language of the amendment to the Defense Production Act related to loans made under that section.

Senator BYRD. That is correct, that is correct.

Mr. BUZHARDT. And those are guaranteed loans, guaranteed loans under that section. Advance payments are not guaranteed loans. The government acts as the banker in that case. We actually advance the money.

Senator BYRD. That is correct. But what I am suggesting is that it seems to me that that clearly gave the intent of the Congress in regard to loans and advances to contractors. You are relying on, the Defense Department is relying on section 2307, as I understand it.

Mr. BUZHARDT. Yes, sir.

Senator BYRD. Of the code, which goes back, to the best I can judge from reading it, it must be about 1962 which is prior to the 1970 amendments.

Mr. BUZHARDT. I believe that goes back much further than that, Mr. Chairman. I believe around 1949.

Senator BYRD. In any case——

Mr. BUZHARDT. '48 or '49.

Senator BYRD. In any case it is prior to the 1970 enactment.

Mr. BUZHARDT. Yes, sir. I might mention, Mr. Chairman, that though you are dealing—I do not believe that Congressional intent of impact on advance payments could be implied from the action with respect to the amendment under the Defense Production Act. There you were dealing with an open-ended authority so far as amounts are concerned, the guarantee loans.

As I pointed out earlier, when you are dealing with advance payments you are not dealing with an open-ended provision at all because you have the limits on the amount of contracts, the contracts, the government can only be obligated to those contracts to the extent that Congress has authorized the program if specific amounts and subsequently appropriated funds to execute those agreements. So the Congress does review each increment of these. In this case we are talking about the method by which the money is paid under the contract. It is money that the contractor is going to receive at any rate, and he will be able to enforce it in court. It is just using a slightly different method for making these funds available to the contractor than we do with the normal progress payments.

Senator BYRD. To get back to the Defense Production Act, the reason I got interested in it, and I am frank to say I did not realize it was an open-ended proposition and I don't think other members of the Senate realized it. I got interested because I understood that consideration was being given to utilizing that section to make a loan of $200 million to the Penn Central Railroad. I understand that you personally did not favor that, but consideration was being given to utilizing that section for that Penn Central loan.

Mr. BUZHARDT. Yes, Mr. Chairman. I might say that the Defense Department did not favor the use of it in that case and I might point out it will make a good distinction here. In that case, with Penn Central I believe there were about $12 million worth of contracts outstanding, and they were, as you said, contemplating a $200 million loan, which demonstrates the latitude which previously was available in the Defense Production Act.

As a comparison with only $12 million outstanding in contracts we have been moving under Section 2307, Title 10, the maximum loan would have been limited to $12 million in all probability. So that gives you some contrast into the authority under these contracts, I mean under these separate provisions of law.

Senator BYRD. I take it that you feel that the Congress was wise in the legislation which it enacted in 1970 to put a limit on these Defense Production Act loans and advances, commitments.

Mr. BUZHARDT. There certainly was no objection to it on behalf of the Department of Defense, Mr. Chairman. It would be a different proposition if we had a similar statutory limitation on Section 2307. I might point out that Section 2307 deals not only with advance payments, it deals with the normal progress payments, and even the final payments made to the contractor, so that it would be a very difficult thing to work out a workable statutory provision that set a dollar limit on these contracts, I mean on the provisions of 2307.

Senator BYRD. I want to get to the detail of that in a few minutes, but I might just comment at that point, you say it would not be practical, well, as a matter of fact, it is only the Grumman case now that exceeds the $20 million limitation under 2307.

Mr. BUZHARDT. As to advance payments, Mr. Chairman.

Senator BYRD. That is right.

Mr. BUZHARDT. That section also covers progress payments and in many cases progress payments exceed $20 million.

Senator BYRD. But advance payments, only the Grumman case is the——

Mr. BUZHARDT. That is true at the present time.

Senator BYRD. Since the amendment limiting loans under the Defense Production Act was passed how many times has the Defense Department found it necessary to provide loans to contractors under that section?

Mr. BUZHARDT. In no instance, Mr. Chairman.

So far as I can determine the guarantee Defense Production Act has not been used since 1970.

Senator BYRD. Has the Defense Department made any loans other than under the Defense Production Act and 2307?

Mr. BUZHARDT. Not to my knowledge, Mr. Chairman. As I mentioned earlier, there is a provision under Public Law 85–804, and this may have been used in one instance, may possibly have been. This in extreme circumstances permits the Government to amend a contract without consideration and in one case that sort of action may have been taken in the form of a loan.

Senator BYRD. What I am really trying to understand is how many different sections of the Code can be utilized by the Department of Defense to make advances and loans?

Mr. BUZHARDT. Well, Mr. Chairman——

Senator BYRD. We know the Defense Production Act can.

Mr. BUZHARDT. That is right.

Senator BYRD. We know 2307 can.

Mr. BUZHARDT. That is right; and, as I mentioned, 85–804 would permit either a grant or a loan without consideration for the benefit of a contract. There were a number of constraints in the use of P.L. 85–804 but that is a potential authority.

Senator BYRD. What limitation is there under——

Mr. BUZHARDT. Mr. Chairman, I also, Mr. Chermak mentions to me in some cases we can make advances. I believe in the case of salvage operation. There is a separate statute for that.

Senator BYRD. Take the question of the, I understand the, Navy has purchased stock in the, GAP Instrument Corporation under the provision of Public Law 85–804.

Mr. BUZHARDT. That is the instance to which I was referring.

Senator BYRD. I guess that was because GAP Corporation was on the brink of financial collapse.

Mr. BUZHARDT. That is correct, Mr. Chairman. Let me explain briefly that case. I am sure we have explained it already in both response to public inquiries and in response to questions of members of Congress.

In that instance the GAP Instrument Company was producing fire control systems for destroyers. Compared to the cost of a destroyer it is a relatively small cost for the items produced. It became apparent that the company was in financial difficulties, and in order to avoid the occurrence of much higher cost which would be involved if the contracts had to be replaced for a new contractor to build the fire control system, I understand there was not a source readily available. And it would have slowed down the time schedule on the whole destroyer which would have, of course, caused the incurring of other costs.

Senator BYRD. I am assuming——

Mr. BUZHARDT. The Navy did use P.L. 85–804. Now, under P.L. 85–804 in these unusual circumstances the Navy could have made a grant to GAP Instrument Company and just amended the contract to pay them a higher price for the proper fire control systems. The Navy did not. They thought they should have some security in the event that there was any funds left over at the end of the contract. At the same time it would have defeated the whole purpose had this been the type of loan that was a first priority. Even so in order to protect, so that the money, any money, that might be in the company's treasury not go back to shareholders, they took a, the company issued a type of preferred stock, the ownership of which was transferred to

the Navy really as collateral for the funds advanced under P.L. 85–804.

Senator BYRD. I am not arguing the merits of what the Navy did. I assume that the Navy felt that it had good and just reason for what it did. The point I am suggesting is that should the Defense Department have the authority to buy stock in corporations without coming to the Congress for approval.

Mr. BUZHARDT. Mr. Chairman, what was really done here was to take this stock as collateral and the Congress had given authority to advance the money without collateral. So, the Navy actually took the stock as collateral and I think the question of the stock ownership in this case is not really the issue if you could advance the money anyhow. I would certainly think the Congress would approve of the Congress taking whatever collateral was possible in such a case in order to best protect it.

Senator BYRD. What is to prevent a similar situation from arising with the Grumman Corporation or any other company, for that matter?

Mr. BUZHARDT. There is nothing to prevent it if P.L. 85–804 authority was used, Mr. Chairman.

Senator BYRD. Do you think that the Congress should not put some limitation on that, should not, if you are going to buy stock under 85–804 you have the authority you say to buy stock in most any company under defense contracts.

Mr. BUZHARDT. We have the authority under those circumstances, Mr. Chairman, to really take whatever collateral we can get to protect the government's interest and that really is what the taking the stock was all about.

Senator BYRD. But you are actually buying—you actually bought stock in this company. What I am speaking of now, what I am trying to get to now, is a matter of policy. Should you not come back, should not the Defense Department come to the Congress, if you are going out to buy stock in a company like that?

Mr. BUZHARDT. I really don't see much reason for it, Mr. Chairman, that the Congress will be concerned about the type of collateral the Department took. I presume, you know there may not have been any problem if we had taken a first mortgage on their corporate headquarters. It just so happens that wouldn't have really protected the government's interest, so I think it is a very different thing from going on the market and buying stock as such. This was a collateral type stock. It was not exercise of management.

Senator BYRD. Well, the GAP situation, as I understand it, started as advance payments, and then it proceeded to the stock issue as a next step.

Mr. BUZHARDT. I don't believe it started as advance payments, Mr. Chairman. This was an exercise of P.L. 85–804.

Senator BYRD. Well, let's take it—

Mr. BUZHARDT. There was a grant made under P.L. 84–804, there was a condition for repayment, the stock was taken as collateral.

Senator BYRD. And you have testified that under P.L. 85–804 that there is nothing to prevent the Defense Department from taking stock in any other corporation.

Mr. BUZHARDT. No, sir, there is nothing to prevent it. Taking it as security. It does not give us authority to go out and buy stock on the market, but to take it as security when funds are advanced under Public Law 85–804.

Senator BYRD. So now we have established, as I visualize it then, we have established today that there are three places in the law.

Mr. BUZHARDT. And possibly a fourth, a separate statute, I believe on salvage operations. There are some minor ones, I believe, Mr. Chairman. They don't really touch these of—much of this problem but in some cases we can buy tuitions, subscriptions as to publications, this sort of thing in advance of actually receiving the services, normal business statute just so we include everything, that kind of thing exists.

Senator BYRD. Yes.

I know these contracts are very complex and they are multitudinous and so forth, but what I am trying to get to establish in one place in the record is how many sections of the Code can the Defense Department utilize tax monies for in the way of loans, advances and et cetera. As I understand it we have the Defense Production Act as one, we have 2307 as one, we have 85–804 as one, and we have one which is in regard to salvage operations.

Mr. BUZHARDT. Yes.

Senator BYRD. Now the others—

Mr. BUZHARDT. Those are the major ones.

Senator BYRD. They are the major ones.

Mr. BUZHARDT. That is correct.

Senator BYRD. So if the Congress wants to tackle this problem these are the four areas that need to be appraised and considered.

Mr. BUZHARDT. That is correct, yes, sir.

Senator BYRD. Now, to get back to the Grumman case, I understand that Grumman has paid about $8 million in Christmas bonuses to its employees, is that correct?

Mr. BUZHARDT. That is my understanding, Mr. Chairman, yes, and I might say that these were submitted and approved by the Navy. I would like to explain the circumstances on that.

Senator BYRD. Was this paid out of the cash available under these advances?

Mr. BUZHARDT. In part it could have been, Mr. Chairman, yes.

Senator BYRD. Well, if not, where did the contractor get the cash to pay the bonuses?

Mr. BUZHARDT. Well, he has progress payments coming in, which are much larger than the advance payments on a number of contracts that he is performing with us.

If I might here offer a little explanation on this: as you know, in connection with the advance payments restrictions were put on any salary increases throughout Grumman. The Navy has to approve them, and they are forbidden to pay any increases in salary. It has traditionally been the Grumman approach that their salaries are supplemented throughout the company by a bonus at the end of the year. It is sort of a method of paying of compensation without which quite frankly the salaries paid by Grumman would not be comparable at all with the rest of the aerospace industry so it is not an innovation. They have used this form of compensation over the years. Having established a firm history, I would think that would be within both the wage board's rules and within the constraints imposed by the Navy.

Senator BYRD. Were there other bonuses paid to Grumman employees out of the advance payments?

Mr. BUZHARDT. I believe there are two bonuses they are paid a year, Mr. Chairman, both of which, some of the funds could have come out of the advance payments. There is a production bonus that is paid at one point during the year, and there is one called a Christmas bonus that they pay, both of which are a standard method of compensation by Grumman to its employees.

Senator BYRD. Did Grumman specifically request the Navy to approve Christmas bonuses to its employees and if so, when was this done?

Mr. BUZHARDT. I think there was, the Navy was aware that the bonuses were being paid. I think there was no formal request for or approval because they did fit within the terms of the normal compensation without increases, but the Navy was fully aware that this method of payment of employees was used and had traditionally been used.

Senator BYRD. Was the Secretary of Defense consulted on this matter?

Mr. BUZHARDT. No, sir; not to my knowledge. I am sure that somebody in the office of the Secretary of Defense knew about it, certainly in the Assistant Secretary for Installations and Logistics, I am sure they were aware of it, they follow these things very closely.

Senator BYRD. Well, under the regulations doesn't the Navy have to specifically approve all use of advance payments?

Mr. BUZHARDT. All disbursements from the advance payments, special fund, yes, sir.

Senator BYRD. Yes.

Mr. BUZHARDT. What they do is countersign all checks, that is really what it amounts to from this fund, but some of them are for operating expenses of the prime contractor, and it would—well, they are all operating expenses and this would be a normal part of operating expenses.

Senator BYRD. And this, of course, we are speaking also of the bonuses for executives?

Mr. BUZHARDT. I think there were no bonuses for executives, Mr. Chairman. It was just the workers in the company. There is a limitation, I believe, on the actual salary amount that executives can make under the advance payments and any increases have to be approved by the Navy. There were no increases approved.

Senator BYRD. No increases have been approved?

Mr. BUZHARDT. No, sir, not for the executives at all.

Senator BYRD. Is it correct that Grumman sought private financing prior to this advance payment being made?

Mr. BUZHARDT. That is my understanding, Mr. Chairman.

Senator BYRD. And Grumman was unable to obtain that private financing?

Mr. BUZHARDT. Yes, Mr. Chairman.

Senator BYRD. And as a result of that the Navy provided the funds.

Mr. BUZHARDT. That is correct.

Senator BYRD. What was the contractor's normal method of acquiring working cash before this advance was made?

Mr. BUZHARDT. Borrowed the money from the banks, Mr. Chairman.

Senator BYRD. Well, now, they are in a position where they cannot borrow any more money from the banks?

Mr. BUZHARDT. That is correct is my understanding, Mr. Chairman.

Senator BYRD. Did the contractor exhaust all sources of cash available before these advances were made?

Mr. BUZHARDT. Yes, Mr. Chairman.

Senator BYRD. Did they consider sale of assets and other available resources?

Mr. BUZHARDT. It considered its total financial capability, yes, Mr. Chairman. He had to make his case to the Navy before advance payments were considered.

Senator BYRD. There is no certainty that greater amounts than the $54 million advance will be required, I take it?

Mr. BUZHARDT. I really couldn't speak to the amount that will be required, or would be required in the future, Mr. Chairman. I would not rule it out and I would not say with assurance that it would be as a necessity for protecting the government's interest in the working products. I am informed that the probability is that it will go up but it will also go down. [Laughter.]

This will fluctuate, Mr. Chairman, that is what I am really saying.

Senator BYRD. All right. It now stands at $54 million.

Mr. BUZHARDT. That is correct.

Senator BYRD. Is it the judgment of the Department that before it goes down that it will go substantially higher than $54 million?

Mr. BUZHARDT. We recognize that as a possibility, Mr. Chairman. Not very much probable but some, it could.

Senator BYRD. What protection does the Navy have under those conditions if the contractor refused to continue the program or if it goes into bankruptcy?

Mr. BUZHARDT. Mr. Chairman, the advance payments are not related to the production lot which is currently in dispute. When I spoke of the work in progress I am speaking of the work in progress that is actually now being performed under contract by Grumman.

Senator BYRD. But tax funds are being used for long lead time items of these, of a subsequent lot.

Mr. BUZHARDT. That is not, that has no relationship really to the advance payments we are talking about before making it. That is correct.

Senator BYRD. I am aware of that. But it is still tax funds.

Mr. BUZHARDT. That is correct. The long lead time items, some funds have been expended for these. If the contractor does not perform then I am afraid I shouldn't comment on the options available to the Department of Defense. I might say that one of them would be to accept the items so produced for the inventory in connection with the aircraft that are produced, but I don't think I should go beyond that. There are other options available to the government.

Senator BYRD. Let me ask you this: Is the price for the FY 1972 procurement, called lot 4, definitized and agreed to by the Navy and Grumman or is it still being negotiated, lot 4?

Mr. BUZHARDT. Lot 4, I believe is a contract, yes, sir. The option was exercised and accepted for the, for lot 4.

Senator BYRD. But the price is firm, it is not being negotiated?

Mr. BUZHARDT. That is basically correct, yes, sir. The Congress, as you will recall, put limitations on the funds in the committee report and in the language, both of which were met by the Department in exercising this option, and I might say there may be some facets of this, minor facets that may still be under negotiation, change orders, and this sort of thing.

Senator BYRD. Since the contractor has reported losses on this F–14 program, how is the Navy and the Defense Department assured that this advance is not being used to fund Grumman's share of the loss?

Mr. BUZHARDT. As I pointed out, Mr. Chairman, as you know there is a disclosure by the contractor of his financial records, and in addition to which this disclosure requirement is also attached to the agreement for advance payments, so that we have a pretty good sight as to where these funds go. In addition to which the fund created by the advance payment is very tightly controlled. As I mentioned all checks are countersigned by the Navy. They are so accounted for to exclude the loss.

Senator BYRD. Would this next statement be correct: If under the conditions of 2307 the contractor can receive advances up to the unpaid contract price then the contractor could, in effect, receive his profit before he has earned it.

Would that be a correct statement?

Mr. BUZHARDT. Well, in the particular case, Mr. Chairman, there is no profit.

Senator BYRD. Yes, I am speaking now though of a matter of policy because what we are concerned primarily with is policy.

Mr. BUZHARDT. I believe it would be hard to arrive at a conclusion that the contractor by any means received his profit before he did his earnings.

Senator BYRD. But if he can receive advances up to the unpaid contract price would he not be receiving his profit before it was earned?

Mr. BUZHARDT. Yes, sir, before it was earned.

Senator BYRD. Before it was earned.

Mr. BUZHARDT. Yes, but in practice it just does not work that way. It may be theoretically possible. It would be unlikely that any contractor would be willing to pay interest on his profit as to before it is earned.

Senator BYRD. Well, the contractor unless he has a very large cash flow he has to pay interest to somebody, he has to borrow money unless he has very large working capital.

Mr. BUZHARDT. That is true. But it would not result in his profit, operating capital, yes.

Senator BYRD. Operating capital so he has to pay interest to somebody.

Mr. BUZHARDT. And it would be a very unusual case, I think. It is possible but it would be very unusual that advance payments are used in a case where a contractor has much profit involved in the contract.

Senator BYRD. If these advances, and I am not speaking now of Grumman as I mentioned, but speaking broadly, if these advances are paid to the contractor before the work is completed and for any reason the work is rejected or the contract price is later reduced because of reduced work, then how does the Navy get its over-advances back? Suppose the contract is rejected?

Mr. BUZHARDT. If the item is rejected, well, as you know, Mr. Chairman, the items are not all completed and then accepted by the services, they are inspected as the books are audited and as the work progresses. Actually your progress payments fall in the same category, the same protection is used in the advance payments as used in the progress payments. You pay him as he progresses with the work, and in some cases, for instance, where you have in the same situation that you are, these are not without risk it is conceivable that a major contract would be defaulted and a return of all the progress payments made demanded of the contractor. Whether or not under such circumstances you would be able to collect would depend on the financial stability of the company. There is obviously always in any contract, where a contractor defaults, a question of whether the other contracting party could be completely made whole.

Senator BYRD. The purposes of section 237, I must say, it was enacted as best I can determine March 1, 1947, a long time ago, but in reading a part of the legislative history of that legislation, I find this: "The need for this authority also exists in peacetime in the case of research and development contracts many of which are with educational and research institutions or small business concerns," that was the purpose of the Defense Production Act, "which are unable to finance research projects."

Now, I admit frankly that is not necessarily the full legislative history, but the best I can determine it gives the flavor of the legislative history of this, and if that is the case, it seems to me that the Department has gone well beyond the intent of Congress in using 2307 for the purpose that it has used it for.

Mr. BUZHARDT. Mr. Chairman, I don't agree with that at all. As I say the statute has been around for many years now. The Congress is fully informed on the use of the advance payments authority in every case. They are informed, the committees are informed, and we have never had any objection raised by the Congress and I know of no case where the use of advance payments has resulted in a detriment to the taxpayers' interest.

Senator BYRD. Well, that is not the point I am suggesting. What I am suggesting is that the legislative history of this Act indicates that it was primarily for research and development contracts with educational and research institutions.

Mr. BUZHARDT. Might I say in the large number of cases it is used there but I don't agree the legislative history in any way confined it to that, Mr. Chairman, and this is really the total procurement approach here, and it has been used with the Congress' full knowledge and understanding over these 20-odd years, and I am sure had it been inconsistent with the legislative intent, the Congress would have come back on us long before now.

Senator BYRD. Well, I am not so sure of that because, let's take that Defense Production Act of 1950, which goes back almost as far as this does, I can't say categorically, of course, but my guess is that virtually no member of the Congress, and Congress at the present time was aware there was no limitation on it and as soon as they found there was no limitation on it the Congress acted and that is the main purpose of these hearings today is to see whether we need legislation in sections other than the Defense Production Act.

Mr. BUZHARDT. As I did point out, Mr. Chairman, this is—this section 2307 does not give us unlimited authority. It is limited to the contract amount and on each of these programs the Congress have used them annually, they authorize them in annual increments, not for the full span of the contract, and then it goes through the appropriation procedure and provides not in excess of the annual appropriation so there is a limitation.

Senator BYRD. The Department and the Congress are partners, we are not adversaries, we are partners, we have to work together for the public good, and I am concerned as to whether the Congress may have enacted legislation that is too broad, legislation that gives too much authority to the Department in the handling of tax funds. We are not dealing with our own monies, of course, we are dealing with the monies of all the hard working wage earners of our nation and every one who pays taxes, and I am wondering if we couldn't—I think we have certainly cleared up the Defense Production Act, at least it has been limited to my satisfaction and I think the satisfaction of most members of the Congress.

Now, if you read the debates of that in 1970, there were many members of the Senate who objected to the $20 million limitation and wanted to make it a lesser amount.

Mr. BUZHARDT. That is right.

Senator BYRD. Wanted to make it a lesser amount but I think that is a reasonable figure. I think the Department has got to have some leeway in the handling of these complex matters, and it seemed to me that that was a reasonable figure.

Now, we come—so that part of the code is taken care of, at least it is taken care of to my satisfaction and I think to the satisfaction of the Congress—now we come to the three other sections, the salvage operation, I don't think we can get into today and I think that impresses me as being a specialized matter and a matter not of great moment but we have two other sections, one is 2307 and the other is 85–804, and it occurs to me that we do need to make, reach some agreement or have some legislation which would put greater restriction on the use of tax funds in regard to those two sections, than we have at the present time, and in that connection, I introduced legislation on this past Friday, I guess it was, or Thursday, January 11, to limit to $20 million the total amount that may be paid in advance on any contract entered into by the Army, Navy, Air Force, Coast Guard and NASA, following the same, I used the $20 million figure as the same amount that we put in the Defense Production Act. I said in my remarks in the Senate that I wanted to be reasonable. If that figure was not a reasonable figure we could discuss it, and the Defense Department could present its views, and I would be inclined to take any reasonable figure. But it occurs to me that that figure is a reasonable figure because by your own testi-

mony, insofar as commercial transactions are concerned, as distinguished from governmental transactions or educational transactions, there is only one loan not outstanding that exceeds $20 million and that is the case that we have been talking about today.

Mr. BUZHARDT. Mr. Chairman, I agree that the problem here is one of technique of getting at the problem, I think, as you have narrowed it. We do have a problem with the legislative approach because it is hard in statutory language to distinguish as to the precise methodology used to advance payments to foreign governments and to advance payments to commercial enterprises in addition to which I am afraid your legislation might apply, as drafted both to, advance payments, to progress payments and even final payments under a contract all of which are covered under 2307.

I might suggest one approach to use in this situation, as you know, where funds are used by the Department for purposes other than that which is justified before the committee, in excess of a certain amount, we treat those as a prior approval reprogramming and they are submitted to the Congress, to the committees.

That, I think, might offer a potential in the way of procedure that the Congress might want to look at as a way to deal with this. As you say, this is the only case we have outstanding where the $20 million amount is concerned, and I would see no problem at all, perhaps through an exchange of correspondence with the committee in agreeing to treat in any future case an advance payment that was in excess of $20 million as we treat a prior approval reprogramming, so that we advise the committee and wait to see if the committee has any reaction to that or if the committee will approve it.

Senator BYRD. The Committee has to approve it.

Mr. BUZHARDT. The Committee actually has to approve it. You have both kinds but we will treat that as a prior approval and so that the committee would have to approve it before we went forward with the advance payments. I think also it might be a much more practical approach because of the time constraints that are often involved in advance payments. These things arise, they are designed really to deal with an emergency type situation, and I think if we had to wait for the express statutory action by the Congress we would have some real practical difficulties but I would see no problem with approaching it——

Senator BYRD. I think the reprogramming approach has very definite possibilities for tightening up of the procedure. The present—you mentioned in your comment a moment ago that the Congress is informed of any reprogramming desired and in the absence of objection it is—it should go ahead with it.

Mr. BUZHARDT. In some cases in the absence of objections and in other cases we wait for the committee's approval, that is called the prior approval type program.

Senator BYRD. I was under the impression that all reprogramming required the approval?

Mr. BUZHARDT. There are statutory limits, or there are limits within which the committees or which the Congress permits us to have reprogramming without having the prior approval of the committee only if we go above those limits.

Senator BYRD. Is that on amounts, based on limitations of amounts?

Mr. BUZHARDT. Yes, sir, you are right. Based on amounts, and in some cases specific items we have latitude in amount in certain types of transactions. In others in the type of, in the different types of, transactions there is not a limit on amounts.

Senator BYRD. This past year I chaired most of the reprogramming problems for the Senate Armed Services Committee, and I was under the impression that all reprogramming came before that committee. I may be in error about it.

Mr. BUZHARDT. The committee does by statute provide us with certain transfer authority, Mr. Chairman. All of them, whether even if they don't require prior approval under committee arrangements, we do report nevertheless, we report all of them, and if they go over beyond the established limits we come for prior approval.

Senator BYRD. Established dollar limits.

Mr. BUZHARDT. Yes, sir.

Senator BYRD. I think certainly in the case of 2307 and 85–804 that whatever arrangements are made, whether it be by statute or by agreement should require prior approval over 20——

Mr. BUZHARDT. Let me say, Mr. Chairman, I was directing my remarks to 2307. With reference to P.L. 85–804, I don't believe I can speak to that because it is a much more involved statute, and it goes to things far beyond what we are talking about this morning. And I would be prepared to discuss that in detail if you desired either with you, Mr. Chairman, or at another committee hearing but there would be, as you know this is the authority to the President directly, not to the Department of Defense, and it is regulated by a very extensive executive order to cover——

Senator BYRD. You mean 85–804?

Mr. BUZHARDT. Yes, sir, 85–804, it is a very large and complicated statute. I wouldn't, I am not prepared to address any problems that arise from 85–804 this morning because there is a——

Senator BYRD. Well, that is satisfactory because I am not sure that the——

Mr. BUZHARDT. It goes much beyond loans, Mr. Chairman.

Senator BYRD. I am not sure that the subcommittee is prepared to discuss in detail 85–804 either. What I wanted to do this morning, though, is to delineate just what statutes can be utilized for purposes of loans and advances to contractors and we have gotten it down pretty much now to two areas.

Mr. BUZHARDT. Yes, sir.

Senator BYRD. 2307, which possibly could be solved by the prior approval reprogramming procedure, that is a possibility. I have no interest in introducing legislation if we can accomplish it in another way.

Then the other is 85–804 which you say is a much broader provision.

Mr. BUZHARDT. It deals with many things, Mr. Chairman, even with the authority to guarantee indemnity to foreign governments to whom contractors, it is a very broad and detailed Act.

Senator BYRD. So long as that is identified as—until this hearing today, I doubt if it was too clear as to just how many different sections the Defense Department could operate under.

Mr. BUZHARDT. Well, even though I am not prepared to discuss all the ramifications of P.L. 85–804, Mr. Chairman, I felt in fairness we should mention it as something that is affected so you would be aware of it.

Senator BYRD. Yes, that is right.

Mr. BUZHARDT. It was not used, not involved in this case at all but it is an Act on the books.

Senator BYRD. I think by all means you should have mentioned it and if you hadn't I don't think you would have given the committee the information that it should have, which I, as I say, I think one objective of this hearing this morning is to delineate the problem facing the Congress and the Defense Department as to just how many of these statutes in this very complex code that we have got can be utilized and we have delineated that as I said.

Mr. BUZHARDT. Yes, sir, I believe we have.

Senator BYRD. You voluntarily brought out 85–804, we have been discussing at some length 2307, we know the Defense Production Act has been covered, and that leaves the matter of salvage operation which on cursory glance appears to me to be sort of a special situation.

Mr. BUZHARDT. It is, it is a very specialized situation.

Senator BYRD. Which should not give very great concern. Except for those four sections, plus minor ones like paying for newspaper subscriptions and that sort of thing in advance, that takes care, as I understand it from you, that takes care of all of the authority that the Defense Department has in the handling of tax funds with regard to loans, advances, et cetera, to contractors and private individuals.

Mr. BUZHARDT. That is correct, Mr. Chairman. Let me say, with respect to your bill there, as you know we have run into the same type of problem on reprogramming and that is why that is not a codified procedure. Our hesitancy here is not in an unwillingness to come over and justify whatever loans are made here, I have no problem with that whatsoever, and I am sure from the record I know of the advance payments we have, I would anticipate no problem. So we have no problem of justifying and I think we could justify them under that procedure very well.

Senator BYRD. I recognize that this bill I put in last week is broad in its implications and I put it in for the purpose of a discussion such as we have had here, and a hearing. I don't want to do anything that is unreasonable. If you are going to operate in the Defense Department you are going to have reasonable leeway. It is possible it is too broad.

Mr. BUZHARDT. Mr. Chairman, let me mention one other possibility of something that was mentioned to me, it is not really a loan but in certain situations, for instance, where we are dealing with a contractor that winds up in litigation so I will be sure to cover every possibility, there is a possibility that where a contractor owed us money that we could defer its payment under the outcome of the litigation or something of that nature, which could conceivably be considered a loan.

Now the reason that that arises is that, as you know, we have some rather extraordinary provisions that the normal contract does not have. When we buy something, for instance, a contractor just can't stop work, we have some very unusual and drastic remedies for collection of what is owed to us. In many cases, therefore, it is not practical to exercise those prior authorities, and in some cases where litigation is going to be the method by which the dispute is resolved rather than resorting to these unusual remedies we do permit deferral of the repayment until the end of the litigation. That to an extent could be considered a loan. I had not thought of it but Mr. Chermak remembered it, but again it is a very unusual sort of situation. It is a possibility.

Senator BYRD. Well, it might not be impractical to inform the Congress through it, again through the reprogramming process that that is what the Department feels should be done.

Mr. BUZHARDT. It would not, although I am very frank to say there are some problems where we have litigation in process, with going to the Congress with this type of information where we are involved in litigation, it is a matter that has to be dealt with on a very confidential basis, the litigating position of the government and as to how we handle it. It might present more difficulties although I don't think——

Senator BYRD. It might be something that your staff and the staff of the Armed Services Committee might explore.

Mr. BUZHARDT. All right, sir. We will be glad to explore it. I mention this because it could be considered on some kind of basis.

Senator BYRD. That is right. I want to get on the record today everything, or every section of the code, that can be utilized for the purposes we have been discussing this morning.

Mr. BUZHARDT. Right.

Senator BYRD. I think that is very important to get that down in one place and then we can see which of these need to be tackled and which do not. As it stands now, I think we can either by legislation or by, hopefully by, agreement as to, on a strong prior approval reprogramming basis, work out something with regard to 2307.

Mr. BUZHARDT. Yes, sir.

Senator BYRD. If there is no further business, the committee will stand in adjournment, and I thank you, Mr. Buzhardt, and your associates for being here this morning.

Mr. BUZHARDT. Thank you, Mr. Chairman.

Senator HUGHES. I would like to just address you as the Chairman.

Mr. Chairman, I did not receive a notice of the committee hearing until ten minutes to six on Friday evening after I had left town, and it was not possible for me to alter my schedule due to the fact that I had two appointments with Iowans who traveled from Iowa to see me this morning at ten o'clock, to be here sooner than I arrived.

Since I arrived just as the hearing was closing, I will have to read the record of the hearing and if there are questions to be asked in the future I am sure that you would allow me to direct those questions in writing to be answered in writing.

Senator BYRD. By all means. The Chairman regrets the problem faced by the Senator from Iowa today, the fact that he did not get notified as quickly as he should have received it. If the Senator from Iowa has questions that he would like to submit in writing the record will be held open for that purpose.

Further, if the Senator from Iowa, after going over the record, would like to have an additional meeting with the same witness or more witnesses or other witnesses, the Chairman of the Subcommittee will call such a hearing at the convenience of the Senator from Iowa.

Senator HUGHES. Thank you very much, Mr. Chairman.

(Whereupon, at 11:20 a.m., the hearing was concluded, subject to call of the Chair.)

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

The PRESIDING OFFICER. Is all time yielded back?

Mr. SYMINGTON. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. PROXMIRE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SYMINGTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

TIME LIMITATION ON M'GOVERN AMENDMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as an amendment by Mr. MCGOVERN, referred to as the economic conversion amendment, to the military procurement bill is called up and made the pending question, there be a time limitation thereon of 2 hours, to be equally divided and controlled in accordance with the usual form.

The PRESIDING OFFICER. Does the Senator wish to make a proposal as to second-degree amendments?

Mr. ROBERT C. BYRD. Yes. I thank the Chair.

I ask unanimous consent that time on any second-degree amendment thereto be limited to 30 minutes, to be equally divided in accordance with the usual form.

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

LIMITATION OF TIME ON H.R. 9639, SCHOOL LUNCH BILL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as H.R. 9639, the school lunch bill, is called up before the Senate and made the pending business, there be a time limitation thereon of 2 hours; that there be a limitation on any amendment thereto of 30 minutes; that there be a time limitation of 20 minutes on any amendment to amendments, debatable motions, or appeals; and that the agreement be in the usual form.

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

Mr. ROBERT C. BYRD. Mr. President, there will be no more votes today.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AUTHORIZATION TO MAKE NECESSARY CLERICAL AND TECHNICAL CORRECTIONS IN ENGROSSMENT OF S. 2410

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. CRANSTON, I ask unanimous consent that the Secretary of the Senate be authorized to make necessary clerical and technical corrections in the engrossment of S. 2410.

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

ORDER TO MODIFY AND PRINT HARTKE AMENDMENT NO. 494

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the distinguished Senator from Indiana (Mr. HARTKE) may be authorized to modify his amendment No. 494, and that amendment No. 494 be printed as modified.

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

TOM VAIL

Mr. HARRY F. BYRD, JR. Mr. President, Thomas L. C. Vail, for many years chief counsel and chief of staff of the Senate Committee on Finance, was buried in Arlington Cemetery this afternoon. Tom Vail died Tuesday, at the age of 45, after a lingering illness.

Tom Vail was, in my judgment, one of the finest and ablest and one of the most dedicated public servants that our country has had. He served the Congress of the United States in various capacities for 22 years. He was a man of the highest integrity and character and ability.

Tom Vail became chief counsel and chief of staff of the Finance Committee in 1965. At that time the chairman of the Finance Committee was my immediate predecessor as Senator from Virginia. I happened to be in my father's office, he being my predecessor, on the day that Tom Vail came to his office and the day that Senator Byrd, Sr., designated Tom Vail to be chief counsel and chief of staff of the Committee on Finance.

I did not know Mr. Vail prior to that time. I got to know him well a few months later when I myself came to the Senate, and even better after I became a member of the Senate Committee on Finance.

Incidentally, Tom Vail succeeded as chief counsel and chief of staff, Mrs. Elizabeth Springer, who recommended Tom Vail to Senator Byrd, Sr., for appointment to that position. I want to point out that Mrs. Springer was, and I think up to this time has been, the only woman to serve as chief counsel and chief of staff of a major Senate committee.

The Senate Finance Committee will miss Tom Vail. He had a capacity for objectivity, for presenting clearly and concisely and objectively the very complicated pieces of legislation which came before that important Senate committee.

Over and above that, under the leadership of the present chairman of the Finance Committee, Senator LONG of Louisiana, Senator LONG and Mr. Vail developed an outstanding professional staff. Senator LONG gives Tom Vail credit for the development of the staff, and I think the Finance Committee today, as a result of the leadership of Tom Vail, has an unusually fine professional staff, who themselves have followed the example set by Tom Vail in ability, competence, objectivity, and dedication to the work of the committee, the work of the Senate, and the work of our Government.

It is a tragic day that a man as young as Tom Vail, with as much promise, has been taken from us.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ORDER TO TEMPORARILY LAY ASIDE HUGHES AMENDMENT NO. 493

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Hughes amendment No. 493 be temporarily laid aside until such time as the author of that amendment desires to call it up.

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

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ORDER FOR CONSIDERATION OF SCHOOL LUNCH BILL, H.R. 9639, ON MONDAY, SEPTEMBER 24

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday next, immediately after the two leaders or their designees have been recognized under the standing order, the Senate proceed to the consideration of the school lunch bill, H.R. 9639.

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

ORDER TO TEMPORARILY LAY ASIDE UNFINISHED BUSINESS AND TO CONSIDER SCHOOL LUNCH BILL ON MONDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the unfinished business be temporarily laid aside on Monday next until the disposition of the school lunch bill, H.R. 9639, or until the close of business, whichever is the earlier.

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

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business.

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

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

WATERSHED PLANS OF IMPROVEMENT IN WEST VIRGINIA AND MISSOURI

A letter from the Acting Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, watershed plans of improvement for Prickett Creek, W. Va., and Lost Creek, Mo. (with accompanying papers). Referred to the Committee on Agriculture and Forestry.

MARIHUANA AND HEALTH REPORT

A letter from the Acting Secretary of Health, Education, and Welfare, transmitting, pursuant to law, the annual Marihuana and Health report, for the year 1973 (with an accompanying report). Referred to the Committee on Labor and Public Welfare.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the PRESIDENT pro tempore:

A resolution of the Senate of the State of Washington. Referred to the Committee on Banking, Housing and Urban Affairs:

"SENATE RESOLUTION 151

"Whereas, The economic policy known as "Phase IV" has required that individual service stations revert to prices that were charged on January 10, 1973; and

"Whereas, Many of the operators of said service stations are small, individual entrepreneurs who because of said guidelines established find themselves faced with a fixed amount of gallonage allocated to them by the wholesalers of gasoline and a profit margin established by the said guidelines which will result in a net loss to the average individual service station operator of one to three cents per gallon sold; and

"Whereas, Many of the said individual service station operators will be forced to terminate the employment of many of their employees as a result of the fiscal loss occasioned by the foregoing;

"Now, therefore, be it resolved, By the Senate of the State of Washington, that the Administration and Congress are hereby requested to consider amending this portion of "Phase IV Policy" insofar as the restriction of profit of retail dealers of gasoline is concerned while not equally limiting the wholesale price they are required to pay their suppliers towards the end that all segments of the industry be treated equally; and to take what other steps are necessary to facilitate and aid the position of the individual service station operators; and

"Be it further resolved, That copies of this Resolution be immediately transmitted to the Honorable Richard M. Nixon, President of the United States, to the President of the United States Senate, the Speaker of the House of Representatives, and to each member of Congress from the State of Washington."

A resolution adopted by the Executive Board of the Kansas School Food Service Association urging restoration of the special milk program in the schools. Referred to the Committee on Agriculture and Forestry.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. METCALF, from the Committee on Interior and Insular Affairs, with an amendment:

S. 425. A bill to provide for the cooperation between the Secretary of the Interior and the States with respect to the regulation of surface mining operations, and the acquisition and reclamation of abandoned mines, and for other purposes (Rept. No. 93-402).

By Mr. JACKSON, from the Committee on Interior and Insular Affairs, with an amendment:

S. 921. A bill to amend the Wild and Scenic Rivers Act (Rept. No. 93-401).

By Mr. FANNIN, from the Committee on Interior and Insular Affairs, with an amendment:

S. 1296. A bill to further protect the outstanding scenic, natural, and scientific values of the Grand Canyon by enlarging the Grand Canyon National Park in the State of Arizona, and for other purposes (Rept. No. 93-406).

By Mr. EASTLAND, from the Committee on the Judiciary, without amendment:

S. 1848. A bill for the relief of Mrs. Lucy Locke (Rept. No. 93-403).

By Mr. ALLEN, from the Committee on Agriculture and Forestry, with amendments:

H.R. 9639. An act to amend the National School Lunch and Child Nutrition Acts for the purpose of providing additional Federal financial assistance to the school lunch and school breakfast programs (Rept. No. 93-404).

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

H.R. 5451. A bill to amend the Oil Pollution Act, 1961 (75 Stat. 402, 33 U.S.C. 1001), as amended, to implement the 1969 and 1971 amendments to the International Convention for the Prevention of the Pollution of the Sea by Oil, 1954, as amended, and for other purposes (Rept. No. 93-405).

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. FULBRIGHT (for himself and Mr. MCCLELLAN):

S. 2463. A bill to change the name of the Beaver Dam in the State of Arkansas to the James W. Trimble Dam. Referred to the Committee on Public Works.

By Mr. HUMPHREY:

S. 2464. A bill for the relief of Miss Navamani Sathasivam. Referred to the Committee on the Judiciary.

By Mr. BIBLE (for himself, Mr. FANNIN, Mr. BARTLETT, Mr. BUCKLEY, Mr. CHURCH, Mr. HANSEN, Mr. HASKELL, Mr. HATFIELD, Mr. METCALF, Mr. JACKSON, Mr. JOHNSTON, and Mr. MCCLURE):

S. 2465. A bill to authorize the Secretary of the Interior to guarantee loans for the financing of commercial ventures in geothermal energy; to coordinate Federal activities in geothermal energy exploration, research and development; and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. MAGNUSON:

S. 2466. A bill to provide for the continued operation of the Public Health Service hospitals which are located in Seattle, Wash., Boston, Mass., San Francisco, Calif., Galveston, Tex., New Orleans, La., Baltimore, Md., Staten Island, N.Y., and Norfolk Va. Referred to the Committee on Labor and Public Welfare, by unanimous consent.

By Mr. HARTKE:

S. 2467. A bill to provide for regulation of business franchises, to require a full disclosure of the nature of interests in business franchises to provide for increased protection of the public interest in the sale and operation of business franchises, and to provide for fair competition in the negotiation of franchise agreements. Referred to the Committee on Commerce.

By Mr. INOUYE:

S. 2468. A bill for the relief of Sylvia Dix. Referred to the Committee on the Judiciary.

By Mr. McCLELLAN (by request):

S. 2469. A bill to carry into effect certain provisions of the Patent Cooperation Treaty, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. CURTIS (for himself, Mr. HUMPHREY, Mr. BELLMON, Mr. TALMADGE, Mr. DOLE, Mr. EASTLAND, Mr. McGOVERN, Mr. ALLEN, Mr. HUDDLESTON, Mr. CLARK, Mr. AIKEN, Mr. YOUNG, and Mr. HELMS):

S. 2470. A bill to amend the Consolidated Farm and Rural Development Act. Referred to the Committee on Agriculture and Forestry.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. FULBRIGHT (for himself and Mr. McCLELLAN):

S. 2463. A bill to change the name of the Beaver Dam in the State of Arkansas to the James W. Trimble Dam. Referred to the Committee on Public Works.

Mr. FULBRIGHT. Mr. President, I am today reintroducing a bill which would honor the late J. W. Trimble, who served 22 years in the House of Representatives, by naming the Beaver Dam on the White River in Arkansas the James W. Trimble Dam.

I originally proposed this legislation last year and am pleased to say that it received the overwhelming support of the Congress. Unfortunately, it was presented to the President as a part of the Omnibus Rivers and Harbors bill which was vetoed by the President in November 1972. I am confident that the bill I reintroduce today will be just as warmly received, and I am pleased that my distinguished colleague from Arkansas, Senator McCLELLAN, is joining in the sponsorship of this bill.

J. W. Trimble died at age 78 on March 10, 1972, in Eureka Springs, Ark. His death greatly saddened his many friends in Washington and in Arkansas.

As a news article in the Arkansas Gazette described him, "Judge" Trimble was "one of the best-loved men on Capitol Hill during his 22 years in Congress—a 'father confessor' to pages, a pal of doorkeepers, and a friend of Presidents."

The same article pointed out that, as the Congressman from the Third Congressional District of Arkansas, he brought "dams and reservoirs and rural electrification and millions in Federal money into northwest Arkansas."

It is particularly appropriate, I believe, that one of the dams in the Third Congressional District, which he represented so ably and diligently, be named in honor of J. W. Trimble.

When I was elected to the Senate in 944, J. W. Trimble was elected to succeed me in the House of Representatives. Therefore, my acquaintance with Judge Trimble was a longstanding one, and I always had the utmost respect for him. He was a man of the highest integrity and of noble character.

He was one of the earliest and most consistent supporters of the Arkansas River navigation project, which has meant so much to the State of Arkansas.

Mr. President, I am hopeful that the Congress will rapidly approve this legislation to honor an outstanding American.

I ask unanimous consent to have printed in the RECORD a news article from the Arkansas Gazette of March 11, 1972, which provides some details about Judge Trimble's distinguished career, and an editorial from the Gazette of March 14, 1972, which provides some insight into his unique character. Further, I ask unanimous consent that an editorial broadcast by radio station KBRS, Springdale, Ark., March 17, 1972, advocating that Beaver Dam be named Trimble Dam, be printed in the RECORD.

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

[From the Arkansas Gazette, Mar. 11, 1972]

EX-LAWMAKER DIES AT 78—HE HELPED BRING PROGRESS TO STATE

EUREKA SPRINGS.—James W. Trimble, aged 78, of Berryville, who, as the state's Third District congressman, brought dams and reservoirs and rural electrification and millions in federal money into Northwest Arkansas, died Friday at a hospital here.

One of the best-loved men on Capitol Hill during his 22 years in Congress, the Judge, as he was called, was a "father confessor" to pages, a pal of doorkeepers and a friend of presidents.

He was regarded as the state's most liberal congressman, frequently voting in opposition to those other longtime congressmen who served with him—E. C. (Took) Gathings of West Memphis, Oren Harris of El Dorado and Wilbur D. Mills of Kensett.

For example, in 1965, the ultraconservative Americans for Constitutional Action gave Judge Trimble a 14 per cent rating, compared to 68 per cent for Gathings.

As a member of the House Rules Committee, he wielded power that helped him get many projects for Arkansas.

To become a member of this committee, Mr. Trimble gave up his seat on the House Public Works Committee, where he championed Arkansas waterway projects.

In 1964, when 500 supporters of the Arkansas River navigation system turned out to thank Representative Trimble for his efforts, Garth Whipple, the president of the Arkansas Basin Association, said: "Others talk pretty, but the Judge has got the votes [in Congress] to get things done. In my experience, there is one man whose contribution to the Arkansas River program stands out above all others, and that man is Judge Trimble."

As to his ability to get federal money for Arkansas projects, Senator J. William Fulbright said during Trimble's 1964 campaign:

"Jim Trimble has so many projects going in his district that it looks like he has backed up a truck to the Treasury. This is what seniority means to you."

STAND FOR DAMS HELPED BRING DEFEAT

Ironically, it was Judge Trimble's stand for more dams that helped bring on his unexpected defeat in 1966 by John Paul Hammerschmidt, the conservative Republican lumberman from Harrison.

Mr. Trimble believed that to complete his dream of water control on the White River of North Arkansas, dams were needed on the Buffalo River.

A half billion dollars had been spent on the White, he told constituents at Marshall as he opened his campaign of 1966. If the dams on the Buffalo weren't completed, it would leave only 90 per cent of the project done and that's like finishing only 90 per cent of the roof on your house.

But opposition from conservationists and sportsmen who wanted to keep the Buffalo free-flowing led to concerted action to beat him. He got 72,635 votes to Hammerschmidt's 80,495.

He was not bitter. He said of his defeat, "It's part of the game." And with the graciousness that characterized him in Washington, he offered Hammerschmidt his help.

During his 11 terms he represented a district that was strongly Republican, placing his reliance on diplomacy and a consistent plan of argument. He rarely acknowledged his opponents.

Because he grew up in an isolated area, one of 10 children, he had a dream of development for the Ozarks. In later years, he looked fondly at the dams and towers that carried electricity across the ridges.

HE ABHORRED WASTE OF SOIL

He was a conservationist, once saying: "Every muddy stream is an indictment of those of our generation and of past generations, because we've permitted our precious soil to flow down our streams. That soil is not ours. It is held in trust by us for future generations."

He was born February 3, 1894, in a farm home in the valley of the Osage River, the son of Allen and Anna McFarlane Trimble.

Early educators in that remote area helped guide him in his early years in the small towns of Carroll County and he frequently boarded with families while attending school. In the fall of 1913, he enrolled at the University of Arkansas, majoring in education and history. He worked after class as a custodian. He was editor of the college newspaper during his junior year.

A stint as a teacher at Texarkana after graduation was interrupted by World War I and he became an officer in the training cadre at Camp Pike. After the armistice, he returned to the mountains to become principal of the Osage school. Later he was principal at Pleasant Ridge.

ENTERED POLITICS IN 1920

In the summer of 1920 he began his political career, winning the Democratic nomination for Carroll County clerk. Mr. Trimble recalled that his opponent was a friend and that they went around the county introducing each other. He told voters they should do everything for opponent—including feeding him and bedding down his horse—except vote for him.

His county next named him tax collector in 1924, a job he held for four years. As county clerk, he sold himself a marriage license on February 4, 1922, and was wedded to Ruth Maples of Berryville. They had twins, a boy and a girl, in 1923. The girl, Martha Carol, died 2½ years later. Their son, James Kerry Trimble, is a colonel with the Army Engineers.

Mr. Trimble studied law and was admitted to the bar in 1925. He returned to politics, and in a hotly contested race, he defeated two prominent opponents to become prosecuting attorney of the Fourth Judicial District. He served four terms and then was elected circuit judge in 1936. One of those among his circuit clerks was Orval Eugene Faubus of Huntsville, whose loyalty to Judge

Trimble kept him from running for that congressional seat in later years.

In 1944, when his friend J. William Fulbright left his congressional post to go to the Senate, Mr. Trimble became the district's congressman. Senator Fulbright got Trimble his first committee post, on the Foreign Affairs Committee, but he gave it up after two years for the Public Works Committee.

As a member of the committe he gained seniority and influence valuable in promoting the dam building program of North Arkansas. He lived to see Norfolk, Bull Shoals, Table Rock and Beaver Dams completed and co-sponsored with Representative Mills the bill that created Greer's Ferry Dam near Heber Springs.

He was a strong proponent of rural electrification and in 1955 struck the match for a fiery new congressional row over private versus public power when he announced he would introduce a bill adjusting the computation of benefit to cost ratio hydro-electric power projects to include recreational, municipal and industrial water supply and irrigation benefits.

"Let us return the control of our natural resources to the Congress where it belongs," he said.

After his defeat, he and Mrs. Trimble returned to their home at Berryville. His death came less than two weeks after President Nixon signed the bill to make the Buffalo River a National River, free of dams.

Funeral arrangements are by Nelson Funeral Service here.

[From the Arkansas Gazette, Mar. 14, 1972]

J. W. TRIMBLE

They will be burying J. W. Trimble in his home town of Berryville this afternoon, and it will be the saddest of sad occasions for countless numbers of persons well beyond the immediate family circle, and, through the medium of his long service in the national Congress, for many present and former Members of Congress all across the land.

James William Trimble was a good man, and it would have been quite enough if he had been only that, for, if there are not really as many really bad men as some of us sometimes imagine, there aren't all that many truly good men, either. Jim Trimble was a truly good man—but he also was one of the adornments of the Congress during his years of service there, one of the adornments of the Arkansas delegation, especially.

"Judge" Trimble, as he was known from the days when he traveled the Fourth Judicial Circuit, first went to the Congress in 1944, at a time when the Third Congressional District of Arkansas comprised 10 contiguous counties in the extreme northwestern corner of the state, and there were seven Arkansas congressional districts, rather than the present four. If this makes J. W. Trimble sound dated, the assumption would be a misleading one. He was anything but dated, and never allowed himself to grow old in his thinking, if, in fact, he could have become so even if he tried.

He was one of the succession of "dam" congressmen from the Third District—Clyde T. Ellis, J. W. Fulbright, and then Trimble—whose combined, persevering, labors transformed the face of North Arkansas and reversed the population outmigration that had prevailed there for so long. As so frequently happens in the affairs of men, one of the unforeseen results was to help change the political complexion of the Third District. This result was unforseen, but if Congressman Trimble had been able to foresee it, he would not, we are sure, have done anything differently. Let nobody judge the North Arkansas dams who does not remember the Third District "before."

This is not the place to rehash the circumstances of Mr. Trimble's defeat for reelection in 1966, other than to say that in our judgment there was no single reason for it. In general terms, it was the familiar story of staying in Washington too late doing the District's work, and perhaps of not taking the opposition seriously enough, rather in the fashion of Senator Ralph Yarborough in Texas in 1970. All we can say of Judge Trimble's enforced retirement was that it was premature. We do not know how long he would have wanted to stay on in Congress—not too much longer, probably—but his retirement when it came was premature.

In defeat, characteristically, he refused to sulk. Again, he wouldn't have known how. Instead, he said, "It's all in the game", and immediately offered to do everything he could to make the transition easier for his successor, who, we know, shares the grief of everyone who ever knew Jim Trimble. If Mr. Trimble ever had a personal enemy, we never heard his name.

KBRS EDITORIAL

A gentleman, a scholar, a statesman is dead. . . . Congressman Jim Trimble passed away this last Friday in his beloved northwest Kansas. This was as it should have been and probably as he wanted it. Jim Trimble served his district, State, and Nation with honor and with dedicated service. While we disagreed with some of his votes in the House of Representatives, we must say that, on the whole, he did a splendid job. Those of our listening audience that were too young to know "Mr. Jim" or the "Judge" have missed an experience that they would not forget soon. The "Judge" was responsible for our many fine lakes and dams in northwest Arkansas and the rural electrification of our northwest corner. Since his death, we have heard many times over, in casual conversation and quotes from former Governors, and in editorials, that these things will be a monument for him. We don't think that this is enough. . . . We have advocated before his death that Beaver Dam should be named "Trimble Dam" with proper ceremonies and recognition. The time is past now to show our appreciation of Jim Trimble, but it's never too late to place a fine man's name on this beautiful place. We hope that the powers that be and the "Judge's" good friends will do what should have already been done.

By Mr. BIBLE (for himself, Mr. FANNIN, Mr. BARTLETT, Mr. BUCKLEY, Mr. CHURCH, Mr. HANSEN, Mr. HASKELL, Mr. HATFIELD, Mr. METCALF, Mr. JACKSON, Mr. JOHNSTON, and Mr. MCCLURE):

S. 2465. A bill to authorize the Secretary of the Interior to guarantee loans for the financing of commercial ventures in geothermal energy; to coordinate Federal activities in geothermal energy exploration, research and development, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

GEOTHERMAL ENERGY ACT OF 1973

Mr. BIBLE. Mr. President, on behalf of myself and Senator FANNIN, and with the welcome cosponsorship of our colleagues on the Interior Committee: Senators JACKSON, CHURCH, JOHNSTON, HASKELL, HANSEN, HATFIELD, BUCKLEY, MCCLURE, METCALF, and BARTLETT, I introduce for appropriate reference a bill to authorize the Secretary of the Interior to guarantee loans for the financing of commercial ventures in geothermal energy; to coordinate Federal activities in geothermal energy exploration, research and development; and for other purposes.

This new Geothermal Energy Act of 1973 is, in a sense, a sequel to the Geothermal Steam Act of 1970 which it was my privilege to author and shepherd through the Congress.

As Senators will recall, the 1970 act authorized the opening of the Federal lands throughout the West for geothermal exploration and development under a leasing program to be instituted by the Secreary of the Interior. Except, of course, lands withdrawn or set aside for parks, recreation, wildlife refuges and ranges, Indian lands, and other protected areas. The 1970 act removed previous legal barriers to the acquisition of geothermal rights on the public lands, subject to the provisions of that act and to leasing regulations to be promulgated by the Secretary of the Interior. Unfortunately—and this has been a source of great frustration to me—the geothermal leasing regulations have yet to be promulgated. Notwithstanding all the lipservice the administration has paid to the need to get on with the development of new clean energy sources for the production of electric power, it will soon be 3 years since the Congress authorized action—and the first geothermal energy lease has yet to be announced. To date, the administration's record on this is a sorry one, to say the least. I hope they will move to correct this situation in the months ahead.

I want to say again that I think this Nation's geothermal energy resources represent a potentially vast clean energy potential for the generation of electric power in many of our Western States. Evidence of the resource abound in Arizona, California, Idaho, New Mexico, Nevada, Oregon, and elsewhere. The challenge posed by the burgeoning energy crisis is to get on with the task of harnessing this natural energy. The authorized leasing program must be launched, the Federal Government must mount a concerted and coordinated research and development program to demonstrate the feasibility of harnessing geothermal power, and private industry must be encouraged to invest its own resources in geothermal exploration and development. In short, if the Nation is to receive the benefits of geothermal power within the next decade government and industry are going to have to join forces in a cooperative effort. The Government's lead role in research and development needs new direction and emphasis, and meaningful incentives must be provided to encourage private action and investment. That is the purpose of this bill.

The proposed "Geothermal Energy Act of 1973" represents a joint effort by my good friend from Arizona, Senator FANNIN, and myself, and I want to commend Senator FANNIN for his initiative and leadership not only in connection with this bill but in respect to geothermal resource matters generally. He has demonstrated his dedication to the task of making geothermal power a reality and in doing so he shares the great optimism I indulge for the future.

Title I of the bill is designed to encourage and facilitate private investment in geothermal exploration and development ventures. It establishes a loan guarantee program under which the Secretary of the Interior would be authorized to provide loan guarantees covering up to 75 percent of the aggregate cost of a project, subject to limitations described in the bill.

Title II of the bill proposes to strengthen and coordinate the geothermal research and development programs of the Department of the Interior, the Atomic Energy Commission, and the National Aeronautics and Space Administration. The Department of the Interior would be assigned the primary responsibility for geothermal exploration, mapping and surveys, and other activities needed to define the Nation's geothermal resources inventory. NASA would be called upon to bring the benefits of satellite technology to bear on the exploration problem. The AEC would be assigned the primary basic and applied geothermal research and development task, with special emphasis on the need for cooperative undertakings with private industry to develop and test the technologies required to tap and harness geothermal energy. Special authority is included for pilot and demonstration projects designed to demonstrate the economic and technical feasibility of geothermal power production.

Mr. President, I think it is high time that the kind of emphatic program envisaged by this legislation is brought to bear on the Nation's geothermal energy resources. I hope the bill will be scheduled for early hearings. Suggestions for improvements will, of course, be welcomed. I ask unanimous consent that the text of the bill 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. 2465

Be it enacted by the Senate and House of Representives of the United States of America in Congress assembled, That this Act may be cited as the Geothermal Energy Act of 1973.

TITLE I—LOAN GUARANTEE PROGRAM

SECTION 101(a). The Congress, in consideration of the Federal responsibility for the general welfare, to facilitate commerce, to encourage productive harmony between man and his environment, and to protect the public interest, finds that the advancement of technology by private industry for the production of useful forms of energy from geothermal resources is important to all of those areas of responsibility. It is the policy of the Congress, therefore, to encourage and assist in the commercial development of practicable means to produce useful energy from geothermal resources with environmentally acceptable processes. Accordingly, it is the policy of the Congress to facilitate such commercial development by authorizing the Secretary of the Interior to guarantee loans for such purposes.

(b) In order to encourage the commercial production of energy from geothermal resources, the Secretary of the Interior, hereinafter referred to as the Secretary, is authorized to guarantee, to enter into commitments to guarantee, banks or other financial institutions against loss of principal or interest on loans made by such institutions to qualified borrowers for the purposes of acquiring rights in geothermal resources and performing exploration, development, and construction and operation of facilities for the commercial production of energy from geothermal resources.

(c) Any guaranty under this title shall apply only to so much of the principal amount of any loan as does not exceed 75 per centum of the aggregate cost of the project with respect to which the loan is made.

(d) Loan guaranties under this title shall be on such terms and conditions as the Secretary determines; provided, however, that no guaranty shall be made under this title if,

(1) the loan involved is at a rate of interest which exceeds the prime interest rate plus one-half of one per centum;

(2) the terms of such loan do not require full repayment within thirty years after the date thereof;

(3) in the judgment of the Secretary, the amount of the loan (when combined with amounts available to the qualified borrower from other sources) will not be sufficient to carry out the project; or

(4) in the judgment of the Secretary, there is no reasonable assurance of the repayment by the qualified borrower of the guaranteed indebtedness.

(e) The Secretary shall not guarantee any loan for any project the amount of which exceeds twenty-five million dollars, nor guarantee any combination of loans for any single qualified borrower in an amount exceeding fifty million dollars.

SEC. 102. (a) With respect to any loan guaranteed pursuant to this title, the Secretary is authorized to enter into a contract to pay, and to pay, the lender for and on behalf of the borrower the interest charges which become due and payable on the unpaid balance of any such loan if the Secretary finds:

(1) That the borrower is unable to meet interest charges, and that it is in the public interest to permit the borrower to continue to pursue the purposes of his project, and that the probable net cost to the Government in paying such interest will be less than that which would result in the event of a default; and

(2) The amount of such interest charges which the Secretary is authorized to pay shall be no greater than an amount equal to the average prime interest rate for the preceding fiscal year as determined by the Secretary of the Treasury, plus one-half of 1 per centum.

(b) In the event of any default by a qualified borrower on a guaranteed loan, the Secretary is authorized to make payment in accordance with the guaranty, and the Attorney General shall take uch action as may be appropriate to recover the amounts of such payments, with interest, from the defaulting borrower.

SEC. 103. No loan guaranties shall be made, or interest assistance contract entered into, pursuant to this title, after the expiration of the ten calendar-year period following the date of the enactment of this Act.

SEC. 104. There is established in the Treasury of the United States a Geothermal Resources Development Fund (referred to in this title as the "fund"), which shall be available to the Secretary of the Interior for carrying out the loan guaranty and interest assistance program authorized by this title, including the payment of administrative expenses incurred in connection therewith. Moneys in the fund not needed for current operations shall be invested in bonds or other obligations of, or guaranteed by, the United States.

SEC. 105. There shall be paid into the fund the amounts authorized to be appropriated by Sec. 106 of this title and such amounts as may be returned to the United States pursuant to section 102(b) of this title, and the amounts in the fund shall remain available until expended: *Provided,* That after the expiration of the ten-year term established by section 103 of this title, such amounts in the fund which are not required to secure outstanding guaranty obligations shall be paid into the general fund of the Treasury.

SEC. 106. There are authorized to be appropriated (1) to the fund not to exceed $50,000,000 annually, and (2) such amounts as may be required for the administrative costs of carrying out the provisions of this title.

SEC. 107. Business-type financial reports covering the operations of the fund shall be submitted to the Congress annually upon the completion of an appropriate accounting period.

TITLE II—COORDINATION OF FEDERAL ACTIVITIES IN GEOTHERMAL ENERGY EXPLORATION, RESEARCH, AND DEVELOPMENT

SEC. 201. The Congress, in consideration of the Federal responsibility for the general welfare, to facilitate commerce, to encourage productive harmony between man and his environment, and to protect the public interest, finds that the advancement of technology with the cooperation of private industry for the production of useful forms of energy from geothermal resources is important to all of those areas of responsibility. It is the policy of the Congress, therefore, to encourage and assist private industry through Federal assistance for the development and demonstration of practicable means to produce useful energy from geothermal resources with environmentally acceptable processes. Such means shall accordingly include exploration, research and financial and technical assistance in the construction of pilot plants and demonstration developments with the objective of reaching commercialization in the most timely and practicable manner.

SEC. 202. The Secretary, acting through the Geological Survey, is authorized and directed to:

(a) Develop and carry out a general plan for the orderly exploration of all forms of geothermal resources of the Federal lands and, where consistent with property rights and determined by the Secretary to be in the national interest, of non-Federal lands;

(b) Conduct regional surveys, based upon such a general plan, using innovative geologic, geophysical, geochemical, and drilling techniques, that will lead to a national inventory of geothermal resources in the United States;

(c) Publish and make available maps, reports, and other documents developed from such exploration to encourage and facilitate the commercial development of geothermal resources for beneficial use and consistent with the national interest;

(d) Make such recommendations for legislation as may from time to time appear to be necessary to make Federal leasing policy for geothermal resources consistent with known inventories of various resource types, with the current state of technologies for geothermal energy development, and with current evaluations of the environmental impacts of such developments; and

(e) Participate with the Atomic Energy Commission, the National Aeronautics and Space Administration, and the National Science Foundation in research to develop, improve, and test technologies for the discovery and evaluation of all forms of geothermal resources.

SEC. 203. The Secretary shall coordinate the development and implementation of the exploration plan with the geothermal research and development program of the Atomic Energy Commission to insure that information is developed in a timely manner for the optimum progress of geothermal development.

SEC. 204. In preparing or implementing the exploration plan, the Secretary is authorized to:

(a) Employ contractors and consultants;

(b) Acquire by fund transfers the services of employees and facilities of other Federal agencies; and

(c) Cooperate and enter into contracts with State, regional and local governmental agencies and educational and reserch institutions.

SEC. 205. The Administrator of the National Aeronautics and Space Administration, hereinafter referred to as NASA, is authorized and directed to prepare and transmit to the Secretary within six months from the date of this Act a proposal for the employment of space technologies and the services and facilities of NASA for exploration and mapping of geothermal resources.

SEC. 206. The Secretary is authorized and directed to transmit to the President and the Congress, not later than one year from the date of this Act, the general plan including a schedule and objectives, for exploration of geothermal resources required by Sec. 202 (a) and each year thereafter a report on the status of activities authorized to be performed by the Secretary under the provisions of this Act.

SEC. 207(a). The Atomic Energy Commission in cooperation with private industry is authorized and directed to:

(1) conduct, encourage, and promote basic and applied scientific research to develop effective, economical, and environmentally acceptable processes and equipment for the purpose of utilizing all forms of geothermal resources for the production of useful energy forms;

(2) pursue the findings of research authorized by this Act having potential applications in matters other than geothermal energy to the extent that such findings can be published in a form for utilization by others;

(3) conduct engineering and technical work including the design, construction, and testing of pilot plants to develop and improve geothermal energy processes and plant design concepts to the point of demonstration on a commercial scale;

(4) conduct laboratory and field experiments and tests of exploration and development technologies necessary for the successful discovery and development of all forms of geothermal resources;

(5) study methods for the reduction and elimination of undesirable environmental impacts of geothermal development;

(6) study methods for the recovery and marketing of by-products resulting from the production of energy from geothermal resources; and

(7) undertake engineering and economic studies to determine the potential for energy from geothermal resources to contribute to energy requirements on national and regional levels.

(b) The Commission shall coordinate the research and development activities authorized by this section with the activities of the Department of the Interior relating to geothermal resources research to ensure the full utilization of expertise and information and to prevent duplication of efforts.

SEC. 208(a). The Commission is authorized to investigate, negotiate, and enter into cooperative agreements with non-Federal utilities, industries, and governmental entities for the construction, operation and maintenance of demonstration developments for the production of electric or heat energy from geothermal resources.

(b) No agreement shall be entered into under the authority granted by this section unless the Commission determines that:

(1) the nature of the resources, the geographical location, the scale and engineering design of the facilities, the techniques of production, or other significant factors of the proposal offer opportunities to make important contributions to the general knowledge of geothermal energy, the techniques of its development, or public confidence in the technology;

(2) the potential non-Federal cooperating entities are willing and capable to contribute not less than 25 per cent of the capital cost of the development, to operate the facilities, and to provide a market for the energy produced;

(3) no benefits have been obtained through the loan guaranty provisions of title I of this Act and applied to development of any facility for which funding assistance pursuant to this title is proposed;

(4) the development or the practical benefits of the development as set forth in clause (1) of this subsection are unlikely to be accomplished without Federal assistance or through the assistance provided by title I of this Act; and

(5) the Federal investment in each such development project will not exceed $5 million.

(c) The Commission is authorized to investigate potential agreements for the cooperative development of major facilities to demonstrate the production of energy from geothermal resources and to submit engineering and financial proposals to the Congress for consideration of authorization to proceed with implementation of said proposals. The Commission may consider:

(1) cooperative agreements with non-Federal governmental entities and utilities for construction of facilities to produce energy for commercial disposal;

(2) cooperative agreements with other Federal agencies for the construction and operation of facilities to produce energy for direct Federal consumption.

(d) Before favorably considering proposals under subsection (c) of this section, the Commission must find that:

(1) the nature of the resource, the geographical location, the scale and engineering design of the facilities, the techniques of production, or other significant factor of the proposal offer opportunities to make important contributions to the general knowledge of geothermal energy, the techniques of its development, or public confidence in the technology;

(2) the development or the practical benefits as set forth in clause (1) of this subsection are unlikely to be accomplished without such cooperative development; and

(3) where non-Federal participants are involved, the proposal is not eligible for adequate Federal assistance under the provisions of Title I of this Act.

SEC. 209. There are authorized to be appropriated to remain available until expended to carry out the purposes of this title:

(a) $10 million for Fiscal Years 1974, 1975 and 1976 to the Secretary of the Interior;

(b) $35 million for Fiscal Years 1974, 1975 and 1976 to the Atomic Energy Commission;

(c) Such amounts as may be required in Fiscal Years 1974, 1975 and 1976 to NASA to carry out the requirements of Sec. 205; and

SEC. 210. As used in this Act, the term

(a) "geothermal resources" means (A) all products of geothermal processes, embracing indigenous steam, hot water and brines; (B) steam and other gases, hot water and hot brines resulting from water, gas, or other fluids artificially introduced into geothermal formations; and (D) any by-product derived from them;

(b) "qualified borrower" means any public or private agency, institution, association, partnership, corporation, political subdivision, or other legal entity which the Secretary has determined has presented satisfactory evidence of a property interest in a geothermal resource identified, in a manner acceptable to the Secretary, as being of sufficient interest for research objectives, or the development and production of energy, and which has the financial responsibility to establish and operate, utilizing such resource, a commercial facility;

(c) "pilot plant" means an experimental unit of small size used for early evaluation and development of new or improved processes and to obtain technical and engineering data; and

(d) "demonstration development" means a complete facility which produces electricity or heat energy for commercial disposal from geothermal resources and which will make a significant contribution to the knowledge of full-sized technology, plant operation, and process economics.

Mr. FANNIN. Mr. President, I am pleased to cosponsor the Geothermal Energy Act of 1973 to establish a national program for research, development, and demonstration of commercial geothermal resource technology.

Senator BIBLE is to be congratulated for his leadership in recognizing the importance of geothermal energy and fathering legislation designed to induce its development. Having authored the Geothermal Steam Act of 1970, he is now sponsoring additional legislation in this field. It has been my pleasure to work closely with him in developing this legislation to promote the early commercialization of geothermal energy. We are anticipating strong leadership toward this end on the part of the distinguished chairman of the Water and Power Resources Subcommittee, Senator CHURCH, also a cosponsor of this bill who contributed generously.

Incentives are provided in this bill which would result in the production of useful energy from geothermal resources, within environmentally acceptable standards, and at minimum cost to the taxpayers. A higher level of private activity and innovation would be encouraged by this legislation so that geothermal technology would be perfected to help meet our energy self-sufficiency objectives. The bill stimulates industrial R. & D. in geothermal energy through a loan guarantee program. By coordinating Federal activities in both geothermal energy exploration and research and development, it would ensure improved utilization of new technology.

This resource can soon make a substantial contribution to our electrical generating capacity, particularly in the West. It is important that its existing potential be understood. To date the U.S. Geological Survey has classified as known geothermal resources areas about 1.8 million acres of land in the Western States, much of it on Federal lands. Nevertheless, the Interior Department has been disappointingly slow in implementing the Geothermal Steam Resources Act of 1970, which authorized the development of a Federal geothermal leasing program.

Despite Government policies affecting Federal lands which have served as obstructions to geothermal resource development by private enterprise, the efforts of Geothermal Kinetics Systems Corporation of Phoenix has gone forward. This group of three major Arizona utility companies, by operating on privately owned leased land Arizona's first geothermal well near the city of Chandler, has shown how quickly geothermal re-

sources can be located. This still is an experiment, and the economic feasibility of using the wells is now under study. The exciting aspect of this project is that it shows how rapidly progress can be made.

As an incentive to stimulate development, the bill in title I would authorize the Secretary of the Interior to administer a guarantee program covering loans made for exploration, development, and construction and operation of geothermal facilities. This loan guarantee program, Mr. President, would induce banks and other financial institutions to take greater risks in their funding of innovative and creative energy-related technologies.

Title II, Coordination of Federal Activities in Geothermal Energy Exploration, Research, and Development, would encourage the orderly development and demonstration of practicable means to produce useful energy from geothermal resources by environmentally acceptable processes. The Secretary, through the Geological Survey, would conduct an orderly exploration of all forms of geothermal resources, identifying potential reservoirs of geothermal resources. Data from such explorations would be made available to encourage the commercial development of geothermal resources. In addition, the Secretary would make legislative recommendations on and participate with the AEC, NASA and the National Science Foundation in research to develop and implement technologies for the discovery and evaluation of geothermal resources.

Under title II, the Atomic Energy Commission in cooperation with private industry would conduct, encourage, and promote scientific research to develop effective, economical, and environmentally acceptable processes and equipment to develop geothermal resources. This would facilitate design, construction, and testing of pilot plants. The Commission would also enter into cooperative cost-sharing agreements with private industry for demonstration developments for the production of electric or heat energy from geothermal resources.

The Administrator of the National Aeronautics and Space Administration would be authorized to prepare a proposal for the employment of space technologies and the services of NASA for the exploration and mapping of geothermal resources.

Mr. President, this bill would encourage the commercial development of geothermal resources by funding pilot and demonstration projects. Its loan guarantee provisions would also give a boost to early commercialization of geothermal energy.

The Federal Government must assume partial responsibility for facilitating commercialization of geothermal energy resources so that the Nation's critical energy needs can be met. Our technological options and capabilities must be developed in a timely and efficient manner so that our temporary energy shortages do not cripple us permanently. Geothermal power, a "renewable" and clean source of electric power generation from the heat contained within the earth, can become a major new source to provide us energy.

By Mr. MAGNUSON:

S. 2466. A bill to provide for the continued operation of the Public Health Service hospitals which are located in Seattle, Wash., Boston, Mass., San Francisco, Calif., Galveston, Tex., New Orleans, La., Baltimore, Md., Staten Island, N.Y., and Norfolk, Va. Referred to the Committee on Labor and Public Welfare, by unanimous consent. Motion to reconsider S. 2410 vacated.

Mr. MAGNUSON. Mr. President, I am today introducing a bill to require the Department of HEW to continue operating the Public Health Service hospitals in Seattle, San Francisco, Galveston, New Orleans, Norfolk, Baltimore, Staten Island, and Boston.

This bill is identical to the PHS hospital provision which was included in the Emergency Medical Services Systems Act (S. 504) vetoed by the President. It would, in essence, require HEW to continue operating the hospitals at least at their January 1, 1973, level of operations until the Congress, by law, authorized otherwise. It would not require that the hospitals remain open forever. Rather, it would simply permit Congress—rather than HEW—to decide if and when they are to be closed.

The conference report on S. 504 was, of course, passed unanimously by the Senate, 97 to 0, and was passed in the House by a vote of 305 to 111. Following the President's veto of S. 504, the Senate voted 77 to 16 to override that veto. And the House fell just five votes short of overriding.

The record is clear. Overwhelming majorities in both the Senate and House have demonstrated with their votes their determination that these hospitals should remain open. I am not content to let HEW close them just because a minority—and I stress "a minority"—in the House voted to sustain the veto.

I urge very early and affirmative Senate action on this bill.

It will be referred to the Subcommittee on Health, and I hope that the chairman of the subcommittee, Senator KENNEDY, with whom I have conversed about this matter, will immediately pass the bill back to the Senate.

Mr. President, I made a motion the other day to vacate the motion to reconsider the bill which left out the public hospital section. I think the better way to do it now is to have this bill come up separately, if the committee will see fit to do so, and the Senate can vote it up or down. We have already voted 97 to 0 on it, and 77 to 16 to override the veto. It seems to me that there is some message to the administration in that.

Mr. President, I send the bill to the desk and ask unanimous consent for its immediate referral to the Subcommittee on Health.

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

Mr. MAGNUSON. Mr. President, because of what happened, I made a unanimous-consent request the day before yesterday to vacate the motion to reconsider and the motion to table on the bill that involved the other part of the proposed legislation, because I wanted to attach this amendment to it.

But after discussion with many Senators involved, I decided that I did not want to jeopardize the other portion of the bill, which I think the President said he would sign. I want to meet this problem head-on again; therefore, I ask unanimous consent that the motion I made at that time be vacated.

The PRESIDING OFFICER. Without objection, the motion is vacated.

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

Mr. MAGNUSON. I yield.

Mr. DOMINICK. I just want to express my appreciation to the Senator from Washington for the action he has just taken.

I happen to be deeply involved in the Emergency Medical Facilities Act. It is badly needed, particularly in our western area of the country.

I think that the action of the Senator from Washington, which is consonant with his thoughtfulness and his position, is going to be very helpful in getting that bill passed.

Mr. MAGNUSON. I hope the Senator from Colorado will take a long look at the matter and get this other bill out and let the Senate vote it up or down.

Mr. DOMINICK. I assure the Senator from Washington that I will be happy to urge this.

Mr. MAGNUSON. I thank the Senator. I ask unanimous consent that the newly introduced 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. 2466

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) except as provided in subsection (b), the Secretary of Health, Education, and Welfare shall take such action as may be necessary to assure that the hospitals of the Public Health Service, located in Seattle, Washington, Boston, Massachusetts, San Francisco, California, Galveston, Texas, New Orleans, Louisiana, Baltimore, Maryland, Staten Island, New York, and Norfolk, Virginia, shall continue—

(1) in operation as hospitals of the Public Health Service.

(2) to provide for all categories of individuals entitled or authorized to receive care and treatment at hospitals or other stations of the Public Health Service inpatient, outpatient, and other health care services in like manner as such services were provided on January 1, 1973, to such categories of individuals at the hospitals of the Public Health Service referred to in the matter preceding paragraph (1) and at a level and range at least as great as the level and range of such services which were provided (or authorized to be provided) by such hospitals on such date, and

(3) to conduct at such hospitals a level and range of other health-related activities (including training and research activities) which is not less than the level and range of such activities which were being conducted on January 1, 1973 at such hospitals.

(b) (1) The Secretary may—

(A) close or transfer control of a hospital of the Public Health Service to which subsection (a) applies,

(B) reduce the level and range of health care services provided at such a hospital from

the level and range required by subsection (a)(2) or change the manner in which such services are provided at such a hospital from the manner required by such subsection, or

(C) reduce the level and range of the other health-related activities conducted at such a hospital from the level and range required by subsection (a)(3),

if Congress by law (enacted after the date of the enactment of this Act) specifically authorizes such action.

(2) Any recommendation submitted to the Congress for legislation to authorize an action described in paragraph (1) with respect to a hospital of the Public Health Service shall be accompanied by a copy of the written, unqualified approval of the proposed action submitted to the Secretary by each (A) section 314(a) State health planning agency whose section 314(a) plan covers (in whole or in part) the area in which such hospital is located or which is served by such hospital, and (B) section 314(b) areawide health planning agency whose section plan covers (in whole or in part) such area.

(3) For purposes of this subsection, the term "section 314(a) State health planning agency" means the agency of a State which administers or supervises the administration of a State's health planning functions under a State plan approved under section 314(a) (referred to in paragraph (2) as a "section 314(a) plan"); and the term "section 314(b) areawide health planning agency" means a public or nonprofit private agency or organization which has developed a comprehensive regional, metropolitan, or other local area plan or plans referred to in section 314(b) (referred to in paragraph (2) as a "section 314(b) plan").

(c) Section 3 of the Emergency Health Personnel Act Amendments of 1972 is repealed.

By Mr. HARTKE:

S. 2467. A bill to provide for regulation of business franchises, to require a full disclosure of the nature of interests in business franchises, to provide for increased protection of the public interest in the sale and operation of business franchises, and to provide for fair competition in the negotiation of franchise agreements. Referred to the Committee on Commerce.

FRANCHISE FAIR DISCLOSURE ACT

Mr. HARTKE. Mr. President, I first introduced the Franchise Fair Disclosure Act in the 92d Congress. The recent proliferation of franchises and the ever-increasing possibility that many citizens may be damaged permanently by the gross misrepresentations of franchisors has made it quite clear that the time has come for the Federal Government to protect individuals against exploitation by unscrupulous franchise corporations. We find ourselves in a situation where would-be small businessmen are ruined before their businesses ever get underway.

The franchise business is growing at an ever-increasing rate. Today there are over 40,000 franchises that did not exist just 5 years ago. Recent years have seen burgeoning franchise sales records. For example, in 1969–70, the sale of franchises reached an estimated $90 billion per year, with an estimated 1,000 franchisors and some 500,000 franchisees operating nationwide. This mammoth marketing system now represents some $100 billion in retail sales annually. In light of these circumstances, there are no acceptable statutes or uniform codes that regulate the behavior of the franchisor-franchisee relationship in what has become one of the Nation's largest industries.

The Franchise Fair Disclosure Act is an attempt to provide State and local governments with a basic outline and standard of procedure. We must remember that while franchising as a marketing method is not new on the American financial stage, the recent phenomenal growth is. Therefore, legislation is needed to bring order to this field and to control its enormous growth while such statistical information is developed. My bill will accomplish this goal.

Likewise, Mr. President, legislation is needed to protect the individual. In many cases, persons who enter into a franchise agreement have invested their savings in anticipation of promised earnings. We are dealing here with a great American dream—a man's wish to operate his own business and benefit from the enterprise's success. Unfortunately, in far too many cases, dreams are crushed and life earnings lost to disreputable franchise corporations.

As the scope and intensity of involvement becomes broader, there is a shift in the success of the enterprise from the corporation to the franchisee. Too often, prospective buyers of a franchise are misled by such advertisements or brochures which read "no experience necessary," or "we provide everything." In many cases, experience may be quite helpful, and the franchisor does not supply everything as the advertisement indicated. The time has come for a comprehensive bill to protect the buyer of a business, as well as to insure the integrity of the franchise industry.

Mr. President, the bill I propose would compel all franchise operations in the United States—including the District of Columbia and U.S. Territories—to be registered with the Federal Trade Commission—FTC.

The FTC would be empowered to review all applications for registration to determine if the franchisor has acted in good faith in his efforts to produce fair and full disclosure of all facts directly or indirectly related to the franchise operation. Registration would also act as a bank for collecting statistical data on franchising. The disclosure of these facts would be made to all franchisees and to the FTC, except in cases where the Commission has seen fit to exempt disclosure.

Exemption from disclosure is permissible under the provisions of this bill if the franchisor has demonstrated himself to be of solid financial standing and has operated at least 100 franchises over a specified period. The Federal Trade Commission, however, would have the power to require franchisors of this latter type to file fair and full disclosure statements.

The bill provides that the disclosure statement shall contain such information as the Commission may require by law, and any other information the Commission may request of the franchise corporation. The disclosure statement would include: Disclosure of the franchisor's name and State of incorporation; the names, addresses, and biographical data concerning each of the franchisor's directors and principal officers; a statement as to whether the franchisor or any of its directors or officers has been involved in certain legal or quasi-judicial proceedings; and a series of statements concerning franchise fees, costs, and obligations.

The disclosure statement set forth in this bill will protect the individual, and at the same time insure future progress in the franchise industry. For too long, we have gone without this much-needed legislation. This bill has the ability to oversee one of our Nation's largest industries. The bill also provides for authorization of legal action for those who are injured as a result of a failure to comply with the rules and regulations of the Federal Trade Commission. Legal action would include treble damages, including attorney's fees and reasonable court costs.

Mr. President, I feel my bill provides not only for the present situation, but for the future. I urge the Senate to give this proposal full consideration. The future of franchising and small business in this Nation may well be determined by our actions on this bill. I ask unanimous consent that the complete text of my bill be printed in the RECORD at the conclusion of my remarks.

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

S. 2467

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

SHORT TITLE

SECTION 1. This Act may be cited as the "Franchise Act of 1973."

DECLARATION OF PURPOSE

SEC. 2. The Congress finds and declares that it is in the public interest to enact protective legislation against unfair and deceptive acts and practices which have developed in the interstate sale, operation, and termination of a wide variety of business franchises by the use of the mails and instrumentalities of interstate commerce. The Congress further finds that in consequence of unfair and deceptive acts and practices numerous purchasers of business franchises have suffered substantial losses as a result of the failure or omission by franchisors to provide full and complete disclosure concerning the prior business experience of the franchisor, the nature of the franchisor-franchisee relationship, the nature of the franchise contract, the prospects of the franchised business and other facts essential to a businessman's determination of the desirability and profitability of the franchise. In consequence of the above finding, the Congress determines that it is in the public interest to (1) require that each prospective franchisee be provided with the information necessary to make an intelligent decision regarding franchises being offered for sale, (2) prohibit the sale of franchises that may lead to unfair or deceptive acts and practices or involve the likelihood that the franchisor's promises will not be fulfilled, (3) require the definition and regulation of unfair and deceptive acts and practices in the operation of franchise business and termination of franchise agreements, and (4) provide such administrative, civil, and criminal remedies as are necessary to make such requirements and prohibitions effective.

DEFINITIONS

SEC. 3. When used in this title, unless the context otherwise requires—

(1) The term "Commission" means the Federal Trade Commission.

(2) The term "person" means an individual, corporation, partnership, joint venture association, incorporated organization, or any other form of business organization.

(3) The term "franchise" means every aspect of the relationship between a franchisor and franchisee, created by an oral or written agreement or understanding or series of agreements, understandings, or transactions, which involve or result in a continuing commercial relationship of definite or indefinite duration, where a franchisee is granted or permitted to offer, sell, or distribute goods or commodities manufactured, processed, or distributed by the franchisor, or the right to offer or sell services established, organized, directed, or approved by the franchisor, and where the operation of franchisee's business franchise is substantially associated with a franchisor's trademark, service mark, trade name, advertising, or other commercial symbol designating the franchisor, and where the operation of franchisee's business is substantially reliant on goods or services or a marketing plan or system prescribed or supplied in substantial part by the franchisor. Unless specifically stated otherwise, such term includes an area franchise as hereinafter defined.

(4) The term "franchisor" means a person who grants a franchise.

(5) The term "franchisee" means a person to whom a franchise is granted.

(6) The term "area franchise" means any contract or agreement between a franchisor and a subfranchisor whereby the subfranchisor is granted the right, for a consideration given in whole or in part for such right, to sell or negotiate the sale of franchises in the name of or in behalf of the franchisor.

(7) The term "subfranchisor" means a person to whom an area franchise is granted.

(8) The term "franchise fee" means any fee or charge that a franchisee or subfranchisor is required to pay or agrees to pay for the right to enter into a business under a franchise agreement, including but not limited to, any such payments for goods and services.

(9) The term "sale" or "sell" includes any contract of sale or disposition of a franchise, or interest in a franchise for value. The term "offer," "offer for sale," or "offer to sell" includes any attempt or offer to dispose of or solicitation of an offer to buy a franchise, or an interest in a franchise, for value.

(10) The term "commerce" means trade or commerce in franchises or transportation or communication relating thereto among the several States, or between the District of Columbia, any territory of the United States, or any foreign country and any State, territory, or the District of Columbia, or within the District of Columbia.

(11) The term "territory" means the Commonwealth of Puerto Rico, the Canal Zone, the Virgin Islands, and the insular possessions of the United States.

(12) The term "write" or "written" shall included printed, lithographed, or any other means of graphic communication.

(12) The term "disclosure statement" means any disclosure statement, prospectus, circular, notice, advertisement, letter, or communication, written, or by radio or television, which offers any franchise for sale or confirms the sale of any franchise, except that a notice, circular, communication, or lettter in respect of a franchise shall not be deemed to be a disclosure statement meeting the requirements of this Act and any rules or regulations promulgated by the Commission hereunder may be obtained, and does no more than identify the franchise, state the price thereof, state from whom it can be purchased, and such other information as may be prescribed by rule or regulation of the Commission.

AUTHORITY TO EXEMPT FRANCHISES

SEC. 4. The Commission may from time to time by its rules and regulations, exempt from the disclosure requirements of this Act any franchise:

(a) if the franchisor has a net worth on a consolidated basis, according to its most recent audited financial statement, of not less than $25,000,000; or if the franchisor has a net worth, according to its most recent audited financial statement, of not less than $5,000,000 and is at least 80 per centum owned by a corporation which has a net worth on a consolidated basis, according to its most recent audited financial statement, of not less than $25,000,000; and

(b) has had at least one hundred franchisees conducting business at all times during the ten-year period preceding the offer or sale; or if any corporation which owns at least 80 per centum of the franchisor has had at least one hundred franchisees conducting business at all time during the ten-year period immediately preceding the offer or sale; or such corporation had conducted business which is the subject of the franchise continuously for not less than ten years preceding the offer or sale; and

(c) discloses in writing to each prospective franchisee, at least five business days prior to the execution by the prospective franchisee of any binding franchise or other agreement, or at least five business days prior to the receipt of any consideration, the following information:

(1) The name of the franchisor, the name under which the franchisor is doing or intends to do business, and the name of any parent or affiliated company that will engage in business transactions with franchisees.

(2) The franchisor's principal business address and the name and address of its agents authorized to receive service of process.

(3) The business form of the franchisor, whether corporate, partnership, or otherwise.

(4) The business experience of the franchisor, including the length of time the franchisor (i) has conducted a business of the type to be operated by the franchisees, (ii) has granted franchises for such business, and (iii) has granted franchises in other lines of business.

(5) A copy of the typical franchise contract or agreement proposed for use or in use in this State.

(6) A statement of the franchise fee charged, the proposed application of the proceeds of such fee by the franchisor, and the formula by which the amount of the fee is determined if the fee is not the same in all cases.

(7) A statement describing any payments or fees other than franchise fees that the franchisee or subfranchisor is required to pay to the franchisor, including royalties and payments or fees which the franchisor collects in whole or in part on behalf of a third party or parties.

(8) A statement of the conditions under which the franchise agreement may be terminated or renewal refused, or repurchased at the option of the franchisor.

(9) A statement as to whether, by the terms of the franchise agreement or by other device or practice, the franchisee or subfranchisor is required to purchase from the franchisor or his designee services, supplies, products, fixtures, or other goods relating to the establishment or operation of the franchise business, together with a description thereof.

(10) A statement as to whether, by the terms of the franchise agreement or other device or practice, the franchisee is limited in the goods or services offered by him to his customers.

(ii) A statement of the terms and conditions of any financing arrangements when offered directly or indirectly by the franchisor or his agent or affiliate.

(12) A statement of any past or present practice or of any intent of the franchisor to sell, assign, or discount to a third party any note, contract, or other obligation of the franchisee or subfranchisor in whole or in part.

(13) If any statement of estimated or projected franchisee earnings is used, a statement of such estimation or projection and the data upon which it is based.

(14) A statement as to whether franchisees or subfranchisors receive an exclusive area or territory.

UNFAIR AND DECEPTIVE ACTS AND PRACTICES RELATING TO FRANCHISE AGREEMENTS

SEC. 5. (a) It shall constitute an unfair and deceptive act or practice in commerce under the Federal Trade Commission Act for any franchisor, subfranchisor, or agent thereof, directly or indirectly—

(1) to sell or offer for sale any franchise unless a disclosure statement with respect to such franchise is in effect in accordance with the provisions of this Act and any rules or regulations promulgated by the Commission hereunder is furnished the prospective franchisee at the inception of any discussions or negotiations for the sale of such franchise.

(2) in selling or offering for sale any franchise—

(A) to employ any device, scheme, or artifice to defraud;

(B) to obtain money or property by means of a false or misleading representation with respect to any information included in the disclosure statement or with respect to any other information pertinent to the franchise and upon which the franchisee relies; or

(C) to engage in any transaction, practice, or course of business which operates or would operate as an unfair or deceptive act or practice with respect to a franchisee.

(b) Any contract or agreement for the purpose of a franchise covered by this Act shall be voidable at the option of the franchisee upon delivery of written notice to the franchisor, if a valid disclosure statement is not in effect as provided by this Act and is not delivered to the prospective franchisee at least seven days in advance of his signing such contract or agreement. In the event of any such cancellation, the franchisor shall forthwith return to the franchisee any sums theretofore paid to the franchisor or to any third party on the direction of the franchisor.

EFFECTIVE DATE OF DISCLOSURE STATEMENT AND AMENDMENTS THERETO

SEC. 6. (a) Except as hereinafter provided, the effective date of a disclosure statement shall be the twentieth day after the filing thereof or such earlier date as the Commission may determine having due regard to the public interest and the protection of purchasers. If any amendment to any such statement is filed prior to the effective date of such statement, the disclosure statement shall be deemed to have been filed when such amendment was filed.

(b) If it appears to the Commission that a statement or any amendment thereto is incomplete or inaccurate in any material respect, the Commission shall so advise the franchisor within a reasonable time after the filing of the statement or amendment, but prior to the date the statement or amendment would otherwise be effective. Such notification shall serve to suspend the effective date of the statement and any amendments until thirty days after the franchisor files such additional information as the Commission shall require.

(c) If at any time a change shall occur affecting any material fact required to be contained in the statement, the franchisor

shall promptly file an amendment thereto. Upon receipt of any such amendment the Commission may, if it determines such action to be appropriate in the public interest or for the protection of purchasers, suspend the disclosure statement until the amendment becomes effective. A failure to file any amendment required hereunder shall terminate the effectiveness of the offering statement.

(d) If it appears to the Commission at any time that the disclosure statement or any amendments thereto include any false or misleading statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading, the Commission may issue an order suspending the effectiveness of the disclosure statement; at the same time, the Commission shall give notice and an opportunity for hearing (at a time fixed by the Commission). When such statement has been amended in accordance with such order, the Commission shall promptly so declare and thereupon the order shall cease to be effective.

(e) The Commission is empowered to make an investigation to determine whether an order should be issued under subsection (d). In making such investigation, all of the functions and powers of the Federal Trade Commission under the Federal Trade Commission Act are available to the Commission.

(f) Any notice required under this section shall be sent to or served on the franchisor or his authorized agent.

(g) A franchise offering shall be deemed in effect for a period of one year from the effective date of the disclosure statement and shall be subject to renewal in accordance with rules and regulations promulgated by the Commission.

INFORMATION REQUIRED IN DISCLOSURE STATEMENT

SEC. 7. (a) A disclosure statement shall contain such information as the Commission may by rules and regulations require as being necessary or appropriate in the public interest or for the protection of prospective franchisees, including but not limited to—

(1) The name of the franchisor, the trade name(s) or trademark(s) under which he intends or is doing business, and the name of any parent or affiliated company that will engage in transactions with franchisees.

(2) The name of the State or other sovereign power under which the franchisor is organized and the location of the franchisor's principal place of business.

(3) The names and addresses, educational and business background, and biographical data, stated individually, of the directors, or persons performing similar functions, the chief executive, and the financial, accounting, and principal executive officers, chosen or to be chosen, if the franchisor is a corporation, association, or other entity, of all partners, if the franchisor is a partnership, and of the franchisor if the franchisor is an individual.

(4) A statement as to whether the franchisor or any of its directors, stockholders owning more than 10 per centum of the stock, or chief executive officers:

(a) has been convicted of a felony or pleaded nolo contendere to a felony, or has been held liable in a civil action which involved fraud, embezzlement, fraudulent conversion, or misappropriation of property; or

(b) is subject to any currently effective order of the Securities and Exchange Commission or the securities administrator of any State denying registration to or revoking or suspending the registration of such person as a securities broker or dealer or investment adviser or is subject to any currently effective order of any national securities association or national securities exchange (as defined in the Securities and Exchange Act of 1934) suspending or expelling such person from membership in such association or exchange; or

(c) is subject to any currently effective order or ruling of the Federal Trade Commission; or

(d) is subject to any currently effective injunctive or restrictive order relating to business activity as a result of an action brought by any public agency or department, including, without limitation, actions affecting a license as a real estate broker or salesman.

Such statement shall set forth the court, date of conviction or judgment, any penalty imposed or damages assessed, or the date, nature, and issuer of such order.

(e) is subject to any currently effective injunctive or restrictive order or ruling relating to business activity as a result of action by any public agency or department; or

(f) has filed bankruptcy or been associated with management of any company that has been involved in bankruptcy or reorganization proceedings.

(5) The business experience of the franchisor, including the length of time the franchisor has conducted a business of the type to be operated by the franchisee; has granted franchises for such business; and has granted franchises in other lines of business.

(6) Recent financial statements of the franchisor. The Commission may by rule or regulation prescribe the form and content of financial statements required under this Act, the circumstances under which consolidated financial statements may be filed, and the circumstances under which financial statements shall be certified by independent certified public accountants or public accountants.

(7) A description of the franchise offered or to be sold, and a general description of the franchise business.

(8) A copy of the franchise agreement proposed to be used.

(9) A statement of the franchise fee charged, the proposed application of the proceeds of such fee by the franchisor, and the formula by which the amount of the fee is determined if the fee is not the same in all cases.

(10) A statement describing any payments or fees other than franchise fees that the franchisee or subfranchisor is required to pay to the franchisor, including royalties and payments or fees which the franchisor collects in whole or in part on behalf of third parties, markups on land, buildings, leases, signs, equipment, or supplies, and all other terms of the offer for sale, including a full disclosure of the total investment to be made by the franchisee.

(11) A statement of the lowest royalty fee for the use of a service mark, trademark, or trade name which it charges to any other of its franchisees in the United States.

(12) A statement of those fees which may be refunded, in full or in part, and the circumstances under which such refunds may be made.

(13) A statement of the conditions under which the franchise agreement may be terminated or renewal refused, or repurchased at the option of the franchisor, and any limitations as to the right to sell, transfer, move, renew, or terminate the franchise.

(14) A statement as to whether, by the terms of the franchise agreement or by other device or practice, the franchisee or subfranchisor is required to purchase from the franchisor or his designee services, supplies, products, fixtures, or other goods relating to the establishment or operation of the franchise business, together with a description thereof, including the cost.

(15) A statement as to the goods, products, services, training programs, supervision, advertising promotion, and other management services to be provided by the franchisor.

(16) A statement of the length of time it will take to obtain the franchise, and the average length of time between the signing of a franchise agreement and the opening of the franchisee's outlet.

(17) A statement as to whether, by the terms of the franchise agreement or other device or practice, the franchisee is limited in the goods or services offered by him to his customers.

(18) A statement whether the franchisor requires the franchisee to participate personally in the direct operation of the franchise.

(19) A statement of the terms and conditions of any financial arrangements when offered directly or indirectly by the franchisor or his agent.

(20) A statement of any past or present practice or of any intent of the franchisor to sell, assign, or discount to a third party any note, contract, or other obligation of the franchisee in whole or in part.

(21) A statement of the number of franchises presently operating and the number proposed to be sold, indicating which franchises, if any, can be owned and their addresses.

(22) A statement of the number of franchisees, if any, that operated at a loss during the previous year.

(23) A list of at least ten representative operating franchisees, with their addresses and telephone numbers, situated similarly to the franchise being offered and located, to the extent possible, in the same geographic area.

(24) Subject to any limitations imposed by the Commission, a statement of available earnings of past and present franchises and a fair analysis of their performance, including records of failures, and resales to the franchisor.

(25) A statement as to whether franchisees and subfranchisors receive an exclusive area or territory.

(26) A statement as to the methods and responsibilities of the parties in determining the site for the franchisee's outlet.

(27) A statement setting forth such other information as the Commission may require.

(28) A statement setting forth such information as the franchisor may desire to present.

(29) A statement of any compensation or other benefit given or promised to a public figure arising, in whole or in part, from the use of the public figure in the name or symbol of the franchise.

(30) When the person filing the disclosure statement is a franchisor, the statement shall include the same information concerning the subfranchisor as is required from the franchisor pursuant to this schedule.

(b) The disclosure statement shall not be used for any promotional purposes before it becomes effective, and then only if it is used in its entirety. No person may advertise or represent that the Commission approves or recommends the sale of any franchise. No portion of the disclosure statement shall be underscored, italicized or printed in larger or bolder type than the balance of the statement unless the Commission requires or permits it.

REGISTRATION OF FRANCHISES

SEC. 8. (a) Applications for registration, registration renewal statements and amendments thereto, shall be signed and verified by the franchisor or by the subfranchisor.

(b) If the Commission determines that the applicant has failed to demonstrate that adequate financial arrangements have been made to fulfill obligations to provide real estate improvements, equipment, inventory,

training, or other items included in the offering, the Commission may by rule or order require the escrow or impound of franchise fees and other funds paid by the franchisee or subfranchisor until no later than the time of opening of the franchise business, or, at the option of the franchisor, the furnishing of a surety bond as provided by rule of the Commission, if it finds that such requirement is necessary and appropriate to protect the public interest.

(b) The application for registration shall contain such information as the Commission may by rule require.

(c) The Commission may suspend or revoke the registration of any franchise if it finds with respect thereto—

(1) that there has been a failure to comply with any of the provisions of this Act or the rules of the Commission pertaining thereto, or

(2) that the offer or sale of the franchise would constitute misrepresentation to, or deceit or fraud of the purchasers.

(d) The Commission may vacate or modify the suspension or revocation of a franchise registration if it finds that the conditions which caused such suspension or revocation have changed.

(e) A franchise offering shall be deemed duly registered for a period of one year from the effective date of the registration, unless the Commission by rule specifies a different period.

(f) A registration may be renewed under such procedures as the Commission by rule shall require.

(g) A franchisor shall promptly notify the Commissioner in writing of any material change in the information contained in the application as originally submitted, amended, or renewed. Such notification shall constitute an application to amend the registration. The Commission may by rule prescribe what constitutes a material change for purposes of this section.

PROMULGATION OF RULES AND REGULATIONS

SEC. 9. (a) The Commission is authorized to promulgate such rules and regulations as it deems necessary to implement and interpret this Act, including but not limited to, rules and regulations defining as unfair and deceptive certain acts and practices of franchisors such as directly or indirectly engaging in competition with any franchisee using methods which constitute unfair methods of competition under the Federal Trade Commission Act (terminating, canceling, or failing to renew a franchise without adequate notice and otherwise protecting the rights of the franchisee; using unfair and deceptive methods to induce a franchisee to sell back his franchise business to the franchisor or a third party).

(b) Rules and regulations shall be promulgated by the Commission pursuant to section 553 of title 5, United States Code.

CIVIL LIBERTIES

SEC. 10. (a) In case any part of a disclosure statement, which has become effective, contains a false or misleading statement of a material fact, or omits to state any material fact required to be stated therein or necessary to make the statements therein not misleading, or in case any franchisor commits an unfair or deceptive act or practice in violation of a rule or regulation promulgated by the Commission hereunder, any person expending money in connection with acquiring a franchise covered by such offering statement from a franchisor, subfranchisor, or agent thereof, during such period as the statement remains uncorrected, or any person who has suffered damage by reason of such unfair or deceptive act or practice of a franchisor may sue at law or in equity, in any court of competent jurisdiction, the franchisor, subfranchisor, or agent.

(b) Any franchisor, subfranchisor, or agent who commits any unfair or deceptive act or practice in violation of a rule or regulation promulgated by the Commission hereunder, or who sells a franchise—

(1) in violation of section 5, or

(2) by means of an offering statement containing false or misleading statement of a material fact or by omitting to state a material fact required to be stated therein or necessary to make the statements therein not misleading,

may be sued by any person who was damaged as the result of such violation or by the purchaser of the franchise.

(c) The suit authorized under subsection (a) or (b) of this section may be brought to recover damages up to three times damages sustained or the cost of the franchise, whichever is greater, including reasonable attorney's fees and reasonable court costs.

(d) Any person who becomes liable to make any payment under this section may recover an equitable contribution, as in cases of contract, from any person who, if sued separately, would have been liable to make the same payment.

OTHER LAWS AFFECTED

SEC. 11. Disclosure or other requirements of a State with respect to franchises inconsistent with those set forth in this Act shall be preempted. Nothing contained in this Act shall be construed to repeal, invalidate, or supersede the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

OTHER REMEDIES

SEC. 12. (a) It shall be a violation of section 5(a)(1) of the Federal Trade Commission Act (15 U.S.C. 45(a)(1)) for any person subject to the provisions of this Act to fail to comply with any requirements imposed upon such person by or pursuant to any rule or regulation of the Commission promulgated under this Act, or to violate any provision contained in this Act.

(b) The Commission shall have all of the rights and remedies with respect to this Act as the Commission has with respect to violations of section 5(a)(1) of the Federal Trade Commission Act.

(c) Whenever it shall appear to the Commission that any person is engaged, or is about to engage, in any act or practice which constitutes or will constitute a violation of this Act, or any rule or regulation prescribed thereunder, the Commission, acting through any of its attorneys designated by it for such purpose, may in its discretion, bring an action in any district court of the United States, United States court of any territory, or the United States District Court for the District of Columbia to enjoin such acts or practices, and upon a proper showing a permanent or temporary injunction or restraining order shall be granted without bond. The Commission may transmit such evidence as may be available concerning such acts or practices to the Attorney General who may, in his discretion, institute the necessary criminal proceedings under this Act.

JURISDICTION OF OFFENSES AND SUITS

SEC. 13. The district courts of the United States, the United States courts of any territory, and the United States District Court for the District of Columbia shall have jurisdiction of offenses and violations under this Act and under the rules and regulations prescribed pursuant thereto, and concurrent with State courts, of all suits in equity and actions at law brought to enforce any liability or duty created by this Act. Any such suit or action may be brought in the district wherein the defendant is found or is an inhabitant or transacts business, or in the district where the offer or sale took pace, if the defendant or his agent participated therein, and process in such cases may be served in any other district of which the defendant is an inhabitant or wherever the defendant may be found. Judgments and decrees so rendered shall be subject to review as provided in section 1254 and 1291 of title 28 of the United States Code. No costs shall be assessed for or against the Commission in any proceeding under this Act brought by or against it in any court.

UNLAWFUL REPRESENTATIONS

SEC. 14. The fact that a disclosure statement with respect to any franchise has been filed or is in effect shall not be deemed a finding by the Commission that the disclosure statement is in any way true and accurate in substance or on its face, or be held to mean that the Commission has in any way passed upon the merits or given approval to such franchise. It shall be unlawful to make, or cause to be made, to any prospective purchaser any express or implied representation contrary to the foregoing.

PENALTIES FOR WILLFUL VIOLATIONS

SEC. 15. Any person who willfully violates any provision of this Act, or any rule or regulation promulgated thereunder, or any person who willfully, in a disclosure statement filed under this Act, makes any false or misleading statement of a material fact, or omits to state any material fact required to be stated therein or necessary to make the statements therein not false or misleading, shall upon conviction be fined not more than $10,000 or imprisoned not more than five years, or both.

JURISDICTION OF OTHER GOVERNMENT AGENCIES

SEC. 16. Nothing in this Act shall relieve any person from submitting to the respective supervisory units of the Government of the United States information, reports, or other documents which may be required by law. The filing of a registration statement hereunder shall not be deemed to confer any immunity from liability for violation of any other laws.

LIMITATION OF ACTIONS

SEC. 17. No action shall be maintained to enforce any liability created under this section unless brought within two years after the discovery of the untrue statement or the omission, or after such discovery should have been made by the exercise of reasonable diligence, or if the action is to enforce a liability created under section (1), unless brought within two years after the violation upon which it is based occurred. In no event shall any such action be brought by a franchisee more than three years after the sale of the franchise to the franchisee.

CONTRARY STIPULATIONS VOID

SEC. 18. Any condition, stipulation, or provision binding any person acquiring any franchise to waive compliance with any provision of this Act or the rules and regulations prescribed thereunder shall be without effect and void.

ADDITIONAL REMEDIES

SEC. 19. The rights and remedies provided by this Act shall be in addition to any and all other rights and remedies that may exist at law or in equity.

By Mr. McCLELLAN (by request):

S. 2469. A bill to carry into effect certain provisions of the Patent Cooperation Treaty, and for other purposes. Referred to the Committee on the Judiciary.

AMENDMENT OF THE PATENT LAW

Mr. McCLELLAN. Mr. President, as chairman of the Subcommittee on Patents, Trademarks, and Copyrights I introduce, by request of the Department of Commerce, a bill to carry into effect certain provisions of the Patent Cooperation Treaty and for other purposes.

The United States and 34 other countries are signatories of the Patent Coop-

eration Treaty. On September 12, 1972, the President submitted the treaty to the Senate for its advice and consent to ratification. No action has yet been taken on the treaty. The treaty is not self-executing in this country and the purpose of the bill which I am introducing is to provide the necessary statutory authority for implementing the treaty when it has come into force and has become effective with respect to the United States. The bill would also amend certain sections of title 35, United States Code, to provide applicants filing applications for patents only in the United States, with the flexibility afforded to applicants filing under the treaty.

Consideration of this legislation will await the coming into force of the treaty. It is appropriate, however, that the bill be introduced now so that the administration's recommendations for implementing the treaty are available when the ratification of the treaty is being considered.

I have long advocated efforts to promote greater international cooperation in patent matters, subject only to the qualification that such undertakings should not weaken the American patent system or contribute to an erosion of industrial and intellectual property rights. I believe that the Patent Cooperation Treaty meets that test and it is presently my intention to support its ratification. By providing among other things, centralized filing procedures and a standardized application format, the treaty will offer many advantages to U.S. applicants who seek patent protection abroad.

Mr. President, I ask unanimous consent that there be printed in the RECORD a statement of purpose and need for this legislation.

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

STATEMENT OF PURPOSE AND NEED

By adding a new part IV to title 35, United States Code, this bill would implement the Patent Cooperation Treaty and by its provisions, enable United States applicants for patents to avail themselves of the advantages offered by the Treaty when it has come into force and has become effective with respect to the United States. Applicants from other countries would enjoy similar benefits, when seeking patent protection under the Treaty, in the United States. Moreover, United States applicants could rely on the provisions of the Treaty to be afforded its advantages in other countries adhering to the Treaty.

This bill would also amend certain sections of title 35, United States Code, in order to provide applicants filing applications for patents only in the United States, with the flexibility afforded to applicants filing under the Treaty.

The Patent Cooperation Treaty traces its genesis back to 1966. At that time, at the request of the United States, the Executive Committee of the Paris Convention for the Protection of Industrial Property recommended that the Secretariat of the Paris Convention (the United International Bureaux for the Protection of Intellectual Property (BIRPI) in Geneva, Switzerland) undertake a study of practical means which would reduce the duplication of effort involved, both for applications and national Patent Offices, in the filing and processing of patent applications for the same invention in different countries.

Several drafts of an international agreement to that effect were prepared and intensively reviewed by Committees of Experts from various member countries of the Paris Convention, prior to consideration of the final draft of the Patent Cooperation Treaty at the Washington Diplomatic Conference held from May 25 to June 19, 1970. Seventy-seven countries and a number of international organizations were represented at the Conference. On June 19, 1970, the Treaty was signed by 20 countries, including the United States, and remained open for signature until December 31, 1970, by which date a total of 35 countries had become signatories. The Treaty will come into force three months after eight countries have adhered to it, four of which must have certain defined major patent activity. To date, five countries with minor patent activity have adhered to the Treaty. On September 12, 1972, President Nixon submitted the Treaty to the United States Senate for its advice and consent to ratification.

The Treaty offers several major advantages. One is to simplify the filing of patent applications on the same invention in different countries by providing, among other things, centralized filing procedures and a standardized application format.

Another advantage offered by the Treaty is the longer period of time available to an applicant before he must commit himself by undertaking the expenses of translation, national filing fees and prosecution in each country. Today, a 12 month priority period is provided by the Paris Convention while under the Treaty an applicant will have generally 20 months or more. This advantage should permit the applicant to be more selective of the countries in which he decides to file ultimately, by giving him more time and information to evaluate the strength of his potential patent and to determine his marketing plans. Thus, the Treaty would serve to expand established programs of U.S. industry to file foreign patent applications as well as to encourage smaller businesses and individual inventors to become more actively engaged in seeking patent protection abroad. A third advantage is to facilitate the examining process in those member countries which examine applications for patent.

Under Chapter I of the Treaty, an applicant files an international application with a Receiving Office, which usually is the patent office in the country of which he is a national or resident. (The Patent Office would act as a Receiving Office under this bill). The application is filed in a specified language (English for U.S. applicants), in a standard format, and includes the designation of those member countries in which the applicant desires protection. The international application is subject to an international fee at the time of filing. The payment of national filing fees and translation expenses in each of the countries where protection is desired can generally be deferred until as late as 20 months from the priority date of the international application.

An international search report is prepared by an International Searching Authority. (The Patent Office would be authorized by this bill to become such an authority). Copies of the search report are transmitted to the applicant and the International Bureau (which is the Secretariat of the World Intellectual Property Organization [WIPO], formerly BIRPI, in Geneva, Switzerland). The International Bureau is also the Secretariat for the Patent Cooperation Treaty and thus serves as the administrative and coordinating organ for this Treaty. After having received the search report, the applicant is afforded one opportunity to amend the claims of his international application before the International Bureau. Thereafter, copies of the international application and the international search report, together with any amendments, are forwarded by the International Bureau to each of the designated countries. (Any designated country may waive this communication in whole or in part).

The international application, search report, and amendments are published by the International Bureau 18 months from the priority date, unless all the countries which were designated in the international application have declared that, as far as they are concerned, international publication is not necessary. Only at the end of the 20th month may the applicant be required to pay national fees and submit any required translations of the international application and the amendments to those designated countries in which he still wishes to obtain protection. The applicant is also given the opportunity to amend his application before the patent office of each designated country and at this point each office makes its own determination as to the patentability of the claims in the international application.

Chapter II of the Treaty, to which member countries may adhere at their option, provides a further procedure whereby under cetain conditions an applicant may demand an international preliminary examination report for one or more elected countries. The United States would not adhere to Chapter II of the Treaty, at this time.

This bill would amend United States patent law, by adding to the present system of obtaining a patent in this country, new international procedures as provided by the Patent Cooperation Treaty and the Regulations thereunder. However, as far as any substantive requirements for obtaining a patent are concerned, present law would be maintained. The procedures which this bill would establish are optional, are not intended to replace present domestic filing procedures and in no way diminish the rights of priority and national treatment which applicants are accorded under the Paris Convention for the Protection of Industrial Property.

The bill would enable U.S. nationals or residents to file international applications with the Patent Office which would act as a Receiving Office and in that capacity would initially process such applications. The bill would also authorize the acceptance by the Patent Office of international applications designating the United States, which were filed by foreign applicants in their respective foreign Receiving Offices and which would constitute regularly filed U.S. applications, subject to certain conditions and formal requirements. With certain exceptions, such as the effective date as prior art, international applications designating the United States would have the effect of national applications as from their international filing date.

In addition, the Patent Office would be authorized to become a Receiving Office for international applications filed by applicants of other countries. This would be conditioned on the concluding of an agreement between the United States and such other countries, as noted in Rule 19 of the Regulations.

This bill would also authorize, but not require, the Patent Office to act as an International Searching Authority and in that capacity assume all duties connected therewith. It should be noted, that the Patent Office is presently striving to reduce the time of pendency of national applications for patent to 18 months. It is anticipated that the Patent Office would not assume the additional functions of an International Searching Authority until it is in a position to process national applications without undue delay.

The bill would further provide that international applications which either origi-

nate in and designate the United States, or are received from abroad, would have to comply with certain national requirements, generally at the end of the 20th month from the applications' priority date. At this time, and after the fulfillment of the requirements, such international applications would generally be processed by the Patent Office like other national applications and subject to the same requirements of patentability.

The bill would amend section 6 of title 35, to authorize the allocation of funds, from Patent Office appropriations, to the Department of State for the payment of the share of the United States to the working capital fund established under the Treaty. Contributions to cover a portion of any operating deficits of the International Bureau, should they occur, would be included in the annual budget of the Patent Office and would similiarly be authorized to be transmitted to the State Department for payment to the International Bureau.

Section 41(a) of title 35 would be amended by this bill to clarify questions of fees to be charged in connection with the liberalized claim format also proposed by this bill.

The bill would amend section 102(e) of title 35, to clarify the date on which patents granted in this country on international applications would become effective as prior art.

The second paragraph of section 112 would be amended to take account of a more liberal claim drafting practice in permitting multiple dependent claims as provided by the Treaty.

The bill would amend section 113 of title 35, by relaxing the present requirements for the submission of drawings when the invention disclosed in an application admits of being illustrated, although such drawings are not necessary for the understanding of the invention. Drawings of this nature could be requested by the Commissioner during the processing of the application and would not have to be furnished at the time of filing of the application.

The Treaty permits a number of reservations and declarations to be made by member countries. Under Article 20(1)(a), a designated office may waive the requirement of communication of the international application from the International Bureau to that office. This bill would provide that such communication is not required in the case of international applications originating in the United States, but would be required in the case of all other international applications designating the United States. This waiver would, of course, also have to be communicated to the International Bureau.

Under Article 64(3)(a), any member country may declare that as far as it is concerned, international publication of the international application by the International Bureau is not required. The United States intends to make such a declaration. The bill would clarify the effect, in this country, of an international application designating the United States, which was published internationally because it contained the designation of at least another country which had not made this declaration.

Article 64(4) of the Treaty provides that a country may declare that the filing of an international application outside that country and designating such country is not equated to an actual filing in that country for prior art purposes, if its national law does not provide for the prior art effect of its patents to commence from the priority date as claimed under the Paris Convention. The United States intends to make such a declaration, stating the date from which, and the conditions under which, the prior art effect becomes effective in this country. By amending section 102(e) of title 35, this bill would also clarify any questions on the prior art effect of patents granted on international applications designating the United States.

Article 64(1)(a) of the Treaty provides that a member country may declare that it shall not be bound by the provisions of Chapter II thereof, nor the applicable Regulations. The United States intends to make this declaration, because present divergent examining systems of other potential member countries from that in the United States would make adherence to Chapter II impracticable at this time. Thus, the bill does not contain any proposed legislation implementing Chapter II of the Treaty.

By Mr. CURTIS (for himself, Mr. HUMPHREY, Mr. BELLMON, Mr. TALMADGE, Mr. DOLE, Mr. EASTLAND, Mr. MCGOVERN, Mr. ALLEN, Mr. HUDDLESTON, Mr. CLARK, Mr. AIKEN, Mr. YOUNG, and Mr. HELMS):

S. 2470. A bill to amend the Consolidated Farm and Rural Development Act. Referred to the Committee on Agriculture and Forestry.

Mr. CURTIS. Mr. President, I am pleased to offer, on behalf of myself and Senators HUMPHREY, BELLMON, TALMADGE, DOLE, EASTLAND, MCGOVERN, ALLEN, HUDDLESTON, CLARK, AIKEN, YOUNG, and HELMS a bill designed to facilitate the flow of capital to rural America.

It should be noted that this might be called a committee bill since the entire membership of the Committee on Agriculture and Forestry is sponsoring this legislation. I believe this is the best indication that could be given of the bipartisan efforts of our committee to improve life in and accelerate the economic development of rural America. This bill, Mr. President, is being introduced as the result of comments received by our committee from a group of rural bankers and institutional investors which were appointed by Chairman TALMADGE to advise the Committee on Ways and Means of providing a secondary market for loans made by rural financial institutions.

I had suggested appointment of this secondary market study group following testimony before our committee by a constituent of mine, Mr. H. L. Gerhart, Jr., president of the First National Bank of Newman Grove, Nebr.

Testifying on behalf of the Independent Bankers Association of America, Mr. Gerhart stated:

> We have repeatedly emphasized that to provide ongoing funds for development of rural communities, a secondary market must be provided which would tap the major money centers.

Mr. President, this bill is very short in length compared to most bills. However, I believe it could have a significant impact upon the economic development of the nonmetropolitan areas of our country. Our primary goal is to encourage the creation of private companies that will provide the secondary market for loans made by rural financial institutions.

The bill terms the private organizations "Rural Loan Investment Companies." This bill merely provides that the Secretary of Agriculture may loan these companies up to 5 times their capital for a period of 5 years to allow them to purchase Government guaranteed loans from qualified lenders in rural areas.

I would emphasize that these Government loans to RLIC's would be made at the cost of money to the Treasury and will be secured by Government-guaranteed loans purchased from participating financial institutions.

In actuality, the program would work as follows: A group of investors would organize a business entity solely for the purpose of purchasing, servicing, selling, or otherwise dealing in farm or nonfarm loans made by rural financial institutions. Under this bill these RLIC's would be able to borrow from the Farmers Home Administration up to five times their paid-in capital in order to purchase guaranteed loans from financial institutions in rural areas. They could then use their own capital to purchase either guaranteed or nonguaranteed loans.

Mr. President, this is a no-cost way for the Federal Government to encourage the economic development of rural America. I urge the prompt adoption of this legislation.

Mr. HUMPHREY. Mr. President, I am very pleased to join my Senate Agriculture Committee colleague from Nebraska (Mr. CURTIS) as his chief cosponsor of this important piece of new legislation. As he has indicated this legislation is designed to assist banks and other financial institutions serving rural areas—communities with less than 50,000 populations—to market federally guaranteed loans to institutional investors on a block basis. The bill would authorize the Secretary of Agriculture to loan money from the rural development insurance fund to private organizations established, or to be established, for the sole purpose of purchasing and marketing such loans. While funds provided to such organizations from the rural development insurance fund could be used only for the purpose of purchasing federally guaranteed loans, the corporation's own capital stock and borrowings in the private market could be used to purchase nonguaranteed loans.

Federally guaranteed loans eligible for such sale and marketing would include both farm and nonfarm loans made by any agency of the U.S. Government, such as the Farmers Home Administration, the Rural Electrification Administration, the Small Business Administration, and Federal agencies making housing loans.

This legislation is a product of many months of study and investigation by the Senate Committee on Agriculture and Forestry through a special advisory committee named by the Agriculture Committee to help design a secondary marketing system for the sale of these federally guaranteed loans made in rural areas. This legislation would make it possible for many smaller rural banks and financial institutions to get together and form their own organization for purchasing and marketing their Federal loans in blocks to large institutional investors. Such a system would not only ease the difficulty that many smaller banks now encounter in selling such Federal loan notes, but also would enhance their ability to sell them at a higher price as a result of their being able to offer larger

numbers of them to large institutional investors for sale in block.

Hopefully, by further facilitating the marketing of these Federal loans made by rural banks and other financial institutions serving rural communities, more funds will be made available to serve both the farm and nonfarm credit needs of the 70 million citizens now residing in rural America.

Members of the Senate Agriculture's Secondary Market Study Group are as follows:

Mr. Robert A. Podesta, Vice Chairman, The Chicago Corporation, Chicago, Illinois. 60604

Mr. Pat DuBois, President, First State Bank, Sauk Centre, Minnesota. 56378

Mr. George Ballard, Waccanaw Bank & Trust, Lumberton, N.C. 28358

Mr. John Crystal, President, Iowa Savings Bank, Coon Rapids, Iowa. 50058

Mr. Edmund W. Clarke, TransAmerica Investment Group, 1150 South Olive Street, Los Angeles, Calif. 90015

Mr. Donald G. Conrad, Aetna Life & Casualty Group, 151 Farmington Avenue, Hartford, Conn. 06115

Mr. Sheldon Dimick, Randolph National Bank, Randolph, Vermont. 05060

Mr. Archie Davis, Citizens and Southern Bank, Savannah, Ga.

Mr. C. P. Fortner, Sr., Bank of Eupora, Eupora, Miss. 39744

Mr. Lindley Finch, Continental Illinois National Bank & Trust, 231 South LaSalle Street, Chicago, Ill., 60690

Mr. Simms Garrett, Roswell Bank, Roswell, Ga.

Mr. H. L. Gerhart, Jr., First National Bank of Newman Grove, Newman Grove, Neb.

Mr. Carl Hamm, President, First National Bank, Perry, Okla. 73077

Mr. Donald R. Knab, Senior Vice President, Prudential Insurance Co. of America, Prudential Plaza, Newark, N.J. 07101

Mr. Edward F. Mauldin, First Colbert National Bank, Muscle Shoals, Ala. 35660

Mr. Walter Minger, Group Vice President, Bank of America, Box 37000, San Francisco, Calif. 94137

Mr. Sabino Marinella, Continental Investment Corp., 100 Federal Street, Boston, Mass. 02110

Mr. Douglas Milne, Jr., Lionel D. Edie & Co., Inc., 530 Fifth Avenue, New York, N.Y. 10036

Mr. Thomas F. Murray, Equitable Life Assurance Society, 1285 Avenue of the Americas, New York, N.Y. 10019

Mr. John Rouzie, First National Bank, Bowman, N. Dak. 58623

Mr. Phillip R. Reynolds, The Travelers Corp., One Tower Square, Hartford, Conn. 06115

Mr. Richard H. Samuels, CNA Financial Corp., 310 South Michigan Ave., Chicago, Ill. 60604

Mr. Frank K. Spinner, First National Bank, St. Louis, Mo. 63101

Mr. Don Steffes, McPherson State Bank, McPherson, Kans.

Mr. Jonathan Tobey, Vice President, Chase Manhattan Bank, One Chase Manhattan Plaza, New York, N.Y.

NEW RESOURCES FOR RURAL AMERICA

Mr. CLARK. Mr. President, in recent years, Congress has moved toward defining a new national policy for revitalizing the resources of rural America. The concept of rural development is not new, nor have we just become aware of deteriorating conditions in rural areas. But it is an inescapable fact that our society, once built upon a foundation of agriculture and proud of its rural heritage, now faces the threat of losing much of what remains of that culture.

Past legislative efforts to alleviate rural hardship and to integrate rural America into the mainstream of economic progress have realized only limited success.

Last year, however, these legislative efforts culminated in the passage of the Rural Development Act of 1927—designed as a supplement to tried and true rural programs. A major purpose of the act is to encourage rural industrialization, provide jobs, and improve community facilities by a system of guaranteed, insured, and direct loans and grants. Properly funded and fully implemented, this act can go a long way toward eliminating economic and social decline in the countryside. There is but one essential element missing—an effective method of providing additional private capital in rural areas to carry out farm and nonfarm development.

A credit system that would generate that capital was proposed initially by Senators TALMADGE and HUMPHREY as a part of the Rural Development Act, but regrettably, it was not adopted. The effort has continued though, and earlier this year a secondary market study group, appointed at the request of Senator CURTIS and composed of bankers and representatives of institutional investors from across the country, made recommendations on the best way to provide the necessary capital. The contributions and participation of those bankers—men like John Crystal, of the Iowa Savings & Loan Bank in Coon Rapids, Iowa—have been an invaluable resource in this effort.

Today, Senator CURTIS is introducing legislation which represents the fruits of that bipartisan effort. Cosponsored by every member of the Senate Committee on Agriculture and Forestry, it will create a secondary market for loans—supported by the guarantee of agencies of the Federal Government. It is a privilege for me to join in support of this vital legislation.

Its value is obvious. This program would supplement and strengthen the rural loan programs of the Rural Development Act. A secondary market would allow free flow of funds among banks and among communities without undue risk of large concentrations of money. A secondary market would also provide the necessary liquidity and flexibility for smaller banks which may not possess adequate reserves to make large loans.

The timeliness of today's proposal is obvious as well. No one can deny the impact of the current economic climate on smaller banks. At a time when the economy needs a strong dose of stability, the changing patterns of our economic policy have not inspired confidence in either the consumer, the businessman, or the banker. During the past 2 years we have had four phases, two freezes, two official devaluations, and with all of this "economic policy," we have had higher prices and higher interest rates than ever before. No one element of the economy is generating more attention—or more concern—than the incredible increase in the interest rate. In the last 8 months, the prime rate has gone up 15 times. On January 1, the prime rate was 6 percent. Today, it is 10 and very well may go even higher. In Iowa, this fact takes on critical proportions, since our State law sets a maximum limit on interest rates at 9 percent. A prime rate of 10 percent coupled with a lower State ceiling on interest rates makes it virtually impossible for many individuals and small businessmen to borrow.

The legislation Senator CURTIS proposes is really indispensible. We can no longer afford to leave rural America credit short—with unemployed and underemployed residents who find it necessary to leave in order to make a living. If there is no room on the farm for young people who want to remain, then it is important to them, as well as ourselves, to provide new opportunities in their own communities.

For this reason, I hope Congress will give this legislation prompt and favorable consideration.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 1076

At the request of Mr. HARTKE, the Senator from Wyoming, (Mr. MCGEE), was added as a cosponsor of S. 1076, a bill relating to the authority of the Administrator of Veterans' Affairs to readjust the schedule of rating for the disabilities of veterans; to the construction, alteration, and acquisition of hospitals and domiciliary facilities; to the closing of hospitals and domiciliary facilities and regional offices; and to the transfer of real property under the jurisdiction or control of the Administration of Veterans' Affairs.

S. 1283

At the request of Mr. JACKSON, the Senator from Connecticut (Mr. RIBICOFF) was added as a cosponsor of S. 1283, the National Energy Research and Development Policy Act of 1973.

S. 1359

At the request of Mr. MCCLELLAN, the Senator from Washington (Mr. JACKSON) was added as a cosponsor of S. 1359 to amend section 9 of title 17 of the United States Code.

S. 1586

At the request of Mr. JACKSON, the Senator from Connecticut (Mr. RIBICOFF) was added as a cosponsor of S. 1586, the Petroleum Reserves and Import Policy Act of 1973.

S. 1643

At the request of Mr. JAVITS, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of S. 1643, to provide minimum standards in connection with certain Federal financial assistance to State and local correctional, penal, and pretrial detention institutions and facilities.

S. 1644

At the request of Mr. JAVITS, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of S. 1644, to assist urban criminal justice systems on an emergency basis in those cities where personal security, economic stability, peace and tranquility are most impaired and threatened by the alarming rise in the commission of serious crime.

S. 1645

At the request of Mr. JAVITS, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of S. 1645, to provide assistance to State and local criminal justice departments and agencies in alleviating critical shortages in qualified professional and paraprofessional personnel, particularly in the corrections components of such systems, in developing the most advanced and enlightened personnel recruitment training and employment standards and programs, and for other purposes.

S. 1687

At the request of Mr. PROXMIRE, the Senator from Utah (Mr. MOSS), the Senator from Nevada (Mr. BIBLE), the Senator from New York (Mr. JAVITS), and the Senator from New Mexico (Mr. DOMENICI) were added as cosponsors of S. 1687, to repeal the act terminating Federal supervision over the property and members of the Menominee Indian Tribe of Wisconsin as a federally recognized, sovereign Indian Tribe.

S. 1737

At the request of Mr. ERVIN, the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Arkansas (Mr. MCCLELLAN) were added as cosponsors of S. 1737, to amend the Civil Rights Act of 1964 to provide freedom of choice in student assignments in public schools.

S. 1871

At the request of Mr. JACKSON, the Senator from Texas (Mr. TOWER) was added as a cosponsor of S. 1871, a bill to amend the Youth Conservation Corps Act of 1972.

S. 2155

At the request of Mr. WEICKER, the Senator from New York (Mr. JAVITS) was added as a cosponsor of S. 2155, a bill relating to collective bargaining representation of postal employees.

S. 2354

At the request of Mr. HUMPHREY, the Senator from Pennsylvania (Mr. SCOTT), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Rhode Island (Mr. PELL) were added as cosponsors of S. 2354, authorizing U.S. participation in the African Development Fund of the African Development Bank.

S. 2415

At the request of Mr. CURTIS, the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of S. 2415, a bill to amend section 203 of the Economic Stabilization Act of 1970 to permit the passthrough of certain cost increases.

S. 2435

At the request of Mr. PACKWOOD, the Senator from Arkansas (Mr. MCCLELLAN) was added as a cosponsor of S. 2435, to authorize the use of DDT in controlling the tussock moth.

S. 2453

At the request of Mr. MCINTYRE, the Senator from Minnesota (Mr. HUMPHREY) and the Senator from Nebraska (Mr. CURTIS) were added as cosponsors of S. 2453, to amend section 203 of the Economic Stabilization Act in regard to the authority conferred by that section with respect to petroleum products.

S. 2454

At the request of Mr. HUMPHREY, the Senator from Washington (Mr. JACKSON) and the Senator from Oregon (Mr. PACKWOOD) were added as cosponsors of S. 2454, "The Emergency Home Finance Act."

SENATE RESOLUTION 171—SUBMISSION OF A RESOLUTION DISAPPROVING THE ALTERNATIVE PLAN FOR PAY ADJUSTMENTS FOR FEDERAL EMPLOYEES

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

Mr. MCGEE. Mr. President, I submit for appropriate reference a resolution disapproving the President's alternative plan for pay adjustments for Federal employees. As Members are aware, the President on September 5, for the third time since 1970, moved to postpone a Federal pay increase which the law provides is to take place each October 1 as a means of bringing Federal pay up to comparability with pay for the same work in the private sector. The President's alternative plan, which the law provides may be sent to Congress if economic conditions warrant, would put off the pay increase until December 1.

The October 1 pay adjustment, under the Federal Pay Comparability Act of 1970, is based upon Bureau of Labor Statistics surveys of comparable positions in private industry made 6 months ago. Thus even on October 1, adjustment would be based on figures already out of date. I am advised that the 2-month postponement will reduce the average employee's pay increase by one-sixth, an average loss of about $120 per Federal employee.

Important in this issue is the fact that the October 1 pay adjustment is itself a catchup adjustment. Federal employees' pay, by law, always follows pay outside government. The postponement recommended by the President means that the compensation of Federal employees would continue to lag. It means that governmental concern over economic conditions would be taken out of the hide of Federal employees who have no recourse but through congressional action.

Mr. President, the Federal Pay Comparability Act established a Federal Employees Pay Council to represent employee organizations on pay matters. This month, the Council urged the President's Committee on Federal pay to recommend a pay increase October 1. The President's Advisory Committee, so far as I know, has not yet recommended a percentage figure to him and the President has not announced the amount of the adjustment he proposes for December 1. In my view, the Bureau of Labor Statistics figures should serve as the principal guideline, and the percentage increase should be computed in the same way as in previous years. And in all fairness, it should be effective in October, not December.

When this resolution is referred to the Post Office and Civil Service Committee, I can promise speedy committee action. It is my hope, then, that the Senate will act upon it before October 1 so that Federal employees can receive the equity they deserve.

The resolution reads as follows:

S. RES. 171

Resolved, That the Senate disapproves the alternative plan for pay adjustments for Federal employees under statutory pay systems recommended and submitted by the President to Congress on August 31, 1973, under section 5305(c) of title 5, United States Code.

SENATE RESOLUTION 172—SUBMISSION OF A RESOLUTION RELATING TO THE PASSTHROUGH OF FUEL COST INCREASES

(Referred to the Committee on Banking, Housing and Urban Affairs.)

Mr. DOMENICI. Mr. President, I send to the desk for appropriate reference a resolution relating to the passthrough of gasoline cost increases under the Economic Stabilization Act of 1970. I am extremely pleased to be joined in the introduction of the resolution by 12 of my distinguished colleagues: my colleague from New Mexico (Mr. MONTOYA) the Senators from Arizona (Mr. GOLDWATER and Mr. FANNIN); the Senators from Texas (Mr. TOWER and Mr. BENTSEN); the Senator fom Oklahoma (Mr. BARTLETT); the Senator from New York (Mr. BUCKLEY); the Senators from Wyoming (Mr. HANSEN and Mr. MCGEE); the Senator from New York (Mr. JAVITS); the Senator from North Carolina (Mr. HELMS); and both Senators from Colorado (Mr. DOMINICK and Mr. HASKELL); and the Senator from Illinois (Mr. PERCY).

The purpose of this resolution is to demonstrate clearly the sense of the Senate that certain regulations devised by the Cost of Living Council for control of prices under phase IV are grossly unfair and inequitable in direct violation of the charge of the Congress under the Economic Stabilization Act of 1970 that such regulations be generally fair and equitable.

Mr. President, the situation I refer to involves the small businessmen of this Nation who are engaged in the retail sale of gasoline. Under phase IV the price he may charge his customers has been fixed at a level which is based on the price his supplier charged him on August 1, 1973, plus a mark-up amount which is in itself totally inadequate in many, if not most, cases.

Leaving aside, for the purpose of these remarks, the inadequacy of the mark-up amount, the most oppressive and unreasonable aspect of these regulations is the fact that the gasoline retailer is not allowed to increase his price even if his supplier raises the price, the retailer must pay to get gasoline after August 1, 1973.

Many of my colleagues and I have been deeply concerned about this situation since we became aware of it. We have expressed our concern by direct communication with officials of the Cost of Living Council and by other legislative initiatives. Typical of the communications efforts was a meeting with high officials of the Cost of Living Council on September 17, 1973, attended by 12 U.S. Senators or members of their staffs and by representatives of gasoline retailers

from 6 States. This was an effort to provide a forum for the direct communication of the deep concern Senators have for the plight of these small businessmen and present documentation of the tragic consequences of this price control plan on the business and lives by some of those people unfortunate enough to be caught in a bind between price controls which they cannot resist yet which they cannot survive. I made opening remarks at that meeting which I will request unanimous consent to have printed in the Extensions of Remarks section of today's RECORD.

Typical of the legislative efforts to bring about remedial action are S. 2453, introduced yesterday, and S. 2415, introduced on September 13, 1973. Both of these bills are directed at the passthrough prohibition currently contained in phase IV regulations. I am a cosponsor of both these bills.

Mr. President, I have no desire to insinuate the Congress into the administrative process of wage and price controls. I do not want us to become involved in the details of what is an extremely complex and difficult matter which the Cost of Living Council has tried to do in an admirable and extremely dedicated manner. My colleagues and I, by this resolution, simply say to those charged with this awesome responsibility that in this case the weakest link, the most vulnerable segment, in the system to deliver gasoline to the consuming public has been singled out as the very segment to absorb the brunt of price controls.

It just does not make sense nor is it fair to allow the corporate giants of the oil industry to increase the price they charge retailers when the retailer is not allowed to pass the increase along. Apparently, the price is easier to control by simply mandating a top price at the gas pump and hoping that the retailer can either absorb any increases from the refinery or force the refinery to back down on such increases. It should be obvious in this period of critical shortage of gasoline, when a refiner can sell all he can produce at any price, that retailers, either individually or collectively, will not be able to pressure the refiner into withdrawing those price increases. The retailer then is faced with a dismal choice, either close up and go out of business or remain open and sell gas at a loss or at too low a profit to stay in business long. In either case, the final result is likely to be the same, the collapse of a business entity which individuals and families have worked and saved for years to establish and maintain and in the aggregate the elimination of a vital part of the system by which this Nation is supplied with gasoline. We cannot let that happen.

This resolution simply says to those charged with the responsibility for creating this situation that this body feels that action must be taken and taken promptly to alleviate an intolerable situation which has such dire consequences.

If remedial action is not taken soon, I will be among those pushing for immediate direct action by the Congress to intervene and turn this gentle nudge into a specific mandate for the Cost of Living Council.

The PRESIDING OFFICER (Mr. HELMS). The resolution will be received and appropriately referred, and printed in the RECORD at this point.

S. RES. 172

Resolved, That it is the sense of the Senate that the President, in exercising the authority conferred by the Economic Stabilization Act of 1970 with respect to price levels applicable to sales of gasoline or diesel fuel grade number two, should permit the pass through of any increase in the cost to the seller of gasoline or diesel fuel grade number two which was lawfully put into effect on or after August 1, 1973.

Mr. BUCKLEY. Mr. President, will the Senator from New Mexico yield?

Mr. DOMENICI. I yield.

Mr. BUCKLEY. I want to subscribe to the comments of the Senator from New Mexico.

I wonder whether he would be willing to amend his resolution to include the independent distributors of fuel oil. Precisely the same situation obtains there. There are dozens of independent dealers who are going out of business at this moment because of their inability to achieve relief in this matter.

Mr. DOMENICI. I am delighted to have the support of the Senator from New York. However, the resolution does include that. I would inform the distinguished Senator that it includes the precise economic group he asks. So, it is in the resolution now.

Mr. BUCKLEY. I thank the Senator. I am delighted that it is in the resolution.

ADDITIONAL COSPONSORS OF RESOLUTIONS

SENATE RESOLUTION 157

At the request of Mr. MCGOVERN, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of Senate Resolution 157, relating to the establishment of domestic and world food reserves.

SENATE RESOLUTION 167

Mr. DOLE. Mr. President, I ask unanimous consent that my name and the name of the Senator from Delaware (Mr. ROTH) be added as cosponsors at the next printing of Senate Resolution 167, regarding the newsprint shortage.

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

DEPARTMENT OF DEFENSE APPROPRIATION AUTHORIZATION ACT, 1974—AMENDMENT

AMENDMENT NO. 527

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

Mr. CRANSTON submitted an amendment intended to be proposed by him to the bill (H.R. 9286) to authorize appropriations during the fiscal year 1974 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces, and the military training student load, and for other purposes.

AMENDMENT NO. 528

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

Mr. BAKER (for himself, Mr. BENTSEN, Mr. BROCK, Mr. ROBERT C. BYRD, Mr. CASE, Mr. DOMENICI, Mr. ERVIN, Mr. FONG, Mr. HANSEN, Mr. JACKSON, Mr. MANSFIELD, Mr. NUNN, and Mr. SCOTT of Virginia) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 9286), supra.

AMENDMENT NO. 529

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

Mr. MATHIAS (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 9286), supra.

AMENDMENT NO. 530

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

Mr. EAGLETON submitted an amendment intended to be proposed by him to the bill (H.R. 9286), supra.

AMENDMENT NO. 531

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

Mr. EAGLETON (for himself and Mr. AIKEN) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 9286), supra.

AMENDMENT NOS. 532 AND 533

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

Mr. MCGOVERN submitted two amendments intended to be proposed by him to the bill (H.R. 9286), supra.

AMENDMENT NO. 536

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

Mr. BUCKLEY submitted an amendment intended to be proposed by him to the bill (H.R. 9286), supra.

AMENDMENT NO. 537

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

Mr. THURMOND. Mr. President, I submit an amendment with which I think everyone here will agree. This is the "Buy American" amendment which was included as part of the House-passed bill.

This amendment will add no cost to the bill, nor will it subtract any cost. It will add no men, nor subtract any men. All it provides is that defense work, whenever possible and equitable, should be done by American workers.

Specifically the amendment provides that, before a defense contract can be awarded to a foreign company, consideration must be given to the following six factors:

First, the increase in unemployment in the United States which may result from using goods which are other than American goods;

Second, the increased cost of unemployment compensation or welfare payments to American workers which may result from using goods which are other than American goods;

Third, the loss by the United States of personal and corporate income tax revenue which may result from using goods which are other than American goods;

Fourth, the loss to the money supply of the United States which may result from using goods which are other than American goods;

Fifth, the cost of shipping and inspecting goods which are other than American goods; and

Sixth, any duty, tariff, surcharge, or other expense which may enter into the cost of using goods which are other than American goods.

Mr. President, I do not see how anyone can object to this amendment.

AMENDMENT NO. 494, AS MODIFIED

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

MILITARY RETIREMENT RECOMPUTATION

Mr. HARTKE. Mr. President, I submit a minor modification of amendment No. 494 to H.R. 9286 and ask that the amendment be reprinted as modified and that the text of the 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. 494

On page 30, following line 4, add the following:

TITLE VIII—MILITARY RETIREMENT

SEC. 801. That notwithstanding any other provision of law, a member or former member of a uniformed service (1) who is sixty years of age or older on the date of enactment of this Act or becomes sixty years of age after such date, is retired for reasons other than physical disability, and is entitled to retired pay computed under the rates of basic pay in effect before January 1, 1972, or (2) who is entitled to retired pay for physical disability under title IV of the Career Compensation Act of 1949 (63 Stat. 816–825), as amended, or chapter 61 of title 10, United States Code, whose disability was finally determined to be of permanent nature and at least 30 per centum under the standard schedule of rating disabilities in use by the Veterans' Administration at the time of that determination, and whose retired pay is computed under rates of basic pay in effect after October 11, 1949, and before January 1, 1972, is entitled to have that pay recomputed upon the rates of basic pay in effect on January 1, 1972.

SEC. 802. A member or former member of a uniformed service who was retired by reason of physical disability and who is entitled, in accordance with section 411 of the Career Compensation Act of 1949 (63 Stat. 823, to retired pay computed under provisions of law in effect on the day preceding the date of enactment of that Act, may elect within the one-year period following the date of enactment of this Act to receive disability retirement pay computed under provisions of law in effect on January 1, 1972, in lieu of the retired pay to which he is otherwise entitled.

SEC. 803. (a) A member or former member of a uniformed service who is sixty years of age or older on the date of enactment of this Act and is entitled to have his retired pay recomputed under the first section of this title shall be entitled to retired pay based upon such recomputation effective on the first day of the first calendar month following the month in which this Act is enacted.

(b) A member or former member of a uniformed service who becomes sixty years of age after the date of enactment of this Act and is eligible to have his retired pay recomputed under the first section of this title shall be entitled to retired pay based upon such recomputation effective on the first day of the first calendar month following the month in which he becomes sixty years of age.

(c) A member or former member of a uniformed service who is entitled to make an election under section 802 of this Act and elects to have his retired pay recomputed as authorized in such section shall be entitled to retired pay based upon such recomputation effective on the first day of the first calendar month following the month in which he makes such election.

SEC. 804. The enactment of sections 801 and 803 of this Act does not reduce the monthly retired pay to which a member or former member of a uniformed service was entitled on the day before the effective date of this Act.

SEC. 805. A member or former member of a uniformed service whose retired or retainer pay is recomputed under this Act is entitled to have that pay increased by any applicable adjustments in the pay under section 1401a of title 10, United States Code, which occur or have occurred after January 1, 1972.

SEC. 806. As used in this title (1) the term "uniformed services" has the same meaning ascribed to such term by section 101(3) of title 37, United States Code, and (2) the term "retired pay" means retired pay or retainer pay, as the case may be.

NATIONAL SCHOOL LUNCH AND CHILD NUTRITION ACT AMENDMENTS OF 1973—AMENDMENT

AMENDMENT NO. 534

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

Mr. HUMPHREY (for himself, Mr. MCGOVERN, Mr. CLARK, and Mr. CASE) submitted an amendment intended to be proposed by him to the bill (H.R. 9639) to amend the National School Lunch and Child Nutrition Acts for the purpose of providing additional Federal financial assistance to the school lunch and school breakfast program.

Mr. HUMPHREY. Mr. President, today I am offering, along with Senators MCGOVERN, CASE, and CLARK, three amendments to H.R. 9639 as reported by the Senate Committee on Agriculture and Forestry.

Congress can well be proud of its record in the area of child nutrition. We have indeed come a long way toward feeding the schoolchildren of America. But the economic realities of today threaten to wipe out part of our investment, unless we act quickly. Our amendments are short and can be summarized in the following way:

First. We propose to increase the section 4 reimbursement from 10 cents to 12 cents. This would be the base reimbursement paid for every meal served.

This is an imperative emergency measure designed to keep the school lunch program intact. A study done by the Select Committee on Nutrition and Human Needs shows what the 20-percent rise in food costs this year have done to these programs.

The average cost of producing a lunch this year will be 61.7 cents. Some go as high as 80 to 85 cents, and none lower than 50 cents. The previous year's cost of production was less than 50 cents. States are faced with, on the average, a 20 percent increase—20 percent of 50 cents is 10 cents. Yet our amendments only ask for a 4-cent hike over last year's level. H.R. 9639 goes to 10 cents. However, they did not have the benefit of the Senate survey, and Representative PERKINS said during the floor debate that he could rightfully ask for a 12-cent figure. We, in turn, could well ask for more than 12 cents.

The select committee's survey indicates what will happen when the schools' production costs go up. They will pass the price along to the students. Experience and recent studies indicate for every 1-cent increase to the students, there is a 1-percent decrease in participation by paying students. If schools go up 5 cents per lunch, and that is a minimal figure, the nationwide program will lose 800,000 children a day.

The price increase hits children from low-middle-income homes who cannot qualify for a free meal. It is unfair that these taxpaying families should be priced out of the program they support. As it is, the paying students are needed to help with the deficit obtained in section 11, or nonpaying meals. Should their participation decrease, the other sections of the program will become more costly.

States and locales are coming along in their efforts to match funds. To preserve this vital program, both fiscally and nutritionally, and not penalize the middle-income child, this amendment is desperately needed.

Secondly, we propose an escalator clause so that reimbursement rates can be automatically raised each year according to the wholesale price index and average hourly wages of employees of eating places. This is a simple way to eliminate this yearly time-consuming crises situation in the school lunch program. It has many precedents in other areas of legislation. The administration has the power to and should do this on their own. It would certainly help tidy up this particular yearly legislative battle. But they have not, so I propose we simply incorporate the escalator clause in the legislation.

Lastly, we propose a provision designed to help keep children of working class families in the school lunch program. The Nutrition Committee questionnaire reveals that those who will drop out of lunch programs as the meal price goes up, and we know they are going up, will be children from families just above the poverty level, and ineligible for free or reduced price lunches under present regulations.

All our amendment does is allow a school, at its option, to go 75 percent beyond the income guidelines in determining who shall be eligible for a reduced price lunch. In other words, under our

amendment a child from a family of four whose income is less than 75 percent above $4,250, shall be eligible, if his school so chooses, for a reduced price meal. The present law allows a school to go 50 percent beyond the base level. We want to go a little further to help out children from those working class families that pay their taxes and need a break feeding their children, but otherwise might not be eligible.

Mr. President, I ask unanimous consent that the amendment in full be printed at this point in the RECORD along with a letter from my own State of Minnesota and a number of excerpts from the select committee survey among States relating to need for higher reimbursement rates.

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

AMENDMENT NO. 534

On page 1, line 8, insert the following: "12 cents per lunch," in lieu of "10 cents per lunch."

On page 3, line 6, insert the following:

"For fiscal years subsequent to the fiscal year beginning July 1, 1974, the Secretary shall prescribe reimbursement rates for lunches served under Section 4 of the National School Lunch Act and Section 11 of the National School Lunch Act and for breakfasts served under section 4 of the Child Nutrition Act of 1966, as amended, that shall reflect changes in the cost of operating a school lunch and breakfast program under this Act by giving equal weight to changes in the wholesale prices of all foods and hourly wage rates for employees of eating places published by the Bureau of Labor Statistics of the Department of Labor."

On page 8, line 1, insert the following:

"INCOME GUIDELINES FOR REDUCED PRICE LUNCHES

"SEC. 7. Section 9(b) of the National School Lunch Act is amended by adding the following at the end of said subsection: *'Provided further,* That, for the fiscal year ending 1974, State educational agencies are authorized to establish income guidelines for reduced price lunches at not more than 75 per centum above the applicable family size income levels in the income poverty guidelines as prescribed by the Secretary.' "

STATE OF MINNESOTA,
St. Paul, Minn., July 30, 1973.

Senator GEORGE MCGOVERN,
Chairman, U.S. Senate Select Committee on Nutrition and Human Needs, U.S. Senate, Washington, D.C.

DEAR SENATOR MCGOVERN: Thank you for your telegram dated July 25, 1973. I am pleased you have afforded me a chance to respond to your five questions.

Our office has collected some data and I will respond to your questions as they were asked in the telegram.

1. Estimated average cost of lunch and breakfast, 1973–74: Breakfast—30 cents; Lunch—70.1 cents.

At this point in time, our office has not complete information from all schools relating to costs of lunch and Breakfast for school year 72–73, however, we feel that the above figures are a good estimate of what the cost will be for 73–74. Several districts in our metro area have been contacted to provide the information. Food and Labor cost date for the last half of school year 72–73 was used as a base for 73–74 cost figures.

2. Yes—Our office feels that student lunch prices will be increased in most of the schools. The ones we know of now have increased from 5 cents to 15 cents. The schools that have not increased prices at this time, I am sure will do so before school starts this fall. All of the schools will be watching costs and meal changes very closely in the first few months of the 73–74 school year.

3. As far as I can see now, the commodity picture does not look good for this school year. I am anticipating a large decrease in the availability of commodities for the School Lunch and Breakfast program. In any case a decrease of commodities for schools will cause them to purchase the needed foods thus driving the meal cost to the child up more. U.S.D.A. purchases have not been made to date as far as we know, thus making it difficult for me to see where any commodities will be in the schools by the time school starts in September 1973.

4. It would be my opinion, that, if Federal reimbursement for Lunch and Breakfast is not increased schools will be faced with one of two choices. The choices being with charging the student the increase in the cost of producing the lunch and breakfast or dropping out of the program. I am sure some will do both, hopefully we will have very few doing the latter.

5. Passage of legislation that would provide for an increase of Section 4 reimbursments from 8 cents to 15 cents as a minimum. Increase in Section 11 reimbursement from 40 cents per lunch to 50 cents. In addition to that authority to provide up to 75 cents per lunch in the cases of the especially needy school.

I think it is time we look at this thing squarely and face up to the actual need of the National School Lunch and Breakfast programs as opposed to continually underfunding them as has been the case. This coming school year is going to be a completely new and different ball game from what it looks like to me at this time. It would be my opinion that some provision must be made for payment in lieu of commodities.

As I am sure you are aware, the State Administrative Expense Funds (S.A.E.) are grossly inadequate for the continued good administration of our programs.

It would be my opinion that an "in line" budget increase using a new formula be authorized. Something must be done in this area. The Midwest Regional Directors have been studying the S.A.E. funding for some 2 years having come to the conclusion that an in-line budget item is the answer as opposed to taking the needed funds off the top of the Section 4 or 11 funds.

In conclusion we in food service are most thankful for all of you and your committee efforts in providing the needed funds to operate the Food Service programs for our Nation's children. Hopefully the school year will be one that we can all be proud of in the feeding of the children of our country.

Sincerely,

CHARLES L. MATTHEW,
Director, School Lunch Section.

NEED FOR 12 CENTS SECTION 4 REIMBURSEMENT

ALABAMA

3. Do you anticipate a decrease in the availability of commodities? Will this affect costs appreciably?

Yes, I do anticipate a decrease in commodities. The decrease in the availability of commodities will have a disastrous effect on the cost of producing meals. Had it not been for commodities and the commodity shortfall funds last year, many school food service programs in Alabama would be bankrupt.

a. There will be a significant reduction in the number of paying students participating;

b. There will even be a reduction in the number of students participating who are eligible to receive free or reduced price meals;

c. There is also the danger that school food service programs will reduce the quality and quantity of meals to the point where they will not meet the minimum nutritional requirements for reimbursement.

ARKANSAS

2. Many schools were forced to increase prices by 5 cents to 10 cents to students for paid meals during the past school year. The majority of schools report now that there is no alternative except to increase the price again this year. Increased charges to students will reflect a price of 45 cents to 50 cents for lunch and 20 cents for breakfast. This action could result in a decrease in participation by as much as 6 percent to 10 percent of paid students.

FLORIDA

4. Past performance has shown that when sales prices increase 5 cents, that participation decreases by 10 percent and fixed costs remain the same. Therefore, we anticipate a reduction in participation of 12 percent–15 percent.

As you know, these students (the 12 percent–15 percent) are the borderline students—economically. That is, they are *not* economically needy, but certainly not affluent enough to afford 65 cents lunches every day.

GEORGIA

2. School administrators recognized a need for 5 to 10 cents more revenue per lunch. Such an increase in sale price is expected to reduce participation of paying children by 10 to 20 percent.

IDAHO

4. If reimbursement rates are not increased, what will the specific effects be in your State? If they are, will participation decrease?

If reimbursement rates are not increased, schools will increase their prices accordingly. Participation will drop because increase in prices drops many children from the program. Many will not ask for a free lunch but will bring a lunch from home.

ILLINOIS

4. With the shortage of dollars for education, we see no alternative for the lunch program other than increasing prices. This will have to be done with the full knowledge that the effect will be a decrease in participation in direct proportion to the price increases. Our experience has shown that each penny increase in the cost of meals results in approximately a 1 percent decrease in participation.

INDIANA

4. Reimbursement rates should be increased in order that we may continue to feed children. If they are not, the *needy schools* will suffer more than the less needy and *may even be forced to reduce or close their operation for lack of funds.*

5. It is our recommendation that the reimbursement rates be increased to *12 cents per meal* and a larger allocation of commodities or cash in lieu of commodities be made available to schools.

KENTUCKY

4. There is prevalent among school food service officials in Kentucky a cliche of a sort which goes something like this: "Someone must pay the fiddler". The same is true as far as food is concerned, and the food bills as well as the labor bills must be paid. When there are three sources of funds, namely from the Congress, from a State appropriation, and from the paying child, in the face of increased prices the paying child must be tapped for an additional source of funds if the other two are leveled off. It is our feeling that unless sufficient funds are available to pay the bills the attitude of the school officials will be such that services will be curtailed and the performance affected so that a reduced participation rate will result. It also could be that the quality of the meal will be reduced to the point that the meal service will be rejected with a corresponding result in decreased participation. Still another factor would be that the greater reliance could be put upon the donated foods as they become available, and to the point where the repeated use of an item such as dry beans can create an attitude of rejection.

5. It is the recommendation of the Kentucky Department of Education that:

a. the general cash for assistance rate be

increased to 10 cents from the present 8 cent rate;

b. the maximum rate for free lunches in "especially needy schools" be increased to 65 cents from the present 60 cent rate;

c. the Special Milk Program be funded in full and continued as during previous years; and,

MAINE

(b) We are approaching the point in the program where local community effort is being taxed to saturation point. Most communities in the State of Maine have been very willing to support the program with tax appropriated funds but with spiraling costs the budgets for all school operations are being taxed to the limit.

(c) If prices to paying students have to increase again after the increase which was necessary March 1, 1973 we can expect a dramatic reduction in participation of paid meals. We are approaching the point where if paid meal participation continues to decrease, the program will become a "welfare program." This, in turn, will discourage the low income youth from participation as his participation will identify his economic status, particularly at the Junior High and High School levels.

5. (a) A minimum of 12 cents and 45 cents with an escalator clause to cover sharp increases in prices is needed. As we are now faced with emergency conditions with spiraling food and labor costs, we must have increased reimbursement rates prior to the opening of school so that administrators will have the confidence to start the programs at the beginning of the school year.

MARYLAND

4. If reimbursement rates are not increased, there will undoubtedly be an increase in the price of lunch to the paying child and/or a drastic reduction in the quality of the meal. A five cent increase in the lunch prices causes a 5–10 percent decrease in lunch participation or an 8 percent statewide decrease. School systems with the lower cost of lunch to the child have higher participation rates. A pilot study conducted in one local school system showed increased participation when the price of lunch was lowered.

5. With the availability of State money to help underwrite the cost of free and reduced price lunches, the area of greatest need in the State of Maryland is an increase in the national average lunch payment from general cash-for-food assistance for lunches from the present 8 cents to a national average of 15 cents. This is urgently needed in order not to price the paying child out of the market.

MASSACHUSETTS

Without compensatory increases in federal cash requirements and in the value of available free food commodities, all school food service programs are headed for financial difficulty.

Increasing charges to the children, which have been at an average of 35 cents for lunches and 20 cents for breakfasts is not the answer. To offset anticipated 25 percent increases in labor and food costs, charges for lunches would have to be increased by about 15 cents and for breakfasts, about 10 cents.

Previous experience indicates to us that each 5 cent increase in charges will surely result in a 20 percent decline in the number of children purchasing either lunches or breakfasts. It is frightening to contemplate the separation of at least 300,000 children each day from needed nutritional supplementation.

You ask what suggestions we would make to improve these programs in light of increased costs. Rather than 10 cents, the average payment for paid lunches should be increased to at least 12 cents and the special assistance factor for free lunches to at least 55 cents. Breakfast reimbursement rates should be increased also in recognition of cost increases.

MICHIGAN

4. Without increased reimbursement rates to at least 12 cents under Section 4, and 50 cents under Section 11, combined with "commodity shortfall" legislation, our school lunch programs will be discontinued by the dozens. A few high schools have already dropped out in favor of a-la-carte and vending machine service.

MISSOURI

(4) For fiscal year 1974, a categorical state appropriation as required under Public Law 91–248 will provide approximately 1.4 cents per lunch. It is my judgment that if Federal reimbursement rates are not increased to cushion the shock of anticipated continuing inflationary trends there can be no doubt that participation on the part of paying students will continue to decline. History has told us that each time we have an increase in the charge for lunches it has the effect of pricing a number of the middle and lower middle income children out of the program. This is the very group that has represented our major participants in the expansion and growth of the program over the past 28 years. At the same time we should be reminded that the middle and lower middle income families represent the largest segment of our tax paying population that are contributing toward sustaining the availability of free lunches for needy children. In many, many instances there is very little difference between the income of these families and those declared to be eligible for free lunches under Federally mandated policy regulations. These are the families that are most drastically affected by inflation. Without their continued participation and contributions, we would seriously question the logic in continuing to operate School Food Service Programs strictly for the needy who are guaranteed free lunches by our Federal Government. The schools of this nation were established for the education and training of children (all children), the affluent, middle income, and the needy. At the present time, lunches are available to all children in our schools. The record will show that our lowest participation comes from the affluent; therefore, without the volume participation from the middle and lower middle income groups, it would seem illogical that we could justify continued offering of school lunches on school premises for just one segment of the school population, the needy. Even if lunch programs were continued on such a basis, would this not be a form of identification?

NEVADA

1. We estimate the average cost of producing a lunch will be 80 to 85 cents which is 20 to 25 cents more than last year. We estimate the average cost for producing a breakfast will be 45 cents which is 20 cents more than last year.

4. We believe participation will decrease unless reimbursement rates are increased.

SOUTH DAKOTA

4. If reimbursement rates are not increased, what will be the specific effects in your State?

With 30 to 35 percent of our students eligible for free lunches if reimbursements are not increased who will pay the difference? Many school boards are having difficulty now meeting costs and will not channel funds into breakfasts and lunches. Their only alternative would be to force the paying child to absorb the costs. This will destroy programing.

If rates are increased it will provide more opportunity for the needy to eat and allow managers some alternative from beans and macaroni. The rates should go to 12 cents and 50 cents but 10 cents and 50 cents could help ensure survival of many programs.

VIRGINIA

4. If reimbursement rates are not increased, what will the specific effects be in your State? If they are, will participation decrease?

Programs cannot operate at a deficit. There will be a decrease in the quantity and variety of foods served. Some schools may be forced to go off the program. It is recognized each time there is an increase in the price of lunch or breakfast there is a decrease in participation. The higher the increase, the greater the drop in participation. Increased reimbursement will help to keep price increases at a minimum.

TEXAS

4. If reimbursement rates are not increased to offset the increase of food and labor for the various school districts, we believe it will have a negative effect upon all Child Nutrition Programs and eventually could cause some districts to discontinue the Program. We anticipate that the increase in the price of lunches to students will cause a decrease in participation.

FOREIGN ASSISTANCE ACT OF 1974—AMENDMENT

AMENDMENT NO. 535

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

Mr. TUNNEY. Mr. President, today I am offering an amendment to S. 2335, the Foreign Assistance Act of 1973, which will for the first time enact into law strict prohibitions against the use of American assistance and American materials to support the military actions used by Portugal to maintain the subjugation of more than 14 million people in its African territories. American policy has for many years opposed Portugal on its African territories, but I believe the Congress should now act to formalize and stiffen this policy by adopting this legislation. The House of Representatives has already added the provisions of this amendment to its foreign aid bill; the Senate should now join in completing the congressional mandate against Portugal's territorial wars.

Portugal's continued colonial position in Africa is an anachronism of this seventh decade of the 20th century. Portugal calls its African territories of Angola, Mozambique, and Guinea-Bissau an "integral" part of metropolitan Portugal, but the United Nations by overwhelming vote has rejected this ploy—the same used by the French in Algeria—by which Portugal seeks to avoid outside scrutiny of her policies. No circumlocutions or pious statements can hide the fact that Portugal is the last European nation to keep black Africans in colonial bondage, to deny them self-government and self-respect. Although the population of these territories is over 95 percent black, the administration is completely in the hands of the Portuguese Government, directed from Lisbon. Opportunities for education and employment are severely restricted for blacks; over 95 percent are illiterate.

The people of Angola, Mozambique and Guinea-Bissau have been struggling for their freedom. Steadily growing in strength, the liberation movements have in recent years received direct support from European governments, including other NATO allies of Portugal. Since 1960, there have been repeated resolutions in the United Nations calling on Portugal to move toward self-government in its African territories; the votes

have been overwhelming in both the General Assembly and the Security Council.

The result of the liberation movement is that the Portuguese territories have become armed camps, and the scene of fighting, disruption and even massacres, frighteningly similar to the experience in Vietnam. There are some 140,000 Portuguese troops now in the three territories, mostly white, metropolitan Portuguese. This constitutes about half of the Portuguese Armed Forces. The cost of military forces constitutes almost 50 percent of the Portuguese budget. Although the country is poor, it spends a larger percentage of GNP on defense than any other NATO country except the United States.

The reports of the military action from Africa have a hauntingly familiar ring. Herbicides are used to defoliate large areas where liberation movement guerillas are thought to hide. Villages are uprooted and centralized in a 1970 version of "strategic hamlets." There are regular reports of massacres of villagers. The most recent spate of such stories occurred last summer, and concerned the total destruction of a village in the Tete province of Mozambique; these reports have been corroborated by numerous journalists and the International Commission of Jurists. The Portuguese authorities have refused to allow any outside, independent observers to visit the area of the massacre, and by indirect statements have admitted the possibility that such an event took place.

The liberation struggle of the people of Angola, Mozambique, and Guinea-Bissau is leading to an escalating spiral of violence and brutality. A peaceful solution to this struggle—the granting of self-government to these territories—will be in the best interests of Portugal and the people of the territories. The United States must do all it can to minimize the violence and promote a peaceful solution, and the first and most important step must be to continue to prevent any U.S. arms or equipment from being used in the military struggle. It is a matter of fundamental, moral commitment that we must refuse to support, in any way, materially or diplomatically, the continuation of Portuguese colonial rule. And it is also a question of good politics. This policy is important for our relations with the entire third world—all the nations who were once colonies. These are the nations from which the United States obtains many natural resources. They have vast populations which will provide markets for the future. This issue is as important to them as any other.

To be sure, American policy toward Portuguese colonialism in Africa, for the most part, has been good. In our political relations with Portugal, we have consistently stated our opposition to their policy of maintaining non-self-governing territories, and urged them to grant self-government to Angola, Mozambique, and Guinea-Bissau. U.S. Ambassador Adlai Stevenson said in the Security Council in 1963:

> We have steadfastly supported the principle of self-determination. . . . it was first expounded as a universal doctrine by Woodrow Wilson at the end of the first world war. At that time it was still a new idea—though persuasive enough to contribute to the creation of many independent nation-states both in Europe and in the Middle East as successors to the Austro-Hungarian and the Ottoman empires. The right of peoples to choose the terms of their political, economic and social destiny is written into our Declaration of Independence and our Constitutions, as it is written into the Charter of the United Nations.
>
> Hence the United States Delegation has continuously supported in the United Nations, since the initial consideration of Angola in the Security Council, measures calling for Portuguese recognition of this principle and for an acceleration of political, economic and social advancement for all inhabitants of Portuguese territories towards the full exercise of this self-determination. Consistent with this belief, we have publicly and privately and continuously urged Portugal to accept this principle and give it practical effect for the peoples of Portuguese territories.

A second aspect of our policy has been an arms embargo to Portuguese Africa. Since the Kennedy administration, we have had a policy to refuse shipments of military equipment which would or could be used in the Portuguese territories, whether the shipments were directly to the territories or to Portugal. We have given military equipment to Portugal only for use in Europe, in support of NATO commitments. This policy predated and has been consistent with U.N. Security Council resolutions calling for an arms embargo.

While U.S. policy has been clear in the past, there are disturbing signs that it has retrogressed under the Nixon administration. This administration has been noticeably more friendly to Portugal than earlier administrations have been. At the time the United States and Portugal signed an agreement for continued use of the Azores base, the United States for the first time in 10 years failed to express opposition to Portugal's African policy. Recently in the United Nations, Ambassador Bush pointedly indicated that his view of "self-determination" meant that the people of Angola, Mozambique, and Guinea-Bissau might choose to remain under Portuguese rule, a statement which can only encourage Portugal to conduct rigged elections.

Even more disturbing than these signs of political backsliding has been a hint of a growing "leakiness" of the arms embargo. We have discovered that through some warped reading of the embargo rules, the United States supplied Portugal with herbicides which have been used in the African territories. Also, we have allowed the private sale of Boeing airliners which are being used to transport troops between Portugal and the territories, and the sale of other light aircraft whose use in the territories is suspect, at least.

It is no longer sufficient to rely on the executive branch alone to make and enforce a policy against Portugal's African colonialism. The political attitudes of the Executive will remain out of our control, but the Congress has the opportunity and the responsibility to enact into law firm rules for our assistance programs and export licensing—both areas within our jurisdiction—to insure that American actions are consistent with the moral and political requirements of dissociation from a regressive policy. The initiative for congressional action started in the House of Representatives, where the provisions of this amendment were added to the foreign aid bill last July, under the leadership of Representative ANDREW YOUNG. I am pleased to introduce this amendment in the Senate so that our body may join with the House in enacting rules and policy to govern our involvement with Portugal's African policies. It is also my hope that, by enacting this legislation, we may give the administration not only an indication of Congress's views, but additional ammunition to use in urging change in Portugal's policy.

The amendment which I am introducing today begins with a policy statement. This statement makes it the policy of the United States that none of its assistance programs, nor any items of equipment exported from the United States, should be used to help maintain the present status of Portugal's African territories. This policy statement will remain in effect so long as the territories of Angola, Mozambique, and Guinea-Bissau do not have genuine, uncoerced self-determination and self-government, with full local control over internal and external relations.

The policy, as far as the United States is concerned, shall be one of complete and total noninvolvement. Nothing which the United States does shall help Portuguese military activities in Africa. This should include aid or equipment which is used by the Portuguese military forces in Africa, and it should also cover aid or equipment which is used in or exported to the African territories, and which has a substantial likelihood of being used by or in support of military operations. I think it would have covered some of the aircraft sales previously approved. The policy statement is not designed to restrict programs or exports which go to metropolitan Portugal, for use in NATO, and which have little likelihood of being used in Africa. The policy statement itself does not appear in the House version, but it is consistent with the policy of the amendment adopted in the House.

In its operative provisions, the amendment calls on the President to make an investigation and findings regarding certain U.S. programs. The President is asked to report to Congress, as soon as practicable, that after the date of enactment of this amendment none of these programs is being used to support Portuguese military activities in Africa. A standard for these determinations is the same as that described in the policy statement.

The following programs are to be examined by the President for adherence to the policy statement:

First, assistance under the Foreign Assistance Act of 1961. This covers economic aid, of which there is none presently to Portugal, and grant military assistance, which continues.

Second, sales under the Foreign Military Sales Act. Any sales under U.S. Government auspices, whether for cash, credit, or by guarantee, are to be consistent with the policy statement.

Third, programs under the Agricul-

tural Trade Development and Assistance Act of 1954. The sale of agricultural commodities under the food-for-peace program, and the use of any local currencies generated by such sales, or from any other U.S. programs, shall be governed by the policy statement. We have an agreement to sell $30 million in Public Law 480 food to Portugal, although that sale is being made for dollars.

Fourth, export licenses. A large majority of items exported from the United States go under a general license, which requires no decision by U.S. Government agencies. Such exports are not covered by section B(1)(d). All other items, however, require a so-called validated export license to be granted by the Commerce Department. This includes any military items on the munitions list, and certain other major items, such as aircraft and helicopters. I would expect that part of the ongoing administration action to implement the policy of this section will be a continuing review of the regulations defining which items need a validated export license. This provision is a new one, not present in the House version, but it represents a major loophole if it is not covered in this legislation.

This legislation requires that the President look hard and long at our assistance programs and export licensing activities. The benefit of the doubt should be placed on the side of restricting assistance and exports involved with the African territories, not on the side of giving Portugal its requests. This legislation requires us to examine and "sanitize" all of our own programs. If a program appears on balance to be of use to Portugal primarily for subduing opposition in Africa, then we should cease that assistance. One example I would give is counterinsurgency-type military training; this would have little relation to NATO defense.

With respect to items of equipment, a distinction must be drawn between those which the United States provides in aid or sales programs, and private exports. Our policy up to now has been—and must continue to be—to require Portugal to give written assurances that it will not use military equipment supplied by the United States in Africa. We should, of course, not even offer any equipment which would appear to be needed primarily for the African military activities. In the case of granting export licenses, the United States may not be able to acquire a written guarantee by Portugal, since that might interfere with private contracts. Government lawyers should examine that problem, but if they find the United States cannot require such guarantees, the amendment will require very careful examination of all requests for validated export licenses to Portugal or the African territories, and refusal of any items which have a reasonable likelihood of being used in support of the military activities.

The amendment further provides that the President should report annually on the use of the assistance programs and exports as described in section B(1). That report shall also specify what steps the Government takes to assure compliance in these assistance programs and export licenses, with the policy declaration. Of course, if there is evidence discovered of a violation by the Portuguese of the rules under which these items are given, or a flaw in our own programs, the President would be expected to make an interim report immediately.

The last section of the amendment deals with sanctions against violation of the policy. The amendment provides that, whenever the President reports to Congress that any of the categories of assistance or exports is being used by Portugal to support its military actions in Africa, all the aid and export licenses will be cut off until the situation is corrected by the Portuguese Government or the U.S. Government. If the administration is vigilant in examining our own programs, and forthright with the Portuguese about permissible uses of U.S. equipment or aid, there should be no problems. Ideally, the President, consistent with present policy, will not allow sales or aid which have any chance of being used in Africa; then there will be no need for sanctions.

I look forward to congressional adoption of this amendment, after working out small differences with the House version. This amendment will put the United States legally on record against a policy which is condemned by every nation in the world. This amendment will give the administration more support to continue the policy of arms embargo and nonsupport for Portuguese military involvement in Africa, while leaving the administration free to maintain policies important for the NATO defense. Passage of this amendment will be important for our country, and it will also be important in restoring Congress to its necessary role in our foreign policy. I urge adoption of this amendment when S. 2335 reaches the floor.

Mr. President, I ask unanimous consent for the amendment to 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. 535

On page 19, line 12, insert the following:

"SEC. 16. Chapter 3 of Part III of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new section:

"'SEC. 659. Limitation on Assistance to Portugal—

"'(A) The Congress declares that it is the policy of the United States that no military or economic assistance furnished by the United States, nor any items of equipment sold by or exported from the United States, shall be used to maintain the present status of the African territories of Portugal.

"'(B)(1) The President of the United States shall, as soon as practicable following the date of the enactment of this Section, make a determination and report to Congress with respect to the use by Portugal in support of its military activities in its African territories of—

"'(a) assistance furnished under the Foreign Assistance Act of 1961, as amended, after the date of the enactment of this Section;

"'(b) defense articles or services furnished after such date under the Foreign Military Sales Act, as amended;

"'(c) agricultural commodities or local currencies furnished after such date under the Agricultural Trade Development and Assistance Act of 1954, as amended, or any other Act; or

"'(d) items for which validated export licenses are granted after such date for export to Portugal or its territories.

"'(2) The President shall include a report similar to that specified in the previous subsection in each year at the time of submitting the budget request for foreign assistance. Such report shall also specify the steps being taken to implement the policy contained in this section.

"'(C) All assistance, sales, and licenses referred to in the preceding paragraph shall be suspended upon the submission to Congress of a report by the President containing his determination that any such assistance, or item so furnished or exported, after such date, has been used in support of Portugal's military activities in its African territories. Such suspension shall continue until such time as the President submits a report to Congress containing his determination that appropriate corrective action has been taken by the Government of Portugal. The authority contained in Section 614 of this Act shall not apply to programs terminated by reason of this Section.'"

On page 25, line 21, change "SEC. 16" to "SEC. 17."

On page 28, line 5, change "SEC. 17" to "SEC. 18."

On page 28, line 10, change "SEC. 18" to "SEC. 19."

On page 28, line 20, change "SEC. 19" to "SEC. 20."

On page 29, line 4, change "SEC. 20" to "SEC. 21."

On page 29, line 10, change "SEC. 21" to "SEC. 22."

On page 30, line 4, change "SEC. 22" to "SEC. 23."

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 494

At the request of Mr. HARTKE, the Senator from Florida (Mr. GURNEY) and the Senator from Wyoming (Mr. MCGEE) were added as cosponsors of amendment No. 494 intended to be proposed to the bill (H.R. 9286) the Department of Defense Appropriation Authorization Act, 1974.

AMENDMENT NO. 502

At the request of Mr. HARTKE, the Senator from Nevada (Mr. CANNON) and the Senator from Tennessee (Mr. BROCK) were added as cosponsors of amendment No. 502 intended to be proposed to the bill (S. 2335) to amend the Foreign Assistance Act of 1961.

CONSUMER PRICE INCREASE WORST SINCE SEPTEMBER 1947—NOTICE OF HEARINGS

Mr. HUMPHREY. Mr. President, in view of the August consumer price increase of approximately 2 percent, and the August food price increase of roughly 6 percent, I have scheduled hearings on these price increases before the Consumer Economics Subcommittee of the Joint Economic Committee. The hearings are to be held next week on September 25 and 26.

The purpose of these hearings will be to assess the impact on consumers of these historically high price increases, particularly for food, and the adequacy of President Nixon's anti-inflationary program.

The Congress should examine the current inflation in detail. Inflation is ac-

celerating and there are no signs of relief, let alone improvement, for consumers.

The August increase of 2 percent in the CPI is the sharpest 1-month rise since 1933. That inflation having been the result of years of pent-up demand caused by World War II. This monthly increase is three times the average monthly increase we have had so far in 1973, and the rate of inflation so far in 1973 is running at an annual rate of about 10 percent.

The monthly increase in food prices of about 6 percent is particularly outrageous in view of the fact that food prices in the first half of 1973 increased at an annual rate of about 28 percent.

This 6-percent increase in food accounts for about 80 percent of the August consumer price increase. Much of the remaining increase is in the service area, a new problem on the inflation front, and is the result of high mortgage interest rates brought about by the administration's credit squeeze policies.

Yet in his September 10 message, the President told Congress that the key to halting inflation is to cut Federal spending.

I fear that the President is depending on overly simple policies for dealing with the current inflation will lead to a continuation of high prices for consumers.

From the evidence we have already gathered before the Consumer Economics Subcommittee, it appears that the current inflation is in large measure due to supply shortages in the areas of food, fuel, and raw materials.

The conventional tools of monetary and fiscal policy, including cuts in Federal spending, will not bring more oil into production or affect the hog-cycle.

I have asked both administration and private witnesses to evaluate the President's anti-inflation program on the basis of its record so far this year and the August consumer price statistics.

I have also asked for another detailed explanation of the food situation, both in terms of international considerations of supply and demand, and the consumer cosiderations of reasonable prices here at home.

Finally, I have asked for an assessment of how these high rates of inflation are affecting the consumer's standard of living, and how inflation may affect the consumer's future economic behavior and the overall performance of the economy.

All hearings will begin at 10 a.m. A list of witnesses is as follows:

Tuesday, September 25, 1973—Room 1202, Dirksen Senate Office Building: Gary Seevers, member, Council of Economic Advisers.

On Wednesday, September 26, 1973, room 4202, Dirksen Senate Office Building: Arthur M. Okun, the Brookings Institution; F. Thomas Juster, Institute for Social Research, University of Michigan; and Howard W. Hjort, consulting food economist.

Members of the Subcommittee on Consumer Economics are:

SENATE

HUBERT H. HUMPHREY, Democrat, of Minnesota, chairman.

WILLIAM PROXMIRE, Democrat, of Wisconsin.

ABRAHAM RIBICOFF, Democrat, of Connecticut.

JACOB K. JAVITS, Republican, of New York.

CHARLES H. PERCY, Republican, of Illinois.

HOUSE OF REPRESENTATIVES

WILLIAM S. MOORHEAD, Democrat, of Pennsylvania.

MARTHA W. GRIFFITHS, Democrat, of Michigan.

HENRY S. REUSS, Democrat, of Wisconsin.

HUGH L. CAREY, Democrat, of New York.

WILLIAM B. WIDNALL, Republican, of New Jersey.

CLARENCE J. BROWN, Republican, of Ohio.

NOTICE OF HEARINGS ON BILLS TO CODIFY, REVISE, AND REFORM THE FEDERAL CRIMINAL LAWS

Mr. McCLELLAN. Mr. President, I wish to announce for the information of the Members and the public that the Subcommittee on Criminal Laws and Procedures will hold open hearings on September 26 and 27, 1973, to continue the study of S. 1 and S. 1400, bills to codify, revise, and reform the Federal criminal laws.

The hearings will begin each day at 10 a.m., on the 26th in room 1318, Dirksen Senate Office Building and on the 27th in room 2228, Dirksen Senate Office Building.

During this series the subcommittee will have as witnesses representatives from the Department of Justice on provisions relating to civil rights and elections.

Additional information on these and further hearings is available from the staff in room 2204, Dirksen Senate Office Building, telephone 202–225–3281.

ADDITIONAL STATEMENTS

EMPLOYMENT OF AMERICAN CIVILIAN ADVISERS AND TECHNICIANS IN VIETNAM

Mr. FULBRIGHT. Mr. President, the Committee on Foreign Relations has just received the Department of State's second quarterly report on the employment of American civilian advisers and technicians in Vietnam. It is interesting to relate these statistics to the earlier stated intentions of the administration as regards these personnel.

In this connection, I would call the attention of my colleagues to the following portion of a staff report prepared for the committee on June 11, 1973, entitled "Thailand, Laos, Cambodia, and Vietnam, April 1973":

There are plans to reduce the number of direct hire and contractor personnel. A fact sheet which we were given in Washington stated that Defense Department direct hire civilians would be completely phased out by the end of January 1974. This paper, which was dated March 20, 1973, also stated that contractor personnel would be reduced to "about 4,000 by the end of March, to less than 2,000 by the end of the year, and to approximately 500 very soon thereafter."

We were told that it was understood under the agreement that civilians not engaged in giving military training or advice to the Vietnamese military or police units are not military advisers even if they are attached to military units or concerned with the supply or maintenance of military equipment. Therefore, the United States apparently considers there is no question as to the legality of the presence of Defense Department civilians or contractors.

[Deleted.]

The previously noted withdrawal schedule apparently was based on the expectation that there would be a real cease-fire after January 28, an expectation which has yet to be realized. How the continued fighting will affect the withdrawal of Defense Attache Office personnel is not yet clear. It is apparent, however, that the initial withdrawal schedule has already been modified in the light of circumstances which have developed since January 28.

In our initial briefing by the Defense Attaché Office in Saigon we were told that contractor personnel then on duty numbered 4,917 (and thus were not "about 4,000" as anticipated), and we were shown a slide which indicated that the number expected to be in Vietnam after January 1, 1974 was 2,136 (rather than "less than 2,000," as indicated in the March 20 paper) and that the number remaining after July 1, 1974 would be 1,099 (while the March 20 paper had said that it woud have dropped to "approximately 500" very soon after January 1, 1974). We were told in a Defense Attaché Office briefing on April 13 that the number of Air Force contractors would be 2,644 after July 1, 1973 and 1,703 after January 1, 1974. Three days later we were informed that these figures had been revised upward as follows: 2,800 remaining after July 1, 1973 and 1,926 after January 1974. The explanation given for the adjustment in the withdrawal schedule was that fighting had continued at a higher than anticipated level, thus necessitating a higher level of support activity, and that, in the case of Air Force contractors, Vietnamese Air Force personnel "have been diverted because of operating requirements."

I ask unanimous consent that the letter of August 8, 1973, signed by the Assistant Secretary of State, Marshall Wright, transmitting the quarterly report on advisers and technicians be printed in the RECORD at the conclusion of these remarks.

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

DEPARTMENT OF STATE,
Washington, D.C., August 8, 1973.

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

DEAR MR. CHAIRMAN: As you will recall, my letter of June 1, 1973, submitted the Department's second quarterly report on the employment of American civilian advisers and technicians in Viet-Nam.

I am enclosing the Department's third quarterly report.

As of June 30, 1973, the Department of State had 160 direct-hire employees (including 38 TDY) in Viet-Nam while the United States Information Agency had 32. Enclosure 1 gives the breakdown by function of the employees, who were on direct-hire by the Agency for International Development as of that date. Enclosure 2 breaks down the 53 employees under the Participating Agency Service Agreements. And enclosure 3 describes all AID contracts.

The Department of Defense informs us that the Defense Attache Office has 1,200 (its ceiling) direct-hire civilians. DOD contracts as of June 30, 1973, are listed in enclosure 4 and total 3,508.

I hope the above information will be helpful to you.

Sincerely,

MARSHALL WRIGHT,
Assistant Secretary for Congressional Relations.

U.S. Government direct hire Vietnam employees—AID—as of June 30, 1973

Category:	Number of employees
Administrative management*	105
Program management*	52
Financial management	18
Secretaries	51
Auditor general	38
Agriculture	49
Food for peace	5
Business and industry	14
Engineering	28
Equipment operations/maintenance	22
Transportation	8
Labor	3
Public health/population	28
Education	10
Public administration	11
Public safety	0
Community and social organizations	108
Procurement and supply	33
Capital development	4
Total	587

*Includes 4 State Department employees on reimbursable detail to A.I.D.

VIETNAM ASSIGNED PASA PERSONNEL PER CM/PAS RECORDS AS OF JUNE 30, 1973

AGENCY	
USDA—Agriculture technicians	27
Commerce/Census Bureau	2
Commerce/NOAA/Marine Fisheries	2
HEW/Public Health Service	0
Department of Labor	1
GSA	1
DOT/FAA—Flight controllers, et cetera	5
Treasury/IRS	6
Treasury/Bureau of Customs	9
Total	53

ACTIVE USAID/VIETNAM CONTRACTS WITH U.S. FIRMS

CONTRACTOR, PURPOSE OF CONTRACT, AND NUMBER OF PERSONNEL

International Rescue Committee: To provide technical services to assist in the RVN refugee relief program; 2.

Quinton-Budlong, Inc.: To provide tech, and training servs. in support of the efforts to improve and expand the present GVN security telecom facilities; 7.

International Training Consultants: To train training directors of GVN agencies; 2.

USAID Snack Bar: Basic contract for a variety of semi-official services for USAID; 3.

Control Data Corp.: To provide assistance in implementing the land-to-the-tiller law; 1.

International Rice Research Institute: High-yield rice production study to increase rice production in Vietnam; 3.

C. W. Robinson & Co.: Assist GVN in planning, operating, and development of an industrial development bank; 1.

Thomas H. Miner & Assoc., Inc.: To assist the GVN in the divestiture program for certain companies (basically in sugar, textiles, cement and mineral water) now owned by the GVN; 3.

Adrian Wilson & Assoc.: Feasibility study for expansion of Thu Duc water treatment plant; 2.

Southeast Asia Computer Assoc.: GVN Computer Center Advisory Team; 9.

Lone Star Mult. Dev. Corp.: Construction of the National Crops Training & Testing Center, My Tho; 3.

Southeast Asia Computer Assoc.: GVN computer facilities management team; 6.

Asian Psychometric Consultants: USAID staff development center; language, office skill in instructors; 3.

Lyon Associates, Inc.: Engineering & design services, potable water project; 11.

Minnesota (3M) Graphic Service, Inc.: Maintenance of 3M equipment; 1.

Vinnell Corp.: VECCO—managerial & technical advisory assistance (host country contract); 22.

DMJM: Technical advisory services to RVNAF highway const. program; 23.

Phuong Nam Kien Tao: Highways improvement: Route QL–4 from Saigon to My Thuan; 1.

De Leuw, Cather Int'l Inc. & Asiapac Fargo, Inc.: VDA—managerial & technical advisory asst.; 3.

Roy Jorgensen Assoc.: Senior advisory services to DGOH; 7.

G. Tracy Atwood: Adaptive agricultural research project for Montagnards; 1.

Checchi & Co.: To assist in the development of the NEDEF; 2.

Motorola, Inc.: USAID telecommunications project; 5.

DMJM: Equipment management advisory services—DGOH; 17.

Artdom Dev. Corp.: Maintenance and repair of USAID air-conditioning equipment; 1.

Roy Jorgensen Assoc.: To furnish advisory assistance support and training to key DGOH management staff; 1.

Kentron Hawaii Ltd.: Improvement of fiscal administration; 2.

Geo Hydro: Maintenance, repair, and reconditioning of IBM electric typewriters and dictation machines; 1.

Quinton-Budlong, Inc.: To provide advisory and technical services for the CPDC secondary line, Saigon-Can Tho; 5.

DMJM & Geo Control, Inc.: Management advisory services and general engineering; 9.

DMJM: Inspection & supervision of const. services—Route GL–1; 2.

Lyon Associates, Inc.: Inspection & supervision of const. services—Route QL–4; 2.

De Leuw, Cather & Asiapac Fargo: Supervision of construction services—Routes HL–9—QL—1—Section I and QL–1—Section II; 6.

Asiapac Fargo & Holmes & Narver: Study to develop a plan for implementation of accelerated installation of infrastructure for industrial parks at Bien Hoa and Cam Ranh Bay; 13.

World Rehabilitation Fund: To assist GVN in establishing a Nat'l Rehabilitation Institute & program with emphasis on war casualties, & military; 2.

Children's Medical Relief Int'l.: Assistance in plastic reconstruction and rehabilitation surgery primarily for treatment of children; 1.

MWK & Associates: Const. of additional steam power generation capacity and transmission facilities Thu Duc; 1.

University of Florida: Advice & asst. to the College of Agriculture, Thu Duc to insure basic economic & rural development; 4.

Institute for Defense Analysis: Economic analysis & evaluation support to the ministry of planning & asst. to the National Bank; 3.

University of Missouri: To assist the Ministry of Education in the up-grading & expansion of engineering education; 3.

American Medical Assoc.: Technical asst. to the medical schools of Vietnam to develop programs, personnel & facilities in medical education; 29.

Int'l Rescue Committee: Medical care service to the GVN; 4.

URS Systems Corp.: Health logistics support for data systems analysis; 1.

Sanderson & Porter, Inc.: Providing assistance in the transmission & dist. program; 4.

Kentron Hawaii, Ltd.: Management analyst training; 1.

Kentron Hawaii, Ltd.: To provide tech. management asst. to the Ministry of Agriculture in the area of fiscal management systems; 4.

World Rehabilitation Fund: Refugee Relief Program to assist GVN in vocational rehabilitation of disabled war victims; 3.

Inst. for Public Admin.: Development assistance to the Nat'l Institute of Administration; 5.

Air America, Inc.: Aircraft flying and related services for USAID; 184.

American Management Assoc., Inc.: Development of management association of VN (MAVN); 1.

Public Administration Services: To assist GVN to improve management services; 2.

Public Administration Services: Management analysis & training asst. to the Ministry of Education, GVN; 3.

Asian American Free Labor: Coordinate the activities of AFL/CIO and its affiliates in efforts to develop & strengthen the Free Trade Unions; 1.

Agriculture Coop. Dev. Internat'l: Develop viable agricultural credit; 2.

Hughes Aircraft Co.: Technical asst. to the Vietnamese Institute for Standardization; 2.

Living Marine Resources, Inc.: Management asst. to the directorate of fisheries GVN; 2.

DEPARTMENT OF DEFENSE CONTRACTOR PERSONNEL IN SOUTH VIETNAM—AS OF JUNE 30, 1973

Purpose of Contract, Contractor, and Number of U.S. Personnel	
Aircraft maintenance:	
Avco/Lycoming	26
Bell Helicopter	6
Boeing/Vertol	5
Bunker Ramo	7
Cessna Aircraft	4
Continental Air Service	11
Fairchild Hiller	4
General Electric	33
Lear Siegler	1642
Northrop	14
Parsons	24
Radiation	18
Teledyne	1
Texas Instruments	2
Subtotal	1,797
Equipment maintenance (other than aircraft):	
Assoc. Amer. Engineers	27
Dynalectron	131
Hughes Aircraft	4
Potomac Research	3
Sperry Marine	1
Subtotal	166
Facilities maintenance:	
CAC Doll	1
Lyon Associates	2
Pacific Architects and Engineers	475
Trans Asian Engineers	7
Subtotal	485
Supply:	
International Dairy	6
Vinnell	112
Subtotal	118
Communications and electronics:	
Bendix	15
Collins Radio	3
ITT Fed. Electric	431
Kentron	81
Page Communication	161
Sanders Assoc	3
Sierra Research	22
Systems Devel	4
Texas Instruments	2
UNIVAC	6
Subtotal	728

Transportation services:	
Alaska Barge and Transport	50
Asiatic	1
B&R	3
Columbia Export	2
Eastern Marine	2
Explorative Science	4
Flying Tiger Airline	3
Imperial Household	1
Land Marine	4
Liffey Marine	4
Motorola	1
Pan American	5
Sealand	24
Sealantic	12
Seapac	3
Systems Erectors	1
World Airways	1
Subtotal	121
Miscellaneous services:	
ARINC	5
Computer Sciences Corp	81
Dong Nam	1
Eastern Marine	2
Geo Hydro, Inc	1
IBM	1
Rockdel	2
Subtotal	93
Total	3,508

CAMPAIGN FINANCING

Mr. SCOTT of Pennsylvania. Mr. President, without comment and for the benefit of my colleagues I ask unanimous consent that an editorial from the Philadelphia Inquirer on campaign financing be printed in the RECORD.

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

SECOND THOUGHTS ON ELECTION $$$

Pennsylvania's Sen. Hugh Scott, we would guess, spoke for many of his fellow Americans when he said Tuesday that he had changed his mind about public financing of Federal elections.

"Two years ago," Mr. Scott said in testimony before a Senate committee now considering such legislation, "I was persuaded that disclosure alone would cure the ills, but I misjudged that as much as I misjudged the deviousness of certain individuals who sought to humiliate the law from the day it was enacted."

There are some sticky problems involved in working out public financing, as the hearings now underway demonstrate.

Shall there be only public financing, as Sen. Scott and Sen. Edward Kennedy propose in a bill they have submitted? Or shall there be a mix of public and private financing, as proposed by Pennsylvania's junior senator, Richard Schweiker, and Sen. Walter Mondale in another bill? How far down the line of candidates shall public financing go? How much shall be spent and how shall it be allocated? Who shall qualify for such money? And what about primaries?

There are no simple answers, but the problems are not insuperable.

One thing that is clear, as Sen. Scott said, is that "this nation is now painfully aware of the corrosive power of money in politics." Another is that the extensive reform legislation enacted two years ago has not provided the kind of genuine reform needed to stem that corrosion.

It is encouraging, therefore, to find a majority of the senators now committed to public financing in principle. Translating that principle to workable specifics will not be easy, but it needs to be done—and now. Public financing is definitely an idea whose time has come.

FOREIGN SERVICE AWARDS

Mr. PELL. Mr. President, recently I was the guest speaker at a luncheon of the American Foreign Service Association, at which were presented the Ambassador W. Averell Harriman, the Ambassador William R. Rivkin, and the Gov. Christian A. Herter Awards for honoring Foreign Service men and women displaying exceptional initiative, integrity, intellectual courage, and creative dissent in the service in their country. It is a happy commentary on the difference between our own open society, where dissent is rewarded, and those closed societies where dissent is punished. The Harriman Award goes each year to a junior member of the Foreign Service, the Rivkin Award to a mid-career member, and the Herter Award to a senior member who have outstandingly exhibited these qualities in the performance of their duty. This year's distinguished panel of judges included two of our own colleagues, Senators HUMPHREY and STEVENSON.

The names of this year's winners and the citations made at the award ceremony are:

CHRISTIAN A. HERTER AWARD

James S. Sutterlin, country director, Germany and Central European Affairs

He has not only displayed the qualities for which the Award is given to an outstanding degree, but created within his office an atmosphere in which other officers, especially of the middle and junior grades, are encouraged to display them similarly. . . Mr. Sutterlin took advantage of the existing NSC processes to initiate what has become our official policy toward the German Democratic Republic by presiding over the drafting of what eventually became the basic policy paper. In this atmosphere, everyone is encouraged to display initiative, integrity, intellectual courage, and, when so inclined by particular substantive policies, to dissent creatively.

WILLIAM R. RIVKIN AWARD

Edward L. Peck, Special Assistant, Office of the Under Secretary of State for Political Affairs

Mr. Peck's special distinction lies in having the creative initiative, the courage, tenacity and integrity to challenge successfully, significantly bad interagency arrangements which others had for years not only accepted but even promoted. The broad result of his initiatives has improved both policy formulation and the conduct of overseas operations. . . He has been exceptionally provocative and perceptive. He considers a problem thoroughly and sets forth is suggestions with complete honesty and candor, even when he knows they may go against conventional wisdom or established policy. . . Through perseverance, steadfast adherence to his views and rigorous honesty, Mr. Peck has single-handedly inspired a reluctant State Department to resume a legitimate mantle of leadership.

W. AVERELL HARRIMAN AWARD

Douglas K. Ramsey, FSO–5, POW, Vietnam, 1966–73

Mr. Ramsey has intellectual mettle. While making no friendships among the Viet Cong and having little attraction toward their cause, he did not allow personal convictions to color his thinking . . . He drew upon his unique exposure to the Viet Cong to assess how a guerrilla war should be fought and how ideological and cultural differences create misconceptions on both sides . . . Mr. Ramsey withstood the severest physical tests: long forced marches through inhospitable terrain, starvation, sickness and exposure to hostile fire . . . Despite intense psychological pressure and physical danger to himself, in several cases Mr. Ramsey's actions saved the lives of other POWs . . . As a junior officer Ramsey effectively served as the Acting Provincial Representative in Hau Nghia for four months . . . Ramsey realized to administer the AID program he had to get out in the countryside. This determination resulted in his capture.

In my remarks on the occasion, I discussed relations between the Congress and the State Department and the Foreign Service emphasizing the need for a vigorous effective Foreign Service and describing what the Congress can do in this respect. I think, therefore, they would be of interest to this body.

Mr. President, I would like unanimous consent to print my remarks in the RECORD.

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

SPEECH BY SENATOR CLAIBORNE PELL

Secretary Rush, award winners, distinguished guests and fellow Association members, I am grateful for the hospitality you have extended to me today. In fact, as a Senator who served in the Foreign Service for more than two-thirds of a decade, I feel today like a prodigal son who is back at home. And it is nice to be home.

Actually, I believe I am the only Senator who has served in both the Foreign Service and in the Senate. My father, too, who is known to some of the older persons in this room, also served in both roles, having passed the old Diplomatic Examinations and having been a Chief of Mission abroad as well as being a Congressman and politician in the intervening years.

First, I would like to touch upon the relations between the Congress and the State Department and Foreign Service and their roles in the formulation and conduct of foreign policy. Our Secretary of State-to-be expounded brilliantly—and with gentle humor—a quality sorely needed in Washington these days—on this subject at his confirmation hearings.

He and we all agree on the need of achieving the optimum balance of power in the foreign affairs field between the Executive and Legislative Branches called for by the Constitution. And it is to the Constitution, incidently, not to the President or to the Congress, which we all, the President, an FSO, a Senator, swear a common allegiance in our oaths of office.

Prior to World War II, Congress, with a parochial view of the United States role in the world, dominated foreign policy and gave it an isolationist thrust. During World War II and in the post-war period the Executive Branch reversed this situation and a malleable Congress acquiesced until the bitter experience of Vietnam finally caused the Congress to reassert itself.

Most recent examples of this redressing process are, of course, the cut-off of funds of further United States military action in Indochina without congressional authorization and the current war powers legislation. We are now at a watershed stage in attempting to achieve this balance necessary for effective joint leadership of the two Branches. And each must avoid pressing too far into the jurisdiction of the other.

In exercising this joint leadership, the question arises as to what is the role of the Congress? What can it do? First of all, as the elected representatives of the American people, Congress must supply the political factor to the foreign policy equation. In so doing, the opinion and interests of the public are cranked into the foreign policy process. The introduction of this factor can set up tensions between the Executive and Legisla-

tive Branches, but from these very tensions can emerge creative solutions and policies that are broader based and more in the national interest than would otherwise have been the case. Had this sometimes time-consuming process been followed more thoughtfully earlier in our involvement in Indochina, the nation might have been spared much grief.

A current example of the process involves the Jackson Amendment with regard to free emigration and the proposed trade agreement with the Soviet Union granting MFN treatment. At issue, too, is the whole question of the suppression of human rights, in defense of which real heroes of our times such os Solzhenitsyn, Sakharov, and a while ago Dubcek have dared speak out. I support the amendment, while recognizing it may be a too simplistic approach. If so, it is up to the Executive and Legislative Branches to find productive alternatives. We should examine, for instance, where and how we can champion all human rights more vigorously and effectively—at the U.N.?—at the Conference on Security and Cooperation in Europe? In any case, it behooves the Foreign Service to have a keen awareness of the political factor or role and the valuable function it performs in assuring wider public support and understanding of our foreign policies.

In an aside, I would add that as one who has just returned from a visit to Eastern Europe, détente looks very different when you are there, or even in Central Europe, than it does over here. In the short term at least, the tendency is for the Soviets to turn the screws tighter on their subject peoples as détente increases? Why?—simply in order to prevent their people from being contaminated by contact with western freedoms. And yet, it will be thanks to these very same contacts—and to détente—that communism will eventually be eroded away as a system of government.

May I add here, too, my own profound belief that it is Communism, not our own system, which contains the seeds of its own destruction. Once people have acquired the necessities of food and shelter, all men—and women—everywhere desire the extras that go with the what we call the good life. And when people have learned how to read, write, and think, they then start to ask questions, a process that is destructive of Communism. The desires to worship freely, travel freely, talk freely, and yes, pile up a few of this world's possessions to leave to one's children are universally-held desires—by people everywhere, white, yellow, brown and black. And Communism runs directly athwart the flow of these desires—that is why I believe it will not last forever.

The Congress also has a helpful monitoring role to determine if current policies correspond to current realities. In this regard, in my recent book, *Power and Policy*, I use as its theme the statement of Lord Palmerston, "We have no eternal allies, we have no perpetual enemies. Our interests are eternal and perpetual and those interests it is our duty to follow."

We know that the Executive can become welded to courses of action leading to deadends. I urge, for instance, a prompt review of our Cuban policy, especially when in a proclaimed era of world-wide negotiation, a confrontation continues on our doorstep. Moreover, I believe there should be a review of our SEATO alliance in the light of our diminished commitment to the status quo in the Asian mainland and of our improved relations with China.

Congress is also in a position to take initiatives and effect innovations in foreign affairs that the Department or the Executive Branch overlooks because of a different perspective or disinterest. In this connection, I would immodestly point, as examples, to two of my own proposals made in this session of Congress. One is a resolution passed by the Senate by 82–10 majority calling for a treaty to ban environmental and geophysical modification as weapons of war, to which for reasons unknown to me, and I understand to the Department, an unforthcoming Pentagon is opposed.

A second proposal is for the creation in the Department of a Bureau of Ocean, Environmental and Scientific Affairs—as a means of placing these closely related, interdependent functions in a single bureau under high level leadership. It also means that the 70% of the earth covered by oceans, and the envelope surrounding the earth, both of which are becoming increasingly inhabited and exploited by man, will receive the same Departmental emphasis as do those portions of the earth now represented by the geographic bureaus.

Let me conclude with comment on the need for a strong, effective Foreign Service and what Congress can do to help make it so. First, let me say that there is a very generous respect and regard on the Hill for the Foreign Service. There is also a conviction that the Foreign Service can best meet its responsibilities if the career principle is preserved and strengthened. To this end, a provision I sponsored has been included in the State Department Authorization Bill assuring merit rank order promotions up to Class One.

The Senate Foreign Relations Committee has also drafted tentative guidelines for confirming ambassadorial nominees, which would greatly reduce the number of non-career appointees and establish criteria for approval of non-career appointees requiring more than just a large campaign contribution. The other side of the coin however, is that the Committee will not give rubberstamp approval to the nomination of every career officer, at least not unless the law is changed to provide for automatic confirmation of career FSO's. In giving its advice and consent to any nominee, career or non-career, the Committee must do its best to exercise its judgment as to whether the confirmation in terms of a specific assignment is in the national interest.

To increase greater understanding of the domestic political factor among Foreign Service personnel, I would like to see deeper and more frequent contacts at all levels between the Congress and the Foreign Service. An increase in the detail of FSOs to the Hill and in the Congressional Fellows Program would be useful in this regard. I would also favor more FSO assignments to departments and agencies primarily concerned with domestic affairs and also at state and municipal levels.

I would support expanded training opportunities at the Foreign Service Institute and elsewhere, with additional funds if necessary, especially to help the Foreign Service cope with the growing global social and economic problems that are adding a new dimension to traditional diplomacy—problems of the Third World, environment, population, energy and raw material sources, drugs, terrorism and the like.

Finally, the Congress can wholeheartedly endorse the Secretary-to-be's recently declared aim "to infuse the Department of State"—and I would add the Foreign Service—"with a sense of participation, intellectual excitement and mission." Basically, however, the attainment of this goal will depend upon the response of the individual officer.

Here I would add that yours is not only a noble and disciplined occupation. It is a calling, a service job just as is the ministry or the military service. And just as every clergyman does not expect to be a bishop, nor does every ensign or lieutenant expect to be an admiral or general. Nor should every Foreign Service Officer expect to be an ambassador. Rather, yours is an occupation of public service and a life of interest and challenge to be savored and, hopefully, enjoyed through the years as you carry on your important work. In this process should be released the creative forces that contribute to the excellence of service and performance that we are gathered here to honor today.

THE U.S. POSTURE IN EUROPE

Mr. JAVITS. Mr. President, the British journal, the Economist, recently published an editorial in its issue of August 25, 1973, on the present weaknesses of the United States and Europe. This magazine consistently publishes some of the most incisive and perceptive articles on world affairs and the United States that may be found anywhere.

The article emphasizes many of the concerns I have shared with my colleagues on the Committee of Nine, which was charged by the North Atlantic Assembly to chart the future of NATO for the next 10 years. The final report of the Committee of Nine is now ready to be presented at the 19th Annual Session of the North Atlantic Assembly in Ankara, Turkey, in late October 1973. 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:

THERE'S NO HIDDEN HAND

When the President of the United States loses his grip, half the world finds itself in pieces on the floor. Eight months after the Year of Europe was supposed to have begun the full extent of the damage done by the Watergate affair is becoming clear. The reports that Mr. Nixon had at last made up his mind to come to Europe in late October or early November turn out, on inquiry in Washington, to be wrong: no such decision has yet been taken in the White House, and France has not yet been persuaded by the other Europeans to agree that Mr. Nixon would be welcome if he did come then. There could hardly be a better illustration of the twin disasters of 1973. The government of the United States is a stretcher-case. The European community has abysmally failed to discover the new sources of energy that seemed within reach in January, and that would to some extent have made up for the paralysis of America. The only great power that seems to know what it wants to do in the world, and is doing it, is the Soviet Union. It is hard to remember a time in the past 30 years when the community of the democracies has been in worse shape.

THE LOST LEADERSHIP

Take the broken jigsaw piece by piece. In America Mr. Nixon has now started the attempt to reassert himself. But the immediate effect of the passions of Watergate has been to create a block of anti-Nixon votes in Congress that will oppose the President's ideas not on their merits but in order to show an overweening executive who is master now. No doubt, as Mr. Nixon makes it clear that he intends to remain President, this anti-Nixon-on-principle vote will gradually diminish: the work of the republic has to go on, after all. But it may be strong enough, and last long enough, to damage his foreign policy in several ways.

The trade bill that has still to be brought to the floor of Congress is liable to emerge with a stronger safeguards clause, designed to keep out imports that hurt American industry, than it need otherwise have done. The bigger budgets that Congress is likely to insist on will anyway add to the inflationary pressure in America, and thereby increase the danger that the United States will be frightened into a deflation that would squelch imports even more effectively. The demand in the Senate for a unilateral withdrawal of American troops from Germany

will certainly grow louder. Even Senator Henry Jackson has now introduced a proposal that the American army in Europe should be cut to the extent by which the European allies fail to cover its full foreign-exchange costs (which could mean Europe finding about an extra $1.5 billion a year); and although Senator Jackson's intention is to help Mr. Nixon by showing the Europeans that they have got to pay more for American protection, the result could be to make a troop cut inevitable if the Europeans refuse to cough up more dollars for this purpose when they can see their dollar-earning exports running into trouble anyhow. These things feed on one another. It is the loss of Mr. Nixon's authority in Congress, just as much as the fear that he may make concessions to Mr. Brezhnev to keep him friendly, that is the measure of the damage Watergate may have done to the alliance.

And the damage may go deeper. Before the Watergate row exploded in April it had begun to look as if Mr. Nixon was having some success in repairing the harm the Vietnam war had done, both to the self-confidence of the Americans and to their relations with their allies. Most of the people who had opposed the war were prepared to regard it as the result of good intentions that had gone wrong, rather than as the work of a basically flawed and maleficent America. It had revealed serious weaknesses in the way the United States chooses to run a war, but the very effectiveness of the anti-war movement in persuading Mr. Nixon that he had no alternative but to pull out of Vietnam seemed to show that in the end there was nothing wrong with the American political system.

The discovery of what has been going on in the Nixon White House puts that in doubt. It raises more questions than the war ever did about the central part of that system. It has virtually expunged the four years of good work Mr. Nixon had done in trying to restore the American's good opinion of themselves, and their willingness to sustain the role of the leading power of the west. In the long run this could be the most telling Watergate consequence of all.

NO FEDERATOR FOR EUROPE

It might be less serious if the weakening of America had been matched by a strengthening of Europe. But it has not. The other great failure of 1973 has been the failure of the European community to rise to the moment history seemed to offer on Britain's entry in January.

There are in hindsight a number of understandable reasons why things went wrong. The attempt to unite the exchange rates of the community's members before the economic policies that decide those exchange rates had been pulled together was a memorable example of putting the cart before the horse, and thereby making the horse sit down with furrowed brows. The Germans' economic troubles have made them increasingly reluctant to produce the sort of money that would be needed to subsidise both the farm policy France insists on and the regional policy Britain demanded when it came into the community. These are both momentum-stopping things; and there has to be added to them the fact that the centre of power in the community at the moment lies in an alliance between two conservative governments, those of France and Britain, which have their own reasons for wanting the momentum to be kept under control anyway. Mr. Heath and M. Pompidou can agree about the desirability of getting German money for France's farms and Britain's decaying industrial outback. But they both lead parties that are nervous about any suspected loss of national sovereignty; and they both face oppositions dominated by a left wing that does not want a united Europe at all. It is far from clear that such a combination could ever have risen to the challenge of 1973.

But here too, as in the United States, the experience of the past few months has raised an even more fundamental question. If western Europe is ever to federate itself into some sort of political unity it will probably need, as General de Gaulle pointed out, an external force that pushes federation upon it. But is the sight of a weakening America by itself a sufficient federator?

A bullying America, the sort of America that Mr. John Connally momentarily seemed to be speaking for in the dollar crisis of August, 1971, might have done the trick; but that is not Mr. Nixon's present America. A bullying Russia, in the absence of a strong America, would pull western Europe together even faster; but Mr. Brezhnev's Russia is taking care not to look like that at the moment. The problem of getting the sources of energy Europe needs might do it; but there is not much sign of it yet. The world the Europe of 1973 is being encouraged to believe is in a world in which it is reasonable and safe for each separate people, tucked away inside its own frontiers, to pursue its own private concerns. That is not a true picture of today's world, and the belief in it may not last for long. But while it does last it is doubtful whether Europe can lay its old nationalisms aside in order to construct a new European political system. The federator has got to be a frightener.

THE DOUBT ABOUT GERMANY

There is also, underlying these general doubts about the construction of Europe, a very specific doubt about the way one particular European country's policies may lead it in the future. The grumbling about Germany that has been coming out of the French government in the past few weeks has been partly a matter of pique about the farm policy, partly the old French dislike of seeing anyone else occupy the centre of the stage, and partly just French politicians knowing that August is the time to grab the headlines. But not only that.

The other thing the French are hinting at is that Herr Brandt's Ostpolitik has got him into a situation where his account books with the east look curiously unbalanced. The Ostpolitik so far has brought West Germany a number of minor gains: it has won a certain improvement in Berlin, and it has opened a few more doors for people going to East Germany. But in return for this the communists have obtained two concessions of principle, the recognition of East Germany and the west's acceptance of the permanence of communism throughout eastern Europe, that far outweigh any benefits the west has received. The Russians have plainly got the better of the deal so far. Sooner or later someone in West Germany is going to want to square the books, and in particular someone is going to say that life should be made easier for the people of East Germany. The Russians will presumably reply that that is a whole new deal, and the further concessions they will demand in exchange for doing something about Herr Honecker's armed camp may be things that would weaken Germany's links with its western neighbours. Pretty certainly Herr Brandt and the present leadership of the Social Democratic party would have nothing to do with that sort of deal. But the new left wing of the party might be tempted to, and men like Herr Egon Bahr might feel the temptation too. This is presumably the thought at the back of M. Pompidou's mind and it is by no means wholly irrational (see page 33). It is not a problem for 1973. It could be one by the middle of the 1970s if the united western Europe that could anchor Germany down is no nearer realisation.

This is not the end of the list of things that have gone wrong for the democracies in 1973, or could go wrong in the next few years. There is the danger that inflation is going to frighten the world's major economies out of the boom that has been carrying all of them upwards together for the past two years, and send them into a simultaneous recession by 1974–75. The political effects of such a recession would be very unpleasant indeed. It would be a wedge driven into every crack that is already visible, between Europe and America, and between both of them and Japan. In Japan itself there is also the possibility that next summer will see the long-dominant Liberal Democratic party lose its power to govern effectively. If the Liberal Democrats lose their majority in the Japanese senate in next June's election, the opposition will be able to reject the government's proposals, and the Liberal Democrats no longer have the two-thirds majority in the lower house that could force them through over the senate's objections. To Americans, and to many Europeans, that sounds a routine enough problem. But there is no knowing how Japan's still-fragile commitment to democracy would stand up to the frustrations of a prolonged parliamentary stalemate.

THE ONE WITH CLEAR EYES

Perhaps none of these things would matter all that much if only the Soviet Union were equally preoccupied by the inward contemplation of its own difficulties. But Mr. Brezhnev is the one man in 1973 who seems to be capable of looking out beyond his own frontiers with some confidence that he knows where he is going. He had already achieved nuclear parity with the United States; now his technologists have moved him a step closer to possible nuclear superiority (see page 29). He has got the controls in place that will enable him to prevent any real liberalisation in eastern Europe. He can probably count on the gap between Nato's strength in central Europe and the Warsaw pact's widening still further in the next few years; the electorates of the democracies, having been told that the cold war is over, want to cut their defence budgets, and they are not yet ready to count the consequences. His arrangements with India and Iraq, and now perhaps Afghanistan (see page 30), give him the makings of a sphere of influence covering much of southern Asia. He may even be wondering whether he could get away with settling his China problem once and for all. The Soviet Union has done well out of the past few years, and far better than the weakness of its economy entitled it to. The Soviet government, having digested the Ostpolitik and gone on from there, is the one group of people today who can really claim that its tensions have been relaxed.

There is no hidden hand that will intervene to rescue the democracies from the difference between Mr. Brezhnev's purposefulness and their own present lack of it. The nations of the non-communist world are behaving like entrepreneurs in a system created by Adam Smith. Each of them is doing its own thing, pursuing its own interests in its own small sphere of awareness, in the trustful hope that some invisible regulator will pull their separate activities together and reconcile them to the common good But the international struggle for power and survival is not like the economics of perfect competition. The victory goes to those who see the world whole, and know what they want, and apply their strength to getting it. On present evidence only Mr. Brezhnev's Russia looks any thing like that. If the democracies are to recover from the wreckage of 1973, there will have to be someone, in America or Europe, who can get a grip on events again.

REGRETTABLE EVENTS IN CHILE

Mr. CHILES. Mr. President, the coup last week in Chile is most regrettable. It is regrettable because it interrupted the constitutional process in one of the most democratic countries in the world. Tensions had risen to such a point, Allende drove his own machinery into the ground to such an extent that the coup seemed to unleash a tremendous amount of pent-up force. The violence of the coup was surprising against the background of civility and legality for which Chile is so well known.

The coup is regrettable also because it did not allow the Marxist government of Salvador Allende to complete its term and be held accountable for its failure as a viable means of meeting Chile's problems. If Allende had been able to serve his entire term, his record and his responsibility would have been clear. He and his supporters could have been held more fully accountable for the economic chaos and political disarray they were causing.

Now it can be said that Allende failed in part because he was dragged under by the opposition. Now the opposition has also sowed seeds of conflict and tension. Now others will have to bear the burden of whether the coup was wise, necessary, or desirable.

I was in Chile in October of last year when a strike was on and the military first came into the Allende cabinet. I was fortunate in being able to talk to many of the principal figures in the current crisis. The background and events since that time leading up to the coup last week is no where better portrayed than in an outstanding article by William Montalbano in the Miami Herald last Sunday called "How the Chilean Military Toppled Allende." It is a great tribute to the ability of Mr. Montalbano as a journalist and to his knowledge of Chile that he has been able to piece together the events leading up to the coup in such an insightful way.

The coup, of course, has brought all kinds of speculation as to what the U.S. role was in the coup. My own view is that I do not think the United States in any way participated in the coup. Mr. Montalbano's article does not discuss the U.S. role in Chile but it is clear from his account that internal pressure and conflicts in Chile were sufficient unto themselves to lead to a break in the Allende government.

But the United States is going to be tarred with the blame in any event, whether we were really active in the coup or not. Now that we have a history of involvement in Chilean affairs through the ITT affair, everyone is going to think that we played a key role even though we may not have.

Given the suspicions that are running due to our past performance, it seems to me we must keep a scrupulously pure hands-off position, as an editorial in the Evening Star put it. This seems to me absolutely vital. We must not only not be involved, we must avoid any appearance of being involved. Among other things, it would be a tragedy if suspicions of U.S. involvement were to dampen the initiatives which Dr. Kissinger seems intent upon taking toward Latin America in his new role as Secretary of State.

Now that the coup has happened we need to stand aside and watch carefully to see how fast there is a return to normality, especially protection of civil liberties, freedom of expression and constitutional processes. We should not turn our backs but we should not go poking around either. We need to adopt a careful attitude of watchful waiting while keeping our hands off. There should be, and is already among many Americans, a concern for the civil rights of all people in Chile. This bears especially careful attention in the days ahead by everyone who is concerned that Chile become again the hallmark of democracy in Latin America.

I ask unanimous consent to have printed in the RECORD the attached articles.

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

[From the Washington Star-News, Sept. 12, 1973]

HANDS OFF CHILE

Chile suddenly presents the Nixon administration with its biggest test in this hemisphere. Throughout 1973 presidential spokesmen—most notably former Secretary of State William P. Rogers in Latin America this spring—have proclaimed American determination to let our southern neighbors determine their own destiny. The Chilean military assault on Marxist President Salvador Allende now becomes a dramatic case in point.

We think that the United States, true to its promises, should stay strictly on the sidelines. Neither by word or deed should Washington fuel the slightest suspicion that it somehow is behind the upheaval overtaking this major Latin American country.

First signs are that the Nixon administration agrees. We applaud the immediate decision yesterday to divert a flotilla of four American warships from Chilean waters. The ships had just left Peru for routine maneuvers later in the week with the Chilean navy, but their presence now would certainly have proved an embarrassment in handling the crisis.

It is no state secret that Allende and the United States have been at loggerheads almost since the day he was elected in 1970. The Allende experiment in socialism meant the confiscation of large private American investments, including copper and telephone companies, with precious little compensation. The United States became the convenient "imperialist" whipping boy for everything wrong in Chile.

Nor have American hands been clean in fighting Allende. It is now part of the public record that the International Telephone and Telegraph Company approached a not-unsympathetic CIA with a bagful of dirty tricks to get rid of the elected Marxist president. The fact that the plans never got anywhere does not excuse underhanded intervention.

All the more reason now for the United States to take a scrupulously pure hands-off position. Voices from the left are bound to cry that Washington is at last trying to have its way in Chile, just as forces on the right will do their best to gain the mantle of respectability through support from Washington. But it is a Chilean battle and the solution must be a Chilean solution.

Fortunately the official American presence there is in the hands of ambassador Nathaniel Davis, a thoroughly level-headed and professional foreign service officer. His first concern must be for the safety of the 2,500 American residents of Chile, and we trust that his superiors in Washington will not complicate that task by taking sides in whatever struggle may ensue.

[From the Miami Herald, Sept. 16, 1973]

HOW THE CHILEAN MILITARY TOPPLED ALLENDE

(By William Montalbano)

BUENOS AIRES.—Countdown to a coup.

Near midnight on Wednesday, Aug. 29, Salvador Allende stared in baleful fury at three Chilean admirals who had come to his home in a suburb of Santiago.

Chile's president became abusive. He seemed unstable, and later the admirals would wonder how much he had drunk.

"I know that I am at war with the navy," Allende shouted. "I know what you want to do against me. Try it, I dare you."

By midday Thursday, Aug. 30, all of the admirals and most of the officers in Chile's navy knew of Allende's "at war" statement.

And one admiral quietly asked another at naval headquarters in the port of Valparaiso:

"Doesn't he realize the Chilean navy has never lost a war?"

The residents of Valparaiso awakened early on Wednesday, Sept. 5, savoring the proud sight they would witness as the flagship cruiser Almirante Latorre and the fleet destroyer Conchrane put to sea for joint exercises in the South Pacific with the U.S. Navy. But the Latorre and the Conchrane remained at their moorings. Their officers had refused to sail.

By then it was no longer a question of whether the Chilean armed forces would openly rebel against Allende. The only uncertainty was when it would happen.

It happened Tuesday, and Salvador Allende, Chile's "comrade president," died in the wreckage of his government.

From well-placed Chilean sources in Santiago, it is now possible to piece together the final weeks of behind-the-scenes drama that led to Allende's death.

Toward the end, Salvador Allende battled desperately for time with all his consummate politician's skill. He was at the razor's edge, and he knew it.

In the winter of 1973, cruel and cold, he reeled from crisis to crisis like an alcoholic from drink to drink. Each crisis proved more searing than the last, more difficult to overcome.

He emerged from each crisis controlling less, until at the end he controlled nothing at all.

Tormented Chile scarred this audacious man who sought to be at once a Marxist and a democrat and who was too little of of either, or else too much. Three times in the past six weeks Allende broke down in tears of frustration, twice before national audiences and once before his own national security council.

Each new note of drama seemed to drag the Chilean armed forces closer to intervention until finally, like a runaway freight, they came lumbering full-tilt into the mouth of an uncertain tunnel.

The rebellion was not the result of any single action or event. Rather it was the culmination of thousands of straws that came to weigh so heavily that they broke the stout back of the Chilean constitution.

Events began to out-distance Allende and to prompt direct participation by the armed forces in Chile's political struggle last October. The Chilean middle class rebelled against the government in a prolonged series of strikes led by truck owners and shopkeepers.

To be sure, however aloof the armed forces were said to have been, they were part of the battle for control of Chile from the beginning.

Even before Allende took office, right-wing terrorists had assassinated army commander Gen. Rene Schneider in an attempt to provoke a coup.

The soldiers swallowed that and, too, their middle-class reservations about Allende's attempts to construct irrevocable change in Chile on behalf of the poor minority.

Last October commander-in-chief Gen. Carlos Prats, Schneider's successor, and two other officers joined Allende's Cabinet to settle the strike. They remained in office, but without real power, until after their presence in the government guaranteed intergrity of congressional elections last March.

Buoyed by a strong showing Allende pressed ahead.

But the military already was restless.

After Education Minister Jorge Tapia explained details of an education reform to 150 unconvinced officers, Rear Adm. Ismael Huerta bluntly told Tapia in the presence of Prats and Allende aide Jose Toha: "We do not trust the Marxist government."

Allende withdrew the reform under pressure from the military and the church. Huerta has emerged as foreign minister of the new military junta.

Reports of increasing military discontent began to filter through Chile as winter arrived amid an economic crisis whose severity is unparalleled in Chilean history and whose principal victim was the middle class.

On Friday, June 29, part of an army regiment rebelled against Allende. Gen. Prats, who sympathized with Allende, led loyal troops crushing the revolt.

By mid-July, events were moving quickly. Allende once again sought military participation in the government. Prats was willing but there was strong pressure from below him against participation without authority.

Already a council of 15, five officers from each service, was drawing up a secret memorandum of 41 points to present Allende. He would have to put his house in order or the military would not rejoin the Cabinet.

On July 24, a weeping Allende offered a dialogue with the opposition Christian Democrats. But two days later truck owners again struck, quickly aggravating the already desperate shortage of supplies.

The next day, July 27, Navy Capt. Arturo Araya, Allende's chief military aide, was assassinated by right-wing terrorists.

Left-wing militants also were at work. It was an open secret that arms were being distributed to workers in an industrial ring around Santiago by extremists estranged from Allende's politics of a peaceful revolution.

On Aug. 2, the navy disclosed it had uncovered "seditious plans for a meeting" aboard the Latorre. It later accused Sen. Carlos Altamirano, secretary general of Allende's Socialist party, and two other militant party officials of sedition and agitating among navy enlisted men.

The navy, the most aristocratic and conservative of the three services, was outraged, and uncertain if it would be allowed to freely prosecute Altamirano.

But again, on Aug. 9, the military returned to the cabinet at Prats' insistence that it was its civil duty and that armed forces would be better placed to work from within the government than without.

By mid-August strike-related terror had made Chile a kind of Northern Ireland. On Aug. 13 terrorists knocked out electric power as Allende addressed the nation. Again Allende cried.

By nightfall, Aug. 21, the momentum against Allende had become uncontrollable. Extremists were arming on both sides and the military structure under Prats had become unraveled.

The wives of other officers attempted to present a letter of grievances to Mrs. Prats on the afternoon of Aug. 21, Police, mistaking them for demonstrators outside Prats' home, teargassed them.

Allende seemed to think he was on the verge of being ousted. He went to Prats' home that night, and Prats offered to resign. He said he didn't want to break up the army. Allende told him not to resign.

At 2 a.m. on Aug. 22, Allende called Luis Figueroa, secretary general of the Communist-controlled Chilean Labor Federation, and ordered him to put the workers on alert.

At 4 a.m. he sent Orlando Letelier, sometime foreign minister, interior minister and former ambassador to the United States, to see Christian Democratic leader Bernardo Leighton.

Allende wanted to head off a congressional vote that would have declared his government outside the constitution. He failed and the vote was taken later that day. Allende obviously feared the armed forces might use that, in the face of repeated demands from the supreme court that the government obey its dictums, as a pretense for action.

Early Wednesday morning, Aug. 22, 17 army generals met in the Defense Ministry in Santiago. They voted 13–4 to ask Prats to resign. At 4 p.m. Prats said he would not resign unless there was a unanimous vote of all 22 army generals.

With a Communist deputy making a last ditch effort to head off the congressional vote against Allende with what the sources called a "science fiction story" about threatened invasion from Bolivia, Allende summoned his national security council about 6 p.m.

Allende also talked of a supposed Bolivian threat, and in the course of the meeting, the sources say, "broke down in tears and was led away."

There was still more to come that day. Allende called Gen. Augusto Pinochet, second in command of the army and now president of the junta, and asked him to come to dinner with nine other generals of his choosing.

Allende seemed relaxed. He was courteous, saying that Prats was tired. The generals left Allende's home convinced that Prats would resign and Pinochet would replace him.

The next morning Prats and two other generals favorable to Allende quit. Allende accepted the resignation, naming Pinochet army commander.

Among army officers by then determined to move against Allende, there was some talk of bypassing Pinochet in favor of Gen. Manuel Torres de la Cruz, commander in the southern city of Punta Arenas.

But at a staff meeting with the generals Aug. 25 Pinochet proved more energetic and decisive than anyone anticipated.

Beginning on that Saturday, open, coordinated plotting began within the armed forces to oust Allende, the sources say.

Of all the services, the most restive was the navy. And it was there that the coup began Tuesday.

The key figures were Navy commander Raul Montero and Adm. Jose Toribio Merino, the second in command.

Montero, a bookish-looking, ulcer-ridden admiral not well liked within the navy, had been befriended by Allende and was serving as the minister of finance.

Merino, who portrays himself as the sailor's sailor in the British tradition and orders his suits from Gibbs of London, is a conservative with no sympathy for Allende. He is now a member of the junta.

On Aug. 29, Merino, with Adm. Sergio Huidobro, commander of the Chilean marine corps, met with Montero at 9 p.m. in Santiago.

They told Montero their subordinate officers were out of control. The officers were restless about extremist agitation in Valparaiso, for whose security the navy is responsible.

They said it was intolerable that the navy would be arresting key Allende supporters such as Altamirano for inciting mutiny and that at the same time the navy commanders were serving in Allende's Cabinet.

The officers said if they were ordered to move against the striking truckers they would refuse.

Shaken, Montero took Merino and Huidobro to see Allende at his home on Tomas Moro street. Allende heard the story and turned savagely on the admiral.

"I know I am at war with the navy. I know what you want to do against me. Try it, I dare you," he said.

Allende said the extremist infiltration within the naval ranks already discovered was "only 10 per cent" of what actually existed, the sources insist.

Three times during the stormy meeting Montero offered to resign and three times Allende dismissed the offer in fury.

Thoroughly aroused, Merino and Huidobro returned that night to Valparaiso.

The next morning, Thursday, Aug. 30, Merino reported on the meeting to his fellow admirals, to be told by one of them: "Doesn't he realize the Chilean navy has never lost a war?" The admirals made clear they wanted Montero out of the navy and the navy out of the government.

In Santiago, Allende, apparently with misgivings about his performance the night before, ordered Montero to go to Valparaiso Friday morning to explain the government's position.

Despite the warning from Merino that "you will be in trouble if you come," Montero called an officers' meeting in Valparaiso for 4 p.m. on Friday, Aug. 31, to carry out Allende's instructions.

But at 2 p.m. he met privately with 13 or 14 admirals. The meeting was a stormy one. By the time it ended Montero had agreed to resign.

At 4 p.m. Merino addressed some 400 officers awaiting the meeting. He told them the meeting had been canceled because Montero was resigning. The sources say there was "muted applause and outbursts of joy" from the officers.

There followed an incredible last ditch attempt by Allende to keep the navy from open revolt by keeping Montero as commander.

First Allende refused to accept Montero's resignation.

On Saturday, Sept. 1, he sent Letelier, then the minister of defense, to a meeting with Montero and the rebellious admirals. Letelier demanded the admirals say why Montero could not stay. The admirals, except for the one who ran the accounting department, stuck to their guns. Letelier left, saying it would have to be Allende's decision whether Montero remained.

By Sunday, Sept. 2, the navy was in an uproar, furious at the undignified way Montero was holding on and how Letelier had attempted to force the admirals to back down.

Officers under the Chilean admirals wanted to seize Valparaiso and trigger a revolt right then. The admirals restrained them.

At 10 a.m. on Sept. 3 Letelier met with the admirals again, lectured them and said Allende would not discuss Montero's resignation. He said Montero was ready to continue, and then he left the meeting.

Montero, left alone with his fellow admirals, was the vortex of a furious row. He soon again agreed to resign.

He went, with Merino and Huidobro, to see Allende at the La Moneda palace Monday afternoon.

The admirals found Allende a very different man from the one who had railed at them a few nights before. The admirals described him as "spent" (gastado), the sources say.

Allende told the admirals: "I made two mistakes."

The first, he said, was insisting on keeping the military in the Cabinet. And the second was in not accepting Montero's resignation.

Allende said if the admirals would give him a week to 10 days to ease the political pressures on him, he would rectify both mistakes, name Merino as the new naval commander and allow the navy to freely prosecute Altamirano.

In return, the admirals promised an investigation into whether sailors arrested in

the Latorre mutiny had been tortured to obtain confessions. If torture was used, the guilty would be punished, the admirals said.

Late on Sept. 3, Merino and Huidobro returned to Valparaiso, fully satisfied, along with the other admirals, that they had reached a workable agreement with Allende.

But then, the sources say; the admirals lost control. In meetings on Tuesday, Sept 4, the various admirals explained the agreements to their subordinate officers. The officers rejected Allende's proposals as unacceptable.

On Sept. 5, officers aboard the Conchrane and the Latorre, the latter a former Swedish cruiser that is the pride of Chile's fleet, refused to put to sea for long-scheduled Unitas exercises with the U.S. navy.

The officers said they would not sail until Montero resigned. That same day the Senate began impeachment proceedings against Altamirano, adding new pressures to both Allende and the navy.

There appeared no end in sight to the truck strike. Sporadic violence was spreading throughout Chile. New strikes supporting the truckers were promised or were under way.

The Christian Democrats and other opposition forces were agitating for Allende to resign. Allende said he would not resign.

The sources say that by Thursday, Sept. 6 the navy had informed the army and the air force, which itself was more than ready but too weak to act alone, that it was prepared to rebel.

That night Allende met with the leaders of the Communist and Socialist parties and agreed to seek an immediate accord with the Christian Democrats under the good offices of Raul Cardinal Silva Henriquez, Roman Catholic cardinal of Santiago.

As it was discussed, the government would agree to a plebiscite on whether Allende should stay or go. The government might lose, but merely scheduling the plebiscite would buy about five months of precious time and would head off military intervention in the mean time.

On Friday Sept. 7, the sources say, Allende apparently decided he would accept Montero's resignation but would attempt to replace him with an admiral of less seniority than either Merino or Huerta. Under Chilean military tradition, both of those officers would then have to resign.

The navy demurred.

On Saturday Sept. 8, Interior Minister Carlos Briones announced a settlement to a long-standing dispute over control of Santiago's television Channel 9. The move was seen as conciliatory to the opposition.

Last Sunday, Briones spoke of the Christian Democrats in almost warm terms, and Chile seemed as though it might step back from the brink.

But something happened under the surface during the weekend, the sources are not clear what, to make chances for a political solution evaporate.

There is some speculation that it might have been private agreement by the Christian Democrats to support the impending military intervention. Certainly the Christian Democrats' prompt blessing of the coup was untoward, given the party's old and well known stand that it preferred the threat of a Marxist dictatorship to the certainty of a military dictatorship.

Monday, Sept. 10 was to have been coup day. But it was rescheduled—again, for reasons that still are not clear—until Tuesday.

On Tuesday morning, the navy seized Valparaiso, the army rolled its tanks to La Moneda palace and the air force bombed the palace when Allende resisted. Montero faded away, and when the new junta was named, Merino had become one of its members as navy commander.

Salvador Allende was buried quietly in his family's crypt at a cemetery in Vina del Mar near Valparaiso about 1:30 in the afternoon Wednesday.

THE ARTS IN PITTSBURGH

Mr. SCOTT of Pennsylvania. Mr. President, I was deeply heartened to read the Pittsburgh Post-Gazette editorial, "The Arts in Pittsburgh," of September 14, 1973, describing the great efforts in the arts continuing to take place in Pittsburgh. Pittsburgh can be very proud of the leadership in the arts that has launched a strong season not only for the superb Pittsburgh Symphony but for other musical groups, both professional and amateur: ballet, theater, poetry, and the visual arts.

Mr. President, I ask unanimous consent that this fine editorial be printed in the RECORD.

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

[From the Pittsburgh Post-Gazette, Sept. 14, 1973]

THE ARTS IN PITTSBURGH—1973

As the Pittsburgh Symphony opens its season tonight at Heinz Hall, the arts in general in Pittsburgh appear strong as the 1973–74 winter season is launched.

The picture is especially good in music, not only with the Symphony and its three sold-out series, but with the Pittsburgh Opera. Strong offerings are in store for other groups in music, such as the Pittsburgh Chamber Music Series and the Renaissance and Baroque Society. Amateur groups such as the Mendelssohn, Oratory, and Bach choirs, the Savoyards and the Merrie Operetta continue to flourish.

Early in the summer the outlook seemed gloomy in two other areas of the arts—ballet and theatre. The financial difficulties of Point Park College threw a cloud over the Pittsburgh Ballet and the Pittsburgh Playhouse, both of which had been affiliated with the college.

Fortunately, strong leadership emerged and both organizations have announced seasons. The Ballet opens Oct. 12 with "Cinderella" and its schedule this season includes the ever popular "Nutcracker" at Christmas time and "Coppelia" in February.

The Playhouse has had to delay its season, realistically setting itself a subscription goal of 8,000 before it raises the first curtain. (With no real campaign the Playhouse last season had 1,200 subscribers.)

What is most heartening about the Playhouse is the sterling effort being made by its new board of directors not just to keep the theater alive, but to strengthen it, such as with a stronger playbill. "One Flew over the Cuckoo's Nest," "Our Town," and "The House of Blue Leaves" highlight the six-show schedule.

So the Playhouse board of directors is definitely challenging the Pittsburgh audience to see if it truly wants meaningful theater and will subscribe to underwrite it. We will know in a couple of months (the initial subscription deadline is Nov. 9).

Fortunately, too, what can be described as off-Broadway is increasingly flourishing in Pittsburgh. The successful Poor Players troupe at the UACM in Oakland has been joined by two groups on the North Side—the Atelier Theater and the North Bank Theater, presenting more avantgarde plays. There also is the Camelot in Bloomfield. (Note: summer theater here, the "strawhat" circuit, seemed stronger than ever this past season.)

The University of Pittsburgh's theater department is making an aggressive effort to pull audiences to its plays, constituting a strong element in the theater scene. Unfortunately, the Vanguard Theater—which toured the college circuit with modern classics—is down the drain.

The International Poetry Forum is stronger than ever with such luminaries on its schedule as the noted British poet, Stephen Spender; American poet-novelist James Dickey of "Deliverance" fame; and stage stars Dame Judith Anderson, Jessica Tandy and Hume Cronyn.

The visual arts continue to flourish, but there apparently will be nothing extra exciting in prospect. Partly this is because the Museum of Art at Carnegie Institute is partially closed while the new Scaife wing is being completed. (The Museum's fine Impressionist collection, for example, is not on display pending the new arrangement.)

Hopefully, the opening of the new wing in the fall of 1974 will add new esthetic dimensions for this region.

But the key areas for support and enthusiasm this year are the theater and the ballet, as 1973–74 well may determine the quality and extent of these essential aspects of a broad-gauged life in the arts here.

CONCERN OVER COMPLETION OF DELAWARE EXPRESSWAY (I–95)

Mr. SCOTT of Pennsylvania. Mr. President, an editorial in the September 12 Philadelphia Bulletin expresses appropriately the concern of the entire Philadelphia region over completion of the Delaware Expressway—I–95—through the Penn's Landing area in time for the 1976 Bicentennial. Improvements to all forms of transportation, are, indeed, not only a goal but a necessity as we move closer to the 200th anniversary of the United States.

But, as the editorial says, we must "eliminate further delays in the construction of this vital, midcity link."

Mr. President, I ask unanimous consent that this perceptive editorial be printed in the RECORD.

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

FINISH I–95 FOR 1976

Philadelphia's chances of completing the Delaware Expressway (I–95) through the Penn's Landing area in time for the 1976 Bicentennial will be eliminated if there are further delays in the construction of the vital, midcity link.

And if the expressway is not finished by 1976, it would be disastrous for the city's plans to stage a positive and comprehensive Bicentennial celebration.

I–95 is Philadelphia's main North-South highway for East Coast traffic. With a gap at Penn's Landing in midcity, traffic from New York and New England, Virginia and the South would be dumped into North-Central City and South Philadelphia. This traffic glut would swamp streets all around Independence Mall and throughout Philadelphia's "historic square mile."

Not only would Bicentennial visitors be aghast at the confusion; Philadelphia's inability to avert so obvious a bungle would understandably bring scorn and ridicule.

No one wants that to happen—not Mayor Rizzo, not Governor Shapp, nor the groups opposing the expressway's proposed ramps at both South and Bainbridge sts.

Yet the groups fighting the ramps—organized as the Neighborhood Preservation Coalition—have filed a suit in Federal Court that threatens to delay the highway beyond the Summer of '76. What can be done?

The answer is to move ahead and start building the Penn's Landing link, perhaps in two stages, while seeking a speedy resolution of the court case.

The Federal Highway Administration will let the Pennsylvania Department of Trans-

portation (PennDOT) start work on I-95 as it aproaches the planned tunnel through Society Hill, while putting the ramps aside for awhile.

PennDOT, though, will have to make good on any costs—at the taxpayers' expense—that would fall on the Federal Government from allowing for the ramps, and from eventually not building them at all or from having to change them.

Residents of Society Hill, Queen Village and the other neighborhoods opposing the ramps fear the added traffic they will generate. But the problem, it's now clear, is that dropping or modifying the ramps would dump more traffic and more pollution on other streets, some actually in or close to Society Hill, as well as on others farther away.

Exits from the expressway belt that will encircle central Philadelphia are now evenly spaced at about a mile and a half apart. It is not reasonable to deny motorists access to the Penn's Landing area. Philadelphia's redeveloped riverfront is too much of a magnet for visitors and business firms—as it was always intended to be.

And would not yielding to one community's objections to on-off ramps merely cause problems to bob up elsewhere for many others?

Federal and state authorities assert that all environmental and review procedures required for the Penn's Landing roadway have been complied with. Four business and civic groups, including the Greater Philadelphia Movement and the Old Philadelphia Corp., which have carefully protected and guided Society Hill's development from the start, agree this is so.

These four groups feel strongly that the city and state should stay with the present plans. PennDOT's disposition, prompted by Governor Shapp, seems to be to compromise them, by steering the disputed ramps onto Delaware ave. instead of South and Bainbridge sts.

There are problems with either approach. But there are also pressures—of time, broad regional impact and ever-inflating costs—that call for continued work on I-85 and for a prompt settlement of the court suit.

The entire region can hope, and expect, that firm leadership by Philadelphia and Pennsylvania officials will get I-95 underway, without delay, through Penn's Landing.

INTERSTATE LAND SALES

Mr. HARTKE. Mr. President, there is a growing market in the sale and purchase of sites for second homes and vacation homes in this Nation. As leisure time increases, and as we focus more attention on the need to provide for our retirement years, people have turned to buying land to fulfill their dreams and desires.

Unfortunately, there has also been a growing record of fraud in the sale of land. People buy land and find that it is not what they had assumed it would be. The earliest such frauds involved people who bought land sight unseen and then found that it was located underwater or in marshland. Today, the complaints are more likely to be that the seller misrepresented the services which would be available on the homesite or that he misrepresented the uses to which the land could be put.

Mr. President, to meet this problem, I have introduced the Interstate Land Sales Act Amendments, S. 1753. I ask unanimous consent that a February, 1973, Better Homes and Gardens article entitled "How to Avoid Those Land-Sale Frauds" be printed in the RECORD.

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

HOW TO AVOID THOSE LAND-SALE FRAUDS

(NOTE.—Written for the magazine by Robert S. Rosefsky, noted financial authority and syndicated newspaper columnist.)

Spurred on by massive promotions and nationwide sales forces, Americans are buying pieces of unused land for reasons our homesteading ancestors never would have dreamed of: retirement, vacation homes, investment, and—all too often—for lack of common sense.

Many land purchasers have not been disappointed. After careful investigation and thorough research, they've realized their dreams: owning land in well planned, well executed, well capitalized communities or recreational sites promoted and developed by honorable companies.

But there are always buyers who have come up on the short end, too. Nobody knows how many, though a Department of Housing and Urban Development expert estimates that tens of millions of dollars are lost every year by unsuspecting land buyers.

Who are the victims of such swindles? How do the schemes work? How can you protect yourself from being bilked?

THE TEMPTING COME-ONS

Many land operations are completely legitimate, and you'll get an honest deal for your money. Unfortunately, fraudulent promoters often adopt sales methods that—on the surface—seem just like those used by legitimate operations.

Consider this typical pitch for a place we'll call Agua Caldo Rancheros: "To the East, the majestic grandeur of the snowcapped Rockies, offering never-ending thrills of skiing, big game hunting, fishing in cool mountain streams . . . To the West, just a few short hours from your Ranchero, the crashing surf of the exotic blue Pacific—sun, beaches, cosmopolitan San Francisco, gateway to Hawaii and the Orient!"

Exaggerated? Of course. But it's accurate, in a distorted sense, for Agua Caldo Rancheros is smack in a scalding Nevada desert, roughly midway between the majestic Rockies and the exotic blue Pacific, and only a few short hours from either—by jet plane.

A key factor in such pitches is that the prospect probably isn't so much interested in buying a parcel of land as he is in acquiring a dream: Escape from the city, the rat race, the humdrum. Back to nature. Freedom. The new life. Everyone suffers from escapism to some extent. It's a legitimate dream—and so is the desire to invest in a vacation or retirement home. But as a result, everyone is at least partially hooked before the sale pitch begins. And that's all a good salesman needs.

To capture your interest, for instance, promoters sometimes send invitations to special dinners, or offer "free" vacations, or valuable gifts. An invitation doesn't necessarily mean you're being set up for the kill; many legitimate developers use such promotions, too. But with shady operations, you could find yourself at a presentation that appears to be ringing up sales right and left. In truth, the other avid "buyers" are shills—employees of the promoter acting out a very convincing role. To the unsuspecting prospect, it might seem that "All these other folks must know what they're doing." And out comes your checkbook.

Sophisticated investors can be just as easy marks, although the pitch is different. A salesman might offer a "tremendous return on your money" with one of these temptations: Purchase a large block of lots "for profit" on a subsequent resale. "Loan" money to the development firm, with the promise of high interest rates plus, perhaps, a "piece of the action." Buy "existing" mortgages—at substantial discount—of people who have already bought lots. (In Arizona recently, a firm successfully peddled over one million dollars of such fictitious mortgages.)

HOW SOME LAND-FRAUD SCHEMES WORK

There are all sorts of ruses. At the bottom of the barrel, for example, is the scheme utilizing completely barren land. In some instances, the land doesn't even exist. Here the promoters play for the fast buck, in and out of town in a flash and on to the next. They'll risk violating all laws for a shot at a quick killing.

This story is typical: A booth promoting floor wax at a state fair recently had a drawing. The "victim" was notified a few days later that he had won the grand prize—a free acre of land near a distant lake. The only requirement was that he pay $40 in legal and recording fees. It turned out that hundreds of people had been notified of their "prize," and each had won the same one-acre lot! If just 100 of these "winners" fell for the plot and forked over $40, the promoter could have cleared $4,000 for a few days' work and been on his way out of town before all the winners realized what had happened.

More refined schemes utilize land that may actually have some remote potential for development. Parcels like these often withstand a quick glance by a banker, an appraiser, a title company—all of whom might issue some sort of "blessing" on the property.

Such "approvals" can be demolished under close scrutiny: "Ninth National Bank has committed a line of credit for developmental purposes." ("Yeah, but it's only for $5,000, and it's secured by Snake Oil Sam's white Caddy convertible and a second mortgage on his house.") "Amalgamated Realtors, Inc., has a written appraisal that every lot is worth $7,500." ("If the developer, or somebody, ever spends the $7,000 per lot that will be needed to bring in water, sewer, etc.")

The potential for misrepresentation and deception is endless. Perhaps most common are false or misleading statements regarding these aspects: Current and potential value. Nature of utilities and other facilities, and completion date. Oral (and thus meaningless) promises to repurchase, or to offer for resale to others. The terrific demand for the lots. ("If you don't buy now, it may be gone by lunch.")

In promotions like these, the crooked developer very likely has neither the intent nor the ability to produce a finished subdivision. Instead, he has created the illusion of a project in the works by using a Rent-a-Bulldozer for a few days, and carefully placing hundreds of little stakes.

Sometimes the most difficult scheme to see through is the land that really looks fine, but goes for an exceptionally high price. That's because the price isn't just for the land—it's for the extensive recreation facilities that are to be built. The golf course will be over there. The clubhouse/restaurant/health spa here. Tennis courts over the hill. And so on.

Here, too, the unscrupulous promoter capitalizes on the techniques of the legitimate one. Precious few developers can easily afford to build the luxuries before some of the lots are sold. But the legitimate developer will have proved, either by past performance or dependable, ready capital, that he can put the luxuries in at the promised time. The unscrupulous promoter will make promises that he can't, or won't keep. And he can stall for years, before you get wise.

WHY ARE PEOPLE FOOLED SO EASILY?

Whatever the economic strata of land-fraud victims, they have all committed one or more of these three basic errors:

1. The common sense has succumbed to Greed ("You can always turn around and sell the lot for a quick profit"); to Gullibility ("For only $19 down and $19 a month, why deny yourself what you've always wanted? How far wrong can you go?"); or to Guile ("You have my personal promise—if you're ever unhappy with your pur-

chase, the company will buy the lot back from you at full price. Of course, we can't put that into the contract, but you can trust me, can't you?").

2. They have signed binding contracts, obligating them to make payments, and these contracts have been sold in turn to third parties, such as finance companies. Under prevailing law, the third party's rights to collect on your I.O.U. may not be deterred by any claim you have against the land promoter. Even though you may have been defrauded, you still have to go on paying the finance company until your obligation is halted through the proper legal channels. And that takes time.

This is known as the "Holder in Due Course" doctrine, and it's one of the oldest legal concepts in our whole body of commercial law. Though the doctrine has been under attack recently, it may be years before it is revamped nationwide. In the meantime, when the salesman asks how far wrong you can go for $19 down, be aware that you can go thousands of dollars wrong!

3. People have failed, in large measure, to speak out about the fact that they've been victimized. For one thing, many people actually don't realize they've been cheated. It may be years until you pay a visit to your very own side of a cliff, or years before you face the fact that promised recreational facilities are never going to be built. The unscrupulous promoter counts on such a time lag.

Other victims are simply too embarrassed to admit they were bilked. Nobody likes to stand up in a crowd and say, "Boy, am I a fool!" The con man capitalizes on this.

Still other victims keep silent because they feel it won't do any good to report the scheme. Hiring a lawyer may cost a lot and prove nothing. Telling the authorities can be frustrating and time-consuming. And there's little chance of getting the money back.

What's more, there are plenty of problems for those who do report schemes. They must develop enough incriminating evidence to warrant legal action. Then catch the perpetrators. Prove them wrong. And get some kind of satisfaction.

HOW CAN YOU PROTECT YOURSELF

You'll have to do some homework, and it won't be easy. But you're thinking about spending thousands of dollars: you owe it to yourself to do some serious research.

First of all, don't forget that you don't have to wait until a development comes to your attention through advertising. If you know the area and type of parcel you're looking for, you can take the initiative and contact reputable Realtors in that area to find out what's available, and at what price. This does not excuse you from doing your required homework, of course— but it may offer you the opportunity to choose from a variety of parcels, buy direct from the owner, and avoid concerted sales pressure.

However you begin, there are four aspects to examine thoroughly; the land, the developer, yourself, and the law.

1. The land. There simply is no substitute for seeing the land itself. Brochures, movies, slide shows, sales pitches all might be intriguing. But until you have actually paced off the boundaries of the lot and examined the surrounding area, you don't know what you're getting, really.

Sometimes it will be impossible to visit the site before you sign up. Legitimate operators do their best to arrange for you to see your land as soon as possible—often at little or no cost to you (though remember that somebody has to pay for that trip—possibly you, in an inflated purchase price).

Many good companies agree in writing that you can pull out of the deal (under reasonable conditions) if you see the land and decide you aren't getting what you had bargained for. However, federal law says that if you make an on-site inspection, you may be forfeiting your right to rescind any deal during the legal, 48-hour cooling-off period. Be sure you've really checked out the company you're dealing with, so you know you're not being misled. And don't sign even the most "routine" papers without examining them thoroughly.

There are other facts to be determined if you're planning on building anything more extensive than a lean-to. Hire a licensed surveyor to check the boundaries for you. (With a shady promoter, the lot you "inspect" can shrink or shift considerably by the time it's described in the legal documents.) Get a licensed engineer to perform soil and percolation tests to disclose composition of the soil and depth of the water table. You'll also want an accurate topographical map.

After you've completed the physical inspection, check out zoning, tax assessment, and highway plans. Don't take the salesman's word about local plans; look into them on your own. That large parcel across the road may be zoned for heavy industry, rather than residential, as you've been told.

2. The developer. Who is he, or it? What has he done before? Where? How successfully? What is his financial strength? He can probably offer you references, but remember that nobody he names is likely to knock him. It's imperative that you do some checking on your own.

Your banker should be able to dig up pertinent, unbiased information about the developer's financial status. In addition, ask your banker what financing arrangements he would offer you if you buy the lot. His reaction could sway you one way or the other. Remember, he's judging the quality of the deal, as well as your own financial status.

If possible, check with people who have dealt with the developer. Have specific promises been kept? Have complaints been adjusted fairly? Promptly?

To ascertain whether complaints have been filed against the developer, write the Office of Interstate Land Sales Registration, Department of Housing and Urban Development (HUD), Washington, D.C. 20410; and the Real Estate Commissions in the states where the dealer is headquartered, where the land itself is located, and where other developments by the same firm are located.

3. Yourself. First, ask yourself these questions: If there's that much profit to be made, why doesn't the developer hold onto it himself? Will all the goodies you've been tempted by really materialize? Once the rosy glow of the salesman's spiel wears off, will you be as eager?

Second, do not sign any contracts or documents of any kind without carefully reading them over and understanding everything. Better still, don't sign anything without an attorney's advice. Without knowing it, you could be signing away valuable rights. For example, you might forfeit that right to a 48-hour cooling-off period when you sign a statement that you've made an on-site inspection.

Also, be aware that items hidden in the small print can seriously affect your status. For example: What kind of deed will you be getting? The differences can be drastic. What prepayment penalties will there be on the mortgage? How clear will your title be? Remember that spoken promises or representations are meaningless. If something isn't spelled out specifically in the contract, it means zero.

Third, be prepared to speak out immediately at the first sign of any hanky-panky. When schedules aren't met with regard to delivery of your deed or other documents, construction of facilities, or anything else promised in writing, take legal action right away.

Finally, should you find that you've been bilked, tell the world about it. If others who had been cheated had spoken out, you might not be in the fix you're in.

4. The law. First, there's the basic law of your state regarding the conveyance of real property. This covers such matters as the content, execution, and recording of deeds and other documents. Laws differ somewhat from state to state. Make sure your attorney sees that all aspects of the deal comply with the law before you sign. When the land you're buying is in another state, he should see that the laws of that state are met.

Second, there's the basic law of your state regarding the licensing of real estate agents and the registration (and other requirements) of subdivisions. Here, too, laws differ from state to state. The developer, his agents, and the subdivision should all meet the requirements of the law in whichever respective states they are operating.

Third, the federal Interstate Land Sales Act, which went into effect in 1969 and is administered by the Office of Interstate Land Sales Registration of HUD, offers protection in the areas of registration and disclosure. However, you can lose your rights of recourse if you ignore what the law provides. Nor does the law protect you in many situations. Here's why:

Registration. Developers who offer subdivisions of 50 or more unimproved lots for sale or lease through interstate commerce are required to file a registration form which contains detailed information on the property. Failure to comply can subject the developer to fines and imprisonment. The law also states that a purchaser can sue a developer who did not comply.

Unfortunately, the mere fact that a developer has registered properly does not in any way reflect the quality of the land he's offering. Nor does registration imply that the government has "approved" either the land or the developer's scruples, integrity, or financial capabilities.

What's more, many developments can be exempt from the registration requirements. Subdivisions of under 50 lots are exempt, to cite just one example. The fact is, a great many legitimate developments do not have to meet the requirements of registration. But the way is also open for an unscrupulous developer to evade the law simply by gearing his sales program to fit within all of the specified legal exemptions.

Disclosure. All developers who are required to meet the registration requirements are also required to make certain disclosures to prospective purchasers. (Note well: If a developer doesn't have to register, he doesn't have to disclose. The burden is back on you.)

In order to meet disclosure requirements (assuming he has to), the developer must furnish you with a copy of a property report before you sign the purchase contract. The report contains information distilled from the more lengthy registration report. Among the more important items: Distance to nearby communities over paved or unpaved roads. Kinds of liens on the property. Kinds of recreational facilities currently available, and what, if anything, they will cost the buyer. Available sewage and water services. Number of homes currently occupied. Present or proposed utility services. Kind of title buyer will receive.

Most important, the property report must contain this specific statement:

"This report is not a recommendation or endorsement of the offering herein by the Office of Interstate Land Sales Registration, nor has that office made an inspection of the property, nor passed upon the accuracy or adequacy of this report or any promotional or advertising material used by the seller.

"It is in the interest of the buyer or lessee to inspect the property and carefully read all sale or lease documents."

The statement means exactly what it says. Yet fraudulent land sales still boom. Some people actually think the report is an en-

dorsement by the government. They simply have failed to read or understand the report.

Others are convinced by a salesman that the report is unimportant or inaccurate. Worse yet, many victims were never aware that they received the report, even though they may have signed a receipt for it (presented as just a "routine").

If you deal with a seller who is required to provide the property report, and he does not before you sign the contract, then you may—at your option—cancel the contract and get a refund. Even though you are given the property report, you may still have a right to cancel and get a refund: When you receive the report less than 48 hours before you sign a contract, you have another 48 hours in which you may cancel.

Government officials are aware of the law's shortcomings and are trying to plug its loopholes. Certainly legitimate developers will have nothing to fear if disclosure requirements are tightened. In the meantime, however, the burden of proof remains with the buyer. In any land deal you're considering don't take chances. Get the facts, keep cool, and use your lawyer's pen, not your own.

THE NEW U.S. TRADE BILL AND PROSPECTS FOR EUROPEAN-AMERICAN ECONOMIC RELATIONS

Mr. JAVITS. Mr. President, at a time of great interest in the Trade Reform Act of 1973—the administration's bill now being considered by the House Ways and Means Committee—it is important to take note of the scholarly statements on this legislation, whether or not any of us agree with every element of any such statement as in the instant case.

One of these is the lecture delivered to the Agnelli Foundation in Turin, Italy, by Prof. Richard N. Gardner, the Henry L. Moses Professor of Law and International Organization at Columbia University in New York City.

Professor Gardner served as Deputy Assistant Secretary of State for International Organization Affairs in the Kennedy administration, and as a member of President Nixon's Commission on International Trade and Investment Policy, whose recommendations form the basis for the new trade bill.

I think it is especially important to recognize, as Professor Gardner does, that Congress bears a heavy responsibility for the success or failure of the President's new trade initiative, and that this legislation will very likely determine world trade relations for many years in the future. I ask unanimous consent that the article be printed in the RECORD.

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

THE NEW U.S. TRADE BILL AND THE PROSPECTS FOR EUROPEAN-AMERICAN ECONOMIC RELATIONS

(By Professor Richard N. Gardner)

President Nixon's proposed trade legislation—and what happens to it in Congress in the next few months—will very likely determine world trade relations for many years to come. If this statement seems exaggerated, we need only recall two fundamental facts:

First, although the relative economic power of the United States is much diminished, the trade policy of the United States still exerts enormous influence for good or ill. No successful effort to reduce trade barriers on a worldwide basis is conceivable without U.S. participation. On the other hand, if the U.S. goes protectionist, a general growth in trade restrictions and hostile economic blocs would be inevitable.

Second, foreign trade is one area of American foreign policy where the President of the United States cannot act without Congress. Here it is the President who proposes, but the Congress which disposes. Under the U.S. Constitution, the Congress has the power to levy tariffs and regulate commerce with foreign nations. To negotiate effectively in this area, the President must persuade the Congress to delegate a portion of these powers to him.

On the whole, and with a few qualifications to be mentioned later, I believe the "Trade Reform Act of 1973"—as President Nixon's proposed legislation is formally known—is a good bill. It delegates to the President unprecedented powers to negotiate for a worldwide reduction of trade barriers and sweep away U.S. trade barriers in the process. If adopted—and if met by a sympathetic response by America's trading partners—it could lead to the greatest reduction of trade barriers the world has ever known and to a badly needed renovation of the rules and institutions governing international economic relations.

It is true, as many have pointed out, that the new bill would also give the President unprecedented power to raise U.S. trade barriers. In response to those who are concerned on this score, however, it should be noted that a reading of the text of the bill makes it very clear that a successful negotiation to reduce trade barriers is the first choice. Moreover, President Nixon and his principal advisors on foreign economic policy—Secretary of the Treasury George Schultz, Special Trade Representative William Eberle, Under Secretary of State for Economic Affairs William Casey, and Executive Director of the International Economic Policy Council Peter Flanigan—are all personally committed to liberal trade and to the strengthening of Atlantic partnership. It should also be stated frankly that in the present divided state of Congressional and trade union opinion only a bill that contained provisions for U.S. counter-measures in the event that liberal policies fail could have any chance of adoption.

In short, the new U.S. foreign trade vehicle may point in two directions but there can be no reasonable doubt that the driver intends to drive forward, not backward, if Congress puts in the gas.

The trade bill contains the following trade-liberalizing elements which are without precedent in American history:

1. It gives the President the power to eliminate U.S. tariffs across-the-board. How far this "zero tariff authority" can be used will be determined in large part by the willingness of the European Community and others to contemplate the gradual dismantling of their own tariff structures.

2. It gives the President the power to bargain away the whole range of U.S. nontariff barriers (NTBs) on a mutually advantageous basis, subject only to the sensible qualifications that Congress must be given prior notification of NTB agreements and the right to veto them by majority vote of either House within 90 days after they are concluded. How far this unprecedented authority can be used once again depends on how willing U.S. trading partners are to negotiate on NTBs like the variable levies on agricultural products, quota, subsidies, and government procurement favoring domestic suppliers.

3. The trade bill and other legislation introduced by the Administration provides for adjustment assistance and incentives on a significant scale to help workers displaced by imports to move into new lines of production that can survive without the need for protection. One could wish that the adjustment provisions were even more generous, but what is proposed could nevertheless form the basis of a new policy by which developed countries as a group actively promote a more rational international division of labor by dealing with the very real human problems associated with change in their own societies.

4. The bill provides the President with authority to grant tariff preferences in the form of duty-free treatment to exports of developing countries—a measure that is long overdue. Unfortunately, limits have been placed on the amount of any one commodity that can come in under preference from any one country and key items like textiles are not now eligible for preferred treatment. Nevertheless, the preference provisions do represent an important first step. We should work to enlarge the U.S. and European preference arrangements into a bold policy of unlimited free trade for the exports of developing nations.

5. It gives the President powers to grant most-favored-nation treatment and other economic benefits to the Soviet Union, China and other Communist countries. These provisions could lay the basis of a substantial expansion of trade and the eventual integration of the Communist nations into the institutions of the world economy.

Despite these very positive elements, three aspects of the bill and of current U.S. trade policy are a legitimate cause of concern:

1. The bill makes it somewhat easier to get U.S. trade restrictions increased when injury is caused to a U.S. industry. This is done by removing the existing requirements that import-damage be caused by tariff concessions and that imports be the "major" cause of injury to a domestice industry (under the new formula imports need only be the "primary" cause—a cause greater than any other single cause but not necessarily greater than all other causes combined). Those who are dedicated to the cause of freer trade could accept these measures to ease access to relief by injured U.S. industries provided this relief was firmly limited to a short time period (under the new bill, there is a seven-year limit on relief to injured industries but such industries apparently have the opportunity to apply for another period of relief after a two-year interval). Moreover, the easing of requirements for import relief would be more acceptable if the new provisions were clearly intended as a substitute for the various *ad hoc* trade restrictions (e.g., the "voluntary" limitations on textiles and steel) that have been resorted to by the United States in recent years. The bill's weakness on these points should be remedied. Moreover it is essential to resist any amendment by the Congress which would deprive the President of the discretion he has under existing law and which he retains in the proposed bill to deny an injured industry new trade restrictions in the light of broader national and international considerations.

2. The bill grants the President new powers to impose trade restrictions to retaliate against unfair trade practices of other countries or to protect the U.S. balance of payments. It provides that in determining whether to impose such restrictions the President need only "consider" the international obligations of the United States (e.g., in GATT and the IMF) whereas existing legislation requires him to pay "due regard" to these obligations. The intent of this change is clearly to provide freedom of action for the U.S. to disregard those rules of the game it regards as obsolete and unjust; but U.S. trading partners may legitimately ask why they should join in negotiations to rewrite the trading rules if the U.S. considers itself free to disregard the rules whenever they become inconvenient. Perhaps the best compromise on this vital question would be to substitute for

the "consider" provision in the new bill another formula specifying that the President should comply with the international obligations of the United States save in exceptional circumstances where he finds that the existing rules are clearly obsolete and unjust. In such exceptional circumstances he should be obliged to make a public explanation of his reasons for considering the rules to be obsolete and unjust and should be required to enter into urgent negotiations to rewrite them. If agreement is reached on new rules, the President should be required to comply with them.

3. Shortly after the trade bill was presented to Congress, the President imposed export controls on soybeans and a variety of other agricultural products. Although there is reason to hope that normal U.S. exports of these products will be resumed by the fall, the way this decision was taken undercuts the philosophy of the trade bill and the U.S. negotiating position. The U.S. can hardly complain of unilateral restrictions on agricultural imports by the European Community if it reserves the right to place unilateral restrictions on agricultural exports. Surely we need new rules and better international consultations guaranteeing fair access to agricultural supplies as well as to agricultural markets.

Let me conclude with some more general observations. There is a regrettable tendency in some quarters in Europe to regard the multilateral trade negotiations scheduled for the fall as being in the exclusive interest of the United States and to regard elimination of the dollar's privileged role as the first priority for Europe. There is an equally regrettable tendency in some American quarters to put "trade reform" ahead of monetary reform and the phasing out of the reserve role of the dollar.

Both of these attitudes are short-sighted. Europe needs another round of trade negotiations to provide secure and open export markets and to prevent the United States from turning to protection. The U.S. needs an international monetary reform that removes the unacceptable burdens now placed on the dollar as the principal element in world reserves. And the developing countries desperately need both better access to markets and greater security against currency fluctuations that devalue their reserves and export earnings.

Italy and the United States have common interests in parallel progress in both trade and monetary negotiations. Italy's exports of manufactured goods grew by 336% from 1960 to 1971—an increase second only to that of Japan. This extraordinary record made an essential contribution to Italy's growth and prosperity in the 1960s. Can Italy expect a similar record of export-led growth in the 1970s if the multilateral trade negotiations fail and the world slides toward protectionism? The answer is surely clear.

At the same time, the recurrent dollar crises of 1973 should remove any doubt about the interest of the U.S. in monetary reform. When a bathtub is full of water only a few additional drops are needed to cause a flood. With more than 80 billion dollars in the hands of foreign governments and central banks, every item of bad news from Washington can provoke a crisis. Indeed, any country's crisis can become a dollar crisis because the country in trouble settles its deficit by paying out dollars to a world already oversupplied with them. Thus a consolidation of the dollar overhang and the substitution of an SDR standard for the dollar standard is as urgent for the U.S. as for other countries.

What are the prospects for President Nixon's trade bill? Watergate has not improved them, but I do not believe it has damaged them as much as some observers believe. I am confident that a majority of Democrats and Republicans in both Houses of Congress recognize the need for new trade negotiations and a strong presidential mandate to help them succeed.

Congress bears a heavy responsibility for the success or failure of President Nixon's new trade initiative, but Europe does also. What European governments say and do in the next three months could be decisive in influencing the Congressional outcome. The Article XXIV-6 negotiations in GATT on U.S. claims for compensation because of changes in trade treatment arising out of the enlargement of the Community will be particularly important. So will the Community's indications of willingness to consider gradual reductions in its common external tariff and in its agricultural protectionism. Without favorable signals on these subjects, Congress may well say: "Why should we pass a trade bill if others are not prepared to negotiate?"

ADDRESS OF CONGRESSMAN JOHN BRADEMAS TO THE LYNDON B. JOHNSON CITIZENS AWARD DINNER, BALTIMORE, MD.

Mr. HUMPHREY. Mr. President, the distinguished Congressman from Indiana (JOHN BRADEMAS) delivered an important address last Saturday evening at the second annual Lyndon B. Johnson Citizens Award Dinner in Baltimore, Md.

Congressman BRADEMAS discusses, with frankness and with evidence, the progress which has been made in recent decades on behalf of equal opportunity, particularly for black Americans. There has been substantial progress, and the Congressman gives a very useful summary account of the statistics.

But Mr. BRADEMAS also points out that, paraphrasing Robert Frost—

We have miles to go before we sleep.

I commend the Congressman's address to my colleagues and other readers of the RECORD as one of the best statements I have seen recently about progress and challenge in the field of human rights.

Mr. President, I ask unanimous consent that Congressman BRADEMAS' address be printed in the RECORD.

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

ADDRESS OF CONGRESSMAN JOHN BRADEMAS

I count it a high honor to have been invited to address you this evening on the occasion of the Second Citizens Awards Dinner to honor those who have done the most to bring about a better relationship between the races.

There are several reasons I am glad to be with you, and one is that it affords me the opportunity publicly to pay tribute to my old and cherished friend, Clarence Mitchell.

This marks my fifteenth year of service in Congress and during that time, as a member of the Committee on Education and Labor, I have had frequent opportunities to work closely with Clarence. I know of no person in the nation's capital who is more deeply or widely respected than Clarence Mitchell for his integrity, his ability and his commitment to human rights. When the historians of the next generation chronicle the legislative advances in human rights, they will find the footprints of Clarence on every side.

I am pleased as well to share the platform with two other warm friends—Parren Mitchell and Paul Sarbanes. I don't know if you in Baltimore realize how superbly represented you are in the Congress of the United States by these two outstanding Representatives and by Clarence Long. And I hope that you will keep returning them to Congress for many years to come.

I have but one regret this evening, however, and that is that you should have been deprived of the opportunity to hear that untiring and vigorous champion of equality of opportunity—who commands the regard and affection of us all, Senator Hubert H. Humphrey of Minnesota.

We are gathered tonight to honor a great citizen of our land, a great President of the United States and a leader whose Presidency will, in my view, long be remembered for the compassion and conviction that he brought to the unending struggle to establish justice for all in the American society.

When I think of Lyndon Johnson, I recall a few events which I myself observed, for I believe they demonstrate the compassion and conviction of which I speak.

I remember how, short weeks after the shutdown of the Studebaker plant in my home town of South Bend, Indiana, when thousands of workers lost their jobs overnight and the spirit of my community was brought low, President Johnson, with several members of his cabinet, flew by helicopter directly into the city to let the citizens there know that the President of the United States understood their problems and would do all he could to help them—and he did.

I recall still another occasion when President Johnson came to a small community in my district, a town of only a few hundred people but one which had been devastated with the loss of many lives by a savage tornado. But there too among them was the President of their country, consoling and reassuring and bringing help.

And then I remember, years later, down in Austin, Texas, being on hand for the dedication of the LBJ Library and the President's saying to me, with a grandchild perched on his shoulder, "John, you go on up to the top to see my office and take a look at those pens I used to sign all those education bills we passed."

A BETTER RELATIONSHIP BETWEEN THE RACES

I think it is uncommonly fitting and proper that we should be gathered here tonight for the presentation of a posthumous Citizens Award to President Johnson as a person who has done the most to bring about a better relationship between the races—and I am particularly pleased that his gracious and lovely daughter, Lynda Bird Robb, is here to accept it in his memory.

This Award Dinner is timely because the events of recent months in the United States must, if they mean anything, summon us all to ask anew what is the central purpose of politics in our society.

For the spectacle of shame the United States has witnessed these last weeks has revealed something brand new in American political history, something never before seen; a calculated attempt, involving the White House itself, to undermine the legitimate processes of our constitutional government.

It ought, I think, to surprise no one that for the people who became involved in Watergate, the purpose of politics was to obtain and retain power, with no sense whatever of the purpose to which the power should be put.

Knowing that about them, we should not be surprised that these same people would pursue policies here in our own country that seem so devoid of a sense of justice.

JUSTICE IS UNAWARE OF RACE

And then I think of the words of Lyndon B. Johnson: "Until justice is blind in color, until education is unaware of race, until opportunity is unconcerned with the colors of men's skins, emancipation will be a proclamation, but not a fact."

I know that everyone in this room knows that the record of advances in human and

social justice during the last decade was in very large measure the record of leadership of Lyndon B. Johnson.

Recall if you will the state of the nation in the early 1960's and President Kennedy's Civil Rights Message of 1963, in which the President solemnly told us: "The Negro baby born in America today, regardless of the section of the state in which he is born, has about one-half as much chance of completing high school as a white baby born in the same place on the same day; one-third as much chance of completing college; one-third as much chance of becoming a professional man."

And then all of you will remember the extraordinary march on Washington in 1963 when some 200,000 people gathered on the Mall. Clarence Mitchell was there. Hubert Humphrey was there. Many Members of the House and Senate were there—and many of you were there. And I shall never forget—nor will any one of us—that magnificent song which Martin Luther King sang to the people of America, "I Have A Dream."

But you will remember, too, those of you who live in Baltimore, that when your contingent returned to this city from the march on Washington, your bus was stoned.

And you will all remember as well that one month later a bomb in a church in Birmingham, Alabama, killed four little black girls.

And then each of us here will recall exactly where he was on that fateful day, November 22, 1963, when the word came that President John F. Kennedy had been assassinated in Dallas.

Following this succession of events that so profoundly shook the American people, there came the State of the Union Message of January 8, 1964.

TRANSCENDING MISTRUST

It was a message brought by a Texan, one who was mistrusted by many in terms of his commitment to the cause of translating into reality the promises of the American dream of which Martin Luther King had spoken.

But in that message—and who can forget it?—President Johnson declared, "Let this session of Congress be known as the session which did more for civil rights than the last hundred sessions combined. . ."

And the new President warned the nation: "Let me make one principle of this Administration abundantly clear: All of these increased opportunities [referring to other parts of his message] in employment, in education, in housing and in every field must be given to Americans of every color. As far as the writ of Federal law will run, we must abolish not some but all racial discrimination. For this is not merely an economic issue—or a social, political or international issue. It's a moral issue. . . ."

And where were we at that point in the struggle?

President Johnson delivered his State of the Union Message at a time when President Kennedy's Civil Rights Bill was still pending in the House.

TO PROTECT ALL THE PEOPLE'S RIGHTS

And that bill contained provisions for voting rights, public accommodations, school desegregation, a community relations service, extension of the Civil Rights Commission, non-discrimination in Federally-assisted programs, and an Equal Employment Opportunity Commission.

Short months later, many of us gathered at the White House—and Clarence Mitchell, you were, quite rightly, there—for on July 2, 1964, the Civil Rights Act of that year became law.

Here is what President Johnson said then:

"This Civil Rights Act is a challenge to all of us to go to work in our communities and our states, in our homes and in our hearts, to eliminate the last vestiges of injustice in our beloved country . . . Let us close the springs of racial poison. Let us pray for wise and understanding hearts. Let us lay aside irrelevant differences and make our nation whole."

That statement is a superb example of what a President of the United States ought to be saying, and the Civil Rights Act of 1964 is a superb example of what the President of the United States—and the Congress—ought to be doing.

HIS PRESIDENTIAL STATURE NEEDED NOW

Would that we had such a President at this hour!

And yet you and I know that the Civil Rights Act of 1964, for all the advance it represented, was still not enough.

For we still needed to enforce the law now that it was on the books.

We needed to outlaw discrimination in housing.

We needed to insure voting rights in every community.

We needed to guarantee the right of fair trial in criminal proceedings.

And so President Johnson pressed on.

In January of 1965, in his second State of the Union Message, the President proposed that "we eliminate every remaining obstacle to the right and the opportunity to vote."

Remember if you will that in the late 1950's, only 25 percent of the blacks in the eleven states of the old South were registered to vote. Literacy tests, poll taxes and outright intimidation—these were the instruments used to prevent millions of citizens in parts of the United States from enjoying the rights that our Constitution guaranteed to *all* citizens of the land.

Just seven months later, in August of 1965, the President's proposal became law and literacy tests and other devices were eliminated in states where less than 50 percent of the eligible voters had either registered or voted in the 1964 election. Federal Registrars were provided in places where the Attorney General deemed them necessary, and the Justice Department was authorized to bring suits to challenge poll taxes where they were used to deny equal protection of the laws.

DETERMINATION MUST NOT REST

But Lyndon Johnson did not rest in his continuing determination to bring racial justice to America.

In February 1967 he sent to Congress a Civil Rights Message which called for outlawing racial discrimination in housing, prohibiting it in the selection of Federal and state juries. And he called on Congress to give the Equal Employment Opportunity Commission the enforcement power necessary to curb discrimination in employment.

That 1967 bill was not enacted during the first session of the 90th Congress so President Johnson in January of 1968 reiterated his plea for action.

A JUST USE OF THE POLITICAL PROCESS

In his message, the President expressed "Disappointment, because in an ideal America we would not need to seek new laws guaranteeing the rights of citizens . . . [but he also spoke of] Pride, because in America we can achieve and protect these rights through the political process."

On April 11 of that year, President Johnson signed into law the Civil Rights Act of 1968.

But Lyndon Johnson was wise enough and sensitive enough to know that laws assuring civil rights were not sufficient to bring justice to the American society.

That is why in January 1964, in his first State of the Union Address, he said, "This Administration today here and now declares unconditional war on poverty in America, and I urge this Congress and all Americans to join with me in that effort."

And many of the people of Baltimore and other communities in the land benefitted from the programs made possible by the Economic Opportunity Act which became law in 1964.

Community Action, the Job Corps, Head Start, Vista and many other programs helped millions of Americans climb into the mainstream of American life.

And yet the programs made possible by the OEO represented only part of the national commitment to serving the poor and disadvantaged which this country undertook during the Presidency of Lyndon Johnson.

COMMITMENTS REMAIN VALID

You know the lengthy list of programs initiated under his energetic and imaginative leadership.

They include the Elementary and Secondary Education Act, Medicare and Medicaid, Food Stamps, improvements in the School Lunch Program, Federally subsidized housing, manpower training, the Higher Education Act of 1965, legal services for the poor and aid to minority small business enterprise.

And where are we now—as we meet in the fall of 1973?

Well, I think that we can rightly say that in large measure the civil rights laws which Lyndon Johnson did so much to champion have been effective.

Open public accommodations are now the rule all across the land; only in a few isolated pockets does discrimination against minority travelers persist.

Voting rights for all is universally enforced.

Black men and women are rising to positions of political leadership on all levels of government.

THE PURPOSE OF PROGRESS FULFILLED

In 1960 there were only 4 blacks in Congress but today there are 17 and one of them represents this city in Congress today.

The mayor of the second largest city in my state, Gary, is black, my friend, Dick Hatcher.

Tom Bradley has just been elected mayor of the third largest city in the land, and I am proud to say, my own former special assistant has become his chief of staff.

Here in Maryland, the able and distinguished chairman of this dinner. Troy Brailey, has just been elected Chairman of the Baltimore City delegation of the Maryland House of Delegates.

And if we turn from the civil rights laws to look at the economic and educational status of blacks, I think here, too, we can take great encouragement in what has happened in recent years.

For in 1960, only six percent of the black children in the South attended integrated schools.

Today that figure has risen to 84 percent.

In 1960, only 38.6 percent of the non-white population betwen the ages of 25 and 29 were high school graduates.

Today that figure for blacks is 64 percent.

In 1960, only 4.8 percent of the non-white work force were employed in professional and technical jobs.

Today that figure has doubled—to 9.5 percent.

In 1960, only 13.3 percent of the non-white families in America had annual incomes over $10,000.

Today that figure has risen 2½ times to nearly 35 percent.

Clearly we have made progress.

Clearly Lyndon Johnson was right when he said that "We can achieve and protect these rights through the political process."

But having said all this, I must go on to say, to paraphrase Robert Frost, that we have miles to go before we sleep.

For the median income for black families in the United States is still only 62 percent that of white families.

FULL EQUALITY STILL TO BE ACHIEVED

The unemployment rate for blacks is still double that of whites—ten percent as compared to five percent.

The percentage of black 18 and 19 year olds who are high school dropouts is still double the white rate.

And the percentage of black, college age youngsters who annually enroll in college is only 18 percent as compared to 26 percent for whites.

Seventeen percent of black families still live in homes with inadequate or non-existent plumbing facilities, as compared to only five percent of white families.

And—shockingly—the mortality rate for non-white infants in this country remains at three percent, double that of the whites.

And so, my friends, I must return to the theme with which I began these remarks: that now is the hour in the life of the people of this country to recover a sense of the central purpose of politics in a free and democratic society.

And that purpose is justice, assuring to every man and woman what is coming to him or her as a human being.

JUST ENDS FOR THE POLITICAL PROCESS DECREASED BY PRESENT ADMINISTRATION

It is perhaps no secret to the people in this room that this view of the purpose of politics does not characterize the present Administration in Washington, D.C.

Let me tell you what I mean. One of the first things Mr. Nixon did after coming into office was to try to destroy the Voting Rights Act.

Next he sought to weaken the Supreme Court of this land with the nomination of Justices whose careers were distinguished chiefly by mediocrity or reaction.

And, even as recently as this week, Richard Nixon, as his own modest contribution, in the words of the Citizens Awards Dinner, to do "the most to bring about a better relationship between the races," poured more kerosene on the dying embers of "busing."

NIXON HAS TURNED HIS BACK ON AMERICA'S VULNERABLE MILLIONS

Indeed, we need not look to the earlier years of Richard Nixon in the White House to see the extent to which this President of the United States has turned his back on millions of Americans, white and black, whom we may call, for want of a better word, vulnerable.

In a blatant attempt to defy the will of Congress the Administration sought by Executive fiat to dismantle the Office of Economic Opportunity.

In budget cuts which can in many cases only be characterized as savage, the Nixon White House has called for an elimination or drastic reduction in funds for the nation's elementary and secondary schools, for manpower training, for student assistance, for public service employment, for model cities and housing, for child health research, school lunches and, in recent weeks, for a reduction in emergency health services and public health hospitals vital in a number of communities in the land, including this one.

A SACROSANCT MILITARY BUDGET

All the while, the President assures us that his budget for military spending—bigger now than before the end of the Viet Nam War—is sacrosanct and must in no way be cut.

How far is the cry in the Inaugural Address of Richard Nixon—"In our own lives, let each of us ask—not just what will government do for me, but what can I do for myself?—" from the words of Lyndon B. Johnson in that famous Special Message to Congress in March of 1965, when he said: "The time of justice has now come . . . This great, rich, restless country can offer opportunity and education and hope to all: black and white, North and South, sharecropper and city dweller."

Lyndon Johnson, for all that many of us disagreed with you on the war, how would we welcome you at this hour!

And so, ladies and gentlemen, once more I return to the theme with which I began these remarks—that it is imperative that we recapture that American dream, it is essential that we renew our commitment to the cause of justice for all the citizens of our great land.

For we need, if I may say so, now more than ever, the spirit of compassion, the spirit of justice, that characterized the Presidency of Lyndon B. Johnson.

RENEW JOHNSON'S DREAM OF THE AMERICAN PROMISE

We need, now more than ever, the spirit of the man who less than a decade ago, stirred the hearts of an entire nation with these words in that special message to Congress on "The American Promise":

This is the richest and most powerful country which ever occupied the globe. The might of past empires is little compared to ours. But I do not want to be the President who built empires, or sought grandeur, or extended dominion.

I want to be the President who educated young children to the wonders of their world. I want to be the President who helped feed the hungry. . . .

I want to be the President who helped the poor to find their own way and who protected the right of every citizen to vote in every election.

I want to be the President who helped to end hatred among his fellow men and who promoted love among the people of all races and all regions and all parties.

That was the spirit of Lyndon Johnson.

That is the spirit of this Citizens Award Dinner.

And that is the spirit this nation needs today.

TOM VAIL, CHIEF COUNSEL OF THE FINANCE COMMITTEE

Mr. DOLE. Mr. President, along with the entire present membership of the Senate and House and many former Members, I was saddened to learn of the death of Tom Vail, chief counsel of the Finance Committee.

A young man who had devoted his entire career to congressional staff service, Mr. Vail was regarded as one of the most knowledgeable and conscientious individuals on Capitol Hill. Having just become a member of the Finance Committee this year, I did not have the privilege of working with him on the committee; however, I learned of his reputation many years ago while I served in the House.

Congress is extremely fortunate in having the assistance of so many capable and dedicated staff men and women, but even in this able group Tom Vail stood out as an exceptional individual.

The committee, indeed the entire Congress, will miss him and the capabilities he brought to his job.

GENOCIDE CONVENTION WOULD NOT BE RETROACTIVE

Mr. PROXMIRE. Mr. President, the first human rights treaty passed by the United Nations General Assembly was the Genocide Convention. The purpose of this document is to make genocide an international crime whether it is committed in war or peacetime. This treaty attempts to prevent the destruction of a national, racial, ethnic or religious group by killing, causing serious bodily or mental harm, restricting births, forcibly transferring children or inflicting upon the group conditions of life designed to cause its physical destruction. It is a treaty which is in complete accordance with the high principles of our Nation.

The record should be clear on one point, however. The intent and provisions of this treaty are prospective in nature. They cannot be applied retroactively. In this way the treaty cannot be used as a propaganda forum unearthing 'alleged' atrocities. Rather this treaty seeks to firmly establish the principle that genocide is a crime that transcends national boundaries and is a loss for the entire world community.

Mr. President, I urge my colleagues to associate themselves with this noble effort.

TOM VAIL

Mr. PACKWOOD. Mr. President, even before I was chosen to serve as a member of the Committee on Finance, I was privileged to have been able to call on Chief Counsel Tom Vail to help me in my work in the Senate. Always I found him totally willing to contribute his experience and knowledge whenever I found it necessary to call upon him for assistance.

Yesterday, as I prepared to join a hearing being conducted by a subcommittee of the Committee on Finance, I was told that Tom Vail had succumbed to cancer.

As I began to turn to leave, assuming the session had been postponed, I was told that the hearing was to continue. "That's the way Tom would want it," someone said. In retrospect, I would have to agree that is the way Tom Vail would have wanted it. For the work of the committee, the Senate, and the Nation he loved so much, and to which he devoted his life's work, to continue. And continue it will—but not without a substantial void in the place where Tom Vail once stood and served.

I join my colleagues in extending my sincere condolences to Mrs. Vail and their children.

GOV. WENDELL R. ANDERSON OF MINNESOTA'S VIVID PORTRAYAL OF THE FUEL SUPPLY CRISIS WE MAY FACE THIS WINTER

Mr. HUMPHREY. Mr. President, Minnesota's vigorous and informed Governor, the Honorable Wendell R. Anderson, testified yesterday morning before the Consumer Economics Subcommittee, which I chair.

Governor Anderson presented to that committee one of the best case studies of the crisis our State and others situated in the colder climate belts of our country may face this winter, because of the fuel shortage. He has put in the most concrete terms how the energy crisis affects every citizen of this country, and

particularly how it affects those who live in colder areas.

He points out that we avoided a crisis last winter only because mother nature was good to us and provided a relatively mild winter.

But even with a mild winter, as the Governor points out, schools were forced to close, businesses had the choice of buying replacement fuel at outrageous prices or closing down, and petroleum suppliers discontinued or cut back their participation in the heating oil supply system.

One of the main points that Governor Anderson's testimony makes is that the average shortfalls in fuel supply which are cited for the Nation as a whole, really do not tell anything about the impact of these shortages on the colder areas of the country.

Almost half of our February temperatures in Minnesota are subzero. Governor Anderson cites a very compelling example of what the temperature difference means in heating the average three-bedroom home. He points out that when the temperature average 18 degrees throughout a week, the normal December temperature in Minnesota, it takes 35 gallons of fuel oil to heat that home.

But last December there was 1 week when temperatures averaged 5 degrees below zero. It takes 52 gallons of fuel oil to heat a home for a week at that temperature.

The Governor suggested if you multiply this figure throughout the State and throughout the other cold areas of our country, you can see why we would have had a major fuel oil disaster if the weather had not been unseasonably mild.

Mr. President, Governor Anderson's statement is a compelling argument for the establishment of a mandatory allocation system for fuel oil. And this decision must be made now so that it is properly planned and carried out. We are already beyond the deadline when the decision should have been made, so I appeal once again for administration action to implement the mandatory allocation system, or for support of quick action by the House of Representatives to enact S. 1570 requiring the establishment of a mandatory allocation system.

This is a very complicated matter to administer. Everyone should recognize that. But we cannot carry it out successfully unless there is adequate planning for the administration of it. In other words, if we wait until we are in a cold crisis situation and then attempt to relieve it by mandatory allocations, we probably will be ineffective.

Mr. President, I ask unanimous consent to print in the RECORD the text of Governor Anderson's testimony.

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

TESTIMONY OF THE HONORABLE WENDELL R. ANDERSON, GOVERNOR OF MINNESOTA, BEFORE THE SUBCOMMITTEE ON CONSUMER ECONOMICS

Mr. Chairman, Members of the Committee, I am Wendell R. Anderson, Governor of the State of Minnesota. I want to thank you for the opportunity to share with Members of this Committee some of the problems we in Minnesota have faced relative to the fuel oil shortage. I also shall discuss the bleak outlook for the coming winter in my State.

But before I present this testimony, Mr. Chairman, on behalf of the people of Minnesota, I would like to thank you for your personal efforts in this very critical problem. The energy crisis affects every citizen of this country. If all public officials were as willing as you to speak out on the energy crisis and to seek the decisive governmental actions that are required, we would be much closer to solving our problems. All Minnesotans appreciate your strong leadership.

A year ago in Minnesota, there was no talk of a fuel shortage. But by late November and December, the situation had changed abruptly.

Let me just take a moment to describe to you the severity of the weather. An early cold and wet fall hit the midwest in 1972. While rainfall was nearly normal in November, the December rainfall was almost twice the average. In December the normal temperature is 18 degrees. But, in 1972, it was 11 degrees. During December, we normally can expect 8 days of below zero weather. But last year we had 14 days in December.

Minnesota and the midwest of course, have previously experienced cold periods during the fall. But, the supplies of fuel oil and other energy had been adequate. In 1972, the situation was different. Fuel oil was not available in sufficient quantities. The cold weather placed a critical strain on our fuel supply system. The lowest temperature recorded the entire winter was in December. That does not happen often in Minnesota.

My office was flooded with urgent requests for fuel oil from distributors, schools, nursing homes, hospitals and homeowners. In the third week of December alone, we received 290 calls for assistance.

In most instances, fuel oil supplies would have been exhausted in a matter of 24–72 hours. "We need oil", our distributors told their suppliers. "There is none", was the answer time and time again.

In Long Prairie, Minnesota, the school board came within 8 hours of closing the entire school system. With the assistance of the State Office of Civil Defense, fuel oil was found but at a premium price. Toro Manufacturing, a Minnesota based garden equipment manufacturer, exhausted its supply of secondary fuel, L.P. gas, at its Bloomington plant which employs over 200 people. No more L.P. gas was available. The company had two choices—shutdown or pay an extra charge for natural gas—10 times the normal price. The company chose the latter course.

The situation was seriously aggravated when several petroleum suppliers announced they were ceasing operations in Minnesota. Bell Oil and Triangle Refineries discontinued their independent operations. Clark Oil withdrew from the heating oil market. Gulf Oil announced its intentions to discontinue Minnesota operations at the end of 1973. The Midland Cooperative, a major source of petroleum to the rural area, closed its refinery because of a lack of crude oil. In addition, the operation of the Koch Refinery at Pine Bend, Minnesota, was hampered by a labor strike.

I cannot over emphasize how difficult those weeks were for Minnesotans. Then miraculously we were given a reprieve. January arrived and with it came the mildest temperatures in 50 years. Normally, in January we can count on around 17 days of below zero temperatures. This past year we had only 9.

Parts of our State are exceptionally cold. International Falls on the Canadian border has a normal temperature in January of 3 degrees. Duluth has a normal temperature of 8 degrees. In January of 1973, the temperatures in International Falls and Duluth were on the average, over 5 degrees warmer than normal.

Usually, almost half of our February temperatures are sub-zero. Temperatures of 20 to 30 below zero for extended stretches of time are not uncommon. But this year the lowest temperature recorded in February was 12 below zero. God certainly looked with favor this past year on his relatives in Minnesota.

Mr. Chairman, I would like to give you an idea of what a difference in temperature means in heating the average three bedroom home. When the temperature averages 18 degrees for a week, the normal December temperature in Minnesota, it takes 35 gallons of fuel oil to heat that home. Last December there was one week when temperatures averaged 5 degrees below zero. It takes 52 gallons of fuel oil to heat a home at that temperature. Multiply this figure throughout the State and you can see why we would have had a major fuel oil disaster if the weather had not been unseasonably mild.

Clearly Minnesota survived a fuel oil shortage last winter for one reason alone. Not because of the foresightedness of government. Not because of the efficiency of fuel oil suppliers. We survived simply because we had an unprecedented mild winter.

But many crises still confronted us.

In January, the Metropolitan Transit Commission, which serves the seven-county metropolitan area, was close to shutting down all bus operations. The prospect of more than half of our citizens being without bus service because of lack of fuel brought the energy crisis home to many Minnesotans for the first time.

The commission supplier, Standard Oil, was able to provide only 75 percent of the previous year's allocation. A frantic search ended when the commission purchased the required fuel from Canadian sources at a 70 percent higher price. The commission was within three days of terminating service for the last four days of January until the February supply arrived. If that would have happened, thousands of people in our metropolitan area—the aged, the disadvantaged, the poor, and students— would have been stranded.

The people of Princeton, a small city north of Minneapolis, found themselves low on diesel fuel for their electric generating plant. They instituted drastic conservation measures, such as curtailing all evening activities at their schools. Eventually, they solved their problem with purchases of fuel at prices in excess of 80 percent above the normal price.

Throughout the winter, 165 independent Minnesota gasoline stations were forced to close their doors when their past supplies were no longer available. A regional independent dealer, Metro 500, closed its 28 stations. They remain closed to this day. In southwestern Minnesota, the Ripley Oil Company was forced to discontinue service at its 40 locations.

It is hard to predict what the upcoming winter will bring. Only a miracle will keep temperatures at the abnormally high levels experienced in January and February, 1973, If one could forecast at all, you could rather expect a normal Minnesota winter, which Time magazine has called, ". . . as hard as the ice age."

Our leading weather forecaster this week predicted a colder than normal winter. He has statistics to show that when summer temperatures are higher than normal—as they were this past summer—the area can expect a colder than usual winter.

In preparation for the coming winter months, the State office of Civil Defense has recently conducted several surveys which indicate that we can expect substantial, perhaps critical, shortages of fuel oil in the coming heating season.

In Minnesota, there are 435 school districts. In a recent survey, of 250 of those who responded to our inquiry, only 20 percent are confident of an adequate fuel supply this winter. If the complete results show such a percentage for all districts, fuel shortages could confront 80 percent of them. That

means, potentially 735,000 students could be denied their education for a day, a week or longer this winter.

I have here a copy of Tuesday's St. Paul Dispatch. The headline reads "School Closings to Save Fuel Mulled." The St. Paul school board is seriously considering closing schools during January and February. The school board is short of fuel oil. The maintenance director was quoted, ". . . (t)here are no good prospects for getting any."

Mr. Chairman, schools are not the only public institutions affected. A survey of municipal and county government officials indicates that 80 percent of these communities have been unable to negotiate firm, long-term fuel oil supply contracts. Instead, they face an uncertain winter on a week to week basis. Many municipalities and counties operate hospitals, nursing homes and a variety of other urgently needed community facilities.

In Minnesota, cold weather is not merely uncomfortable, causing a person to put on another sweater. In Minnesota, a freezing day without heat can literally mean death. Around our State, many residents of nursing homes and patients in hospitals are facing this possibility confined in facilities whose operators cannot guarantee the heat, literally needed to keep them alive. You and I know that we would not let that happen.

Let me tell you of two other examples to illustrate the problem.

My wife and I have recently purchased a small farm a few miles east of the Twin Cities, in Washington County. Just this week, my wife, Mary, phoned not 1, not 2, but 6 fuel oil dealers before she found one willing to supply a paltry 265 gallons of No. 1 fuel oil to heat the farmhouse on our property this winter. The usual response when she phoned was: "You're kidding; we don't take new customers."

Yesterday, I tried an experiment. I had a member of my staff call all the fuel oil distributors in the metropolitan Twin Cities area. He told each supplier that he was contemplating purchasing a home that would require 1,500 gallons of fuel to heat it this winter, which is a modest quantity. Of the 55 distributors contacted, 40 percent could not supply him fuel. One in ten said maybe and could give no definite answer until after October 1st. Five suppliers were out of business since June, when the telephone directory we used was published. Many suppliers said prices were changing from day to day. They were receiving literally hundreds of calls for fuel each day.

In Minnesota, we do not produce oil. It must all come from outside the State, as do all our energy supplies. We are completely dependent on these outside energy sources to meet the energy needs of our citizens and businesses. In addition, we are at the end of the oil and gas distribution system. We literally get what remains after other States take their share from the pipeline.

In 1972, Minnesota consumed 1.4 billion gallons of heating fuel. Assuming a normal increase in demand of 6 percent, we will consume nearly 1.5 billion gallons in 1973. Demand for fuel oil is increasing at an unprecedented rate. During the 1960's demand for fuel oil in Minnesota increased about 3 percent per year.

Mr. Ligon, Director of the Office of Oil and Gas, Department of Interior, stated before this subcommittee Tuesday that the national demand for fuel oil, grades 1 and 2 will increase over 10 percent this heating season. If his forecast is correct, this would mean that we would need more than 1.5 billion gallons of fuel oil for this winter. This is 137 million more gallons than consumed last year. This additional gallonage for Minnesota alone is large enough to fill the largest oil tanker operating in the world, not once, but twice.

During discussions of the fuel situation last spring in Washington, industry spokesmen estimated shortages for this winter of 2 to 3 percent of demand. The State office of civil defense foresees the very real possibility of a 15 percent shortage of supplies in Minnesota. Your committee estimates run as high as 30 percent.

Mr. Chairman, national predictions of 2 to 3 percent mean a 10 to 15 percent shortage in Minnesota. Any national shortage is magnified in Minnesota because we are at the end of the distribution system. A 10-percent shortage nationwide would, of course, mean a catastrophe for Minnesota.

We have looked and we continue to look for assistance from the Federal Government to avert disaster in Minnesota this winter.

In May, a voluntary allocation program was announced by the Federal Government. At the very outset, it was doomed to failure. Many fuel suppliers stated openly and categorically that they could not and would not abide by such programs. Others stated that they would try to implement the voluntary program.

It appears that most suppliers have attempted to comply. Many have found, however, that the program was not compatible with their own marketing systems and have long since abandoned it. Still others have found the temptation of high profit in a period of rapid turnover, too much for their patriotic consciences. They, too, have fallen by the wayside.

That is what happens to voluntary systems.

On August 9, Governor Love, the President's energy assistant, proposed a mandatory allocation program. However, I was disappointed in his letter to me regarding the program. He declared, "I have concluded that we should not adopt a mandatory allocation system for petroleum and petroleum products at this time."

I can understand Governor Love's unwillingness to impose a governmental mandatory control program on a private free enterprise system.

I have faith in the ability of the free enterprise system to meet the needs of our citizens and of our businesses under normal conditions. However, it is clear to me that the energy crisis is an emergency greater than private industry can handle by itself. Private industry must work with Government in a cooperative effort to meet the problems of the energy crisis.

A mandatory allocation program would not solve all of Minnesota's problems this coming winter nor would we expect it to. But a mandatory allocation program would make a difference.

It would mean that there would be more equitable distribution of the available supply throughout the Nation. In addition, the program would make available a portion of each suppliers' product as an emergency pool to be distributed by State government to priority customers when emergency situations occur.

A mandatory allocation program is the only way we, in Minnesota, can have a reasonable estimate of the supply of fuel oil available to us and institute the necessary conservation measures to equalize demand with supply.

That is the first strong recommendation I make to this subcommittee today. You must insist that the administration immediately institute a mandatory fuel allocation program. If the administration continues its present reluctance to implement such a program, the only alternative is for Congress to act.

Mr. Chairman, I know your committee is holding these hearings primarily to assess the potential impact of a shortage of fuel oil in our country this coming winter.

But the lack of fuel oil is only one of our critical problems. In Minnesota, we face equally severe shortages of propane. In fact, the propane shortage is even more critical because we have so little time to respond to it.

As of this date, the number one industry in Minnesota and in the Midwest, agriculture, is facing the monumental task of harvesting, processing and transporting to market a record-breaking crop. This year 15 percent more land is under cultivation in Minnesota than last year. Our farmers are doing their utmost to feed Minnesota and the world.

Minnesota farmers planted 6.2 million acres of corn this year, up 10 percent. So far, soybean production is up 47 percent. The 1973 wheat crop is estimated at 80.2 million bushels, compared to 49.3 in 1972.

Propane is essential for successfully harvesting these crops and for turkey and livestock brooding. If Minnesota farmers do not have the propane necessary to drive their equipment and dry their crops, then we not only face a fuel shortage, we will have a food shortage as well.

The president of the Minnesota Farmers Union, and a long-time friend of yours, Mr. Chairman, Mr. Cy Carpenter, testified on September 7th at a special hearing called by Governor Love at the White House on the propane situation. Mr. Carpenter called for an immediate program for mandatory allocation of propane.

I talked to Mr. Carpenter yesterday. He reiterated to me his position that a mandatory allocation of propane is essential. He said it could make the difference between a successful harvest and a crop disaster with severe economic losses for thousands of Minnesota farmers.

Minnesota consumed approximately 500 million gallons of propane in 1972—30 percent or 150 million gallons for all kinds of farm use and 70 percent for industrial and residential home use. The demand for propane in 1973 is expected to be 550 million gallons. Based on 1972's consumption, we will run 50 million gallons short. However, using the projected 1973 demand for propane, we could be as much as 100 million gallons short.

It is my understanding that on Tuesday, a mandatory propane allocation plan had been prepared by the Department of Interior and submitted to Governor Love for his approval.

In my meeting this morning with Governor Love, I urged him to act immediately to implement a mandatory propane allocation program. I stressed to him that if this was not done, farmers in the southern and west central portions of Minnesota may be short as much as 40 percent of the propane necessary to harvest and dry their corn crop and prepare the fields for next spring.

I need not explain to this committee the value of American agricultural products in world trade today. We need them to feed the world and balance our trade deficit. The value of the dollar is down internationally. Its trading value is in jeopardy.

National demand for oil at this time approximates 17 million gallons per day. The best our domestic oil fields can produce is about 11.5 million gallons. We are entering an era where we could easily be importing more than 50 percent of our Nation's petroleum needs. We must be able to count on our food production as bargaining power to obtain the oil we need.

Our commodities have more trading value than our money. Oil-rich nations can use our wheat, corn and soybeans more than they can use our dollars.

Mr. Chairman, there is still some time left for the administration or the Congress to impose a mandatory allocation program for fuel oil. That luxury does not exist for propane. Every day that passes brings us closer to an agricultural disaster. We need a propane allocation system now. This week not when the farmers are out of gas.

I have spoken today mainly about solutions to critical, short time fuel supply problems. But overall demands for energy are increasing at nearly exponential rates. As Governmental officials, we must do more than act to allocate available supplies. Certainly we

need to expand our supplies of current sources of energy. We must also act to develop new alternative sources of energy. Most importantly, Government at all levels take the lead in a positive program to conserve energy so that the total energy supply will meet our basic needs.

The energy crisis demands bold, innovative and decisive action by Government. Certainly we have to re-evaluate the American reliance on the automobile. We must see that our homes, businesses and appliances are built to utilize energy in the most efficient way possible. I agree with the President. We must have an energy conservation ethic.

Mr. Chairman, I thank you for the opportunity to speak before your subcommittee today.

INTERJURISDICTIONAL CRIME IN THE WASHINGTON METROPOLITAN AREA

Mr. MATHIAS. Mr. President, earlier this session, I introduced legislation, S. 1792, to authorize the use of LEAA funds by interstate metropolitan planning agencies for studies of law enforcement problems in those areas. I am pleased that the Safe Streets Act contained an amendment designed to accomplish just that result.

I am now in receipt of the final report prepared by the Department of Public Safety of the Metropolitan Washington Council of Governments. This report, on interjurisdictional crime in the Washington metropolitan area, is an example of the kind of study and planning work that can be accomplished through the use of such funds. We all know that crime and criminals are no respecters of jurisdictional lines and that the entire Washington metropolitan area is but one unit when it comes to most questions of law enforcement. I ask unanimous consent that the summary contained in the report by the Metropolitan Washington Council of Governments and an editorial from the Washington Star on the report be printed in the RECORD.

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

SUMMARY

The conclusions that follow concerning interjurisdictional crime in the Washington metropolitan area are based on the analysis of data concerning the residences of persons arrested for serious offenses (Part I Index offenses) in the several jurisdictions of the Washington metropolitan area during 1972. They are subject to the limitations of completeness, accuracy and comparability which apply to this type of data in general and to the specific data available for this study. These limitations are discussed in detail in Chapter IV of this report. The reader is urged to refer to that chapter and to the analyses and tables for each jurisdiction in Chapters V, VI, VII, and VIII.

Approximately one in five arrests, a rate of 19.7%, for serious criminal offenses in the metropolitan area during 1972, was of a person who did not reside in the jurisdiction in which he was arrested.

The rate of interjurisdictional crime, as reflected by residences of arrested persons, is higher in suburban areas than in the District of Columbia. The rate in the Virginia suburbs is 30.3%, in the Maryland suburbs, 20.6%, and in the District of Columbia, is 9.7%.

Residents of other Virginia jurisdictions comprised the largest single group of non-residents arrested in the suburban Virginia jurisdictions.

District of Columbia residents comprised the largest single group of non-residents arrested in the suburban Maryland jurisdictions.

Prince George's County residents comprised the largest single group of non-residents arrested in the District of Columbia.

In absolute numbers, more adult non-residents, 587, were arrested in Prince George's County than in any other jurisdiction. The District of Columbia arrested the second largest number of non-residents, 480.

Metropolitanwide, the highest rate of non-resident arrests, 35.8%, was for larceny. The lowest rate, 12.9% was for assault.

The rate of arrests of non-residents for narcotic offenses was 19.9%. Narcotic offense arrests showed a pattern similar to that of index offense arrests.

The rate of interjurisdictional crime in the Washington metropolitan area has declined slightly but remained fairly constant, based on comparison of this study with previous studies, including those conducted by the Council of Governments, local governments, the FBI, and a 1939 study conducted by the Brookings Institution.

REGIONAL CRIME

Thanks mainly to the regional Council of Governments, a better profile of criminal activity in our metropolitan area is gradually taking shape. One of the more interesting parts of the mosaic is COG's new finding, reported the other day, that only one of every five persons arrested for serious crimes in the area last year lived outside the local jurisdiction in which the arrest took place.

The most obvious implication of that finding is that major crime is largely a home-grown product—rather more so, we suspect, than most people would have thought.

There has been a popular belief, for example, that sharp reductions of serious crime within the District of Columbia have contributed significantly to "spillover" increases of crime in the suburbs. If COG's analysis is not entirely conclusive, it certainly tends to discourage the theory. Indeed, in Northern Virginia, where the rate of interjurisdictional crime was highest (30.8 percent), most of the nonresidents arrested lived in other Virginia suburbs.

That was not the case in Maryland, where most of the nonresident arrests involved persons living in the District. It is interesting, however, that the highest rate of non-resident arrests throughout the region (35.5 percent) involved the crime of larceny. The lowest rate, among interjurisdictional crimes (12.9 percent), involved assaults.

COG's experts view these findings in a different perspective than we have thus far in this brief discussion. To their eyes, the fact that 19.7 percent of last year's 15,992 major-crime arrests involved nonresidents suggests a regional problem of substantial proportions, and of course they are right.

It argues, most clearly, for more effective cooperative relationships among the local police forces of the area. It suggests, too, the need for a mechanism by which all local prosecutors and judges can get better, faster access to criminal records of nonresidents. This is a problem that has been largely neglected, and which deserves COG's further attention.

We wondered how the Washington area stacks up against other metropolitan regions on interjurisdictional crime, and the surprising answer is that no one knows; the anatomy of regional crime simply hasn't received much attention nationally. It requires attention not only to bring about a broader understanding of the problem in urban areas but to provide a better basis for combatting it.

TOM VAIL

Mr. COTTON. Mr. President, the death of Thomas Vail this week was a special loss to every person associated with the U.S. Senate for he was one of those true professionals who are responsible for bearing so much of the load.

I know the enormous tasks that faced Thomas Vail during his distinguished service on Capitol Hill and I know in a special way, having served on the Senate Finance Committee, the demands and pressures connected with the duties he was called upon to shoulder as a professional staff member and later as chief counsel of that committee. As we extend our sympathy to his family, we hope that they find consolation in the knowledge that Thomas Vail handled these duties with a combination of ability, integrity, and understanding that inspired our highest respect during his life and that has brought our most heartfelt grief in his death.

TRADE AND FREEDOM

Mr. PELL. Mr. President, let me call your attention to two recent but seemingly unconnected events. Last week with admirable alacrity and good sense, the Congress ended a blackout permitting us to watch the Redskins on TV play on the home front. On September 19, Moscow Radio's international broadcasts accused this Senate of "gross interference" in Soviet internal affairs because we approved the Mondale amendment protesting the blackout of human rights and individual freedom in the Soviet Union, a complaint echoed more subtlety by Chairman Brezhnev visiting in Sophia.

In the case of the TV blackout, Congress was able to restore the light in one fell stroke. The ability of Congress to end the blackout of human rights, in this country or abroad, is quite a different matter. In our own counrty, of course, there is more that we can do. Here we must maintain the vigilance and take the action that the preservation of human rights and liberties demands. In a sense, that is what Watergate is all about.

In these remarks, however, I want to restrict myself to the problem of the denial of human rights and individual freedom outside of this country, of the relationship of this problem to détente, and what can be done to help solve the problem. This is an area where the ability of Congress to act is much more limited than on the domestic scene. But there are things that we can do to help assure the eventual victory of human freedom in the evolutionary development of a new and better order for the organization of mankind.

We can recognize and be responsive to voices, wherever they are raised—in Greece, in Spain, in the Dominican Republic, in Chile, in Nicaragua, in China, in South Africa, in Eastern Europe, in the Soviet Union—to protest the violation of human rights. If we cannot intervene directly in responding to those voices, we can salute the courage, the tenacity, the selflessness of those brave men and women who dare to act and speak out in defense of the individual and his right to life, liberty, and the pursuit of happiness. It is the acts and words of these people, the heroes of any age, that give dignity and meaning to hu-

man existence. That was the value and significance of the Senate's action in approving the Mondale amendment to H.R. 8916 in support of courageous dissenters Sakharov and Solzhenitsyn. In their willingness to stand up and be counted, those eminent and patriotic Russians represent many other unknown and unsung defenders of the untrammelled human spirit. In the declarations and resolutions of this Congress, of organizations such as the National Academy of Sciences, of private individuals, we can assure these defenders that they do not stand alone. That what they may be doing now in obscurity and hardship will someday benefit future generations of mankind. King Canute could not hold back the tides of nature. In the end, no regime or government can contain the free spirit of man.

Second, we can strengthen our efforts in forums devoted to the promotion and protection of individual liberties, particularly at the Human Rights Commission and in other organizations of the United Nations system. We can encourage the work of private organizations as well.

Third, we can assure that channels of direct communication are maintained for furnishing objective and accurate information to the peoples of closed societies on what is going on in the world and in their own countries. It is for this reason that I have supported the restoration of funds cut from the $50 million that the Senate has authorized for continuing the services of Radio Free Europe and Radio Liberty.

I would like to repeat here the quotation of Solzhenitsyn that I included in my remarks on some negative aspects of East/West détente of July 19 on page 24893 in the CONGRESSIONAL RECORD. In a New York Times interview, Solzhenitsyn states:

> If we ever hear anything about events in this country (USSR), it is through them. (Radio Liberty broadcasts)

Fourth, through all media of communications, the message must come across loud and clear that the U.S. Government and the American people remain steadfast in their dedication to the defense of human rights and deplore the violation of those rights wherever they occur—in the United States, in open societies, or in closed societies. It must be made clear, too, that continued contact and transaction of business with governments guilty of such violations do not mean our approval of or our aquiescence in them. The impression that we do, such as was given by the recent remarks of the Secretary of Health, Education, and Welfare on his return from the Soviet Union, is reprehensible.

Lastly, we can give renewed vigor to the task of removing barriers that separate the peoples of open and closed societies. A forum where we can immediately apply ourselves to this task is the Conference on Security and Cooperation in Europe. The contacts and dialog, which we hope will result from the Conference, can help to erode away these barriers. Herewith, however, we become involved in a dilemma in the pursuit of our policy of a relaxation in East/West tensions. Increased contacts and dialog are possible only in an atmosphere of détente. On the other hand, the regimes that dominate closed societies fear that these contacts will spread the virus of freedom of thought and expression among the people they seek to isolate. For this reason, as a result of détente, we are now witnessing in the U.S.S.R. and in Eastern Europe a trend to restrict individual rights and freedom. I was made very much aware of this negative aspect of détente during my recent visits in Central Europe.

I believe, however, that this repressive effort can be successful only in the relatively short run. Eventually the freer movement of peoples, ideas, and information that genuine détente makes possible will release irresistible internal forces to assure the victory of freedom and diversity over oppression and conformity.

An area where the dilemma of détente versus freedom becomes particularly difficult and controversial is in commercial relations. I do not believe that it is just a question of principle versus expediency. Expanded trade and economic ties between the United States and the Soviet Union also stimulate a movement of peoples, ideas, and information. The flow of trade penetrates the interstices and crevices of the walls that surround a closed society. It shares the force of running water to erode. We have seen it successfully at work in crumbling the national partitions that divided Western Europe.

It is for this reason that as much as I deplore the violation of human rights in the Soviet Union, I also see the long-term advantages to the cause of human rights in expanding United States-Soviet trade. Although I am a supporter of the Jackson amendment, I think our minds should be open to possible alternatives. The New York Times recently contained a thoughtful editorial which may be helpful in our effort to harmonize two objectives that perhaps are not as conflicting as they seem.

Mr. President, I ask unanimous consent to have printed in the RECORD the editorial entitled "Trade and Freedom" appearing in the New York Times of September 18.

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

TRADE AND FREEDOM

In calling on President Nixon yesterday to give voice to American concern over Moscow's latest assaults on individual liberties, the Senate emphasized that progress toward detente with the Soviet Union need not and should not involve sacrifice of this country's right to speak out in behalf of human freedom.

An improved relationship between the United States and the Soviet Union, the two nuclear superpowers, is of profound importance to both nations and to the peoples of the earth. And the initiatives begun by the Nixon Administration toward the Soviet Union as well as toward China are, as we have often noted, highly significant and constructive moves in the unremitting effort to build a peaceful world.

Since an increase in trade would be a logical part of any improved relationship, the Administration is seeking authority in the pending foreign trade bill to grant most-favored-nation status to the Soviet Union. "Most favored nation" is actually a misnomer since it suggests that the Russians would be granted some preferred treatment. In reality, they would receive at the President's discretion tariff treatment no less favorable than that granted any other nation.

Too much ought not to be expected from trade by itself as a factor for peace, but a policy of political detente can hardly hope to succeed if it has no economic counterpart. For that reason alone, it would be desirable that Congress grant to the President the authority he seeks to establish "most-favored-nation" terms of trade with Moscow. Quite apart from immediate political consideration the step is important on the general economic principle that it is to the long-run advantage of all parties that the channels of international trade and commerce be opened as widely as possible.

The trade issue has, however, become intertwined with the persistent denial of human rights within the Soviet Union. Many another nation with which the United States has close trade relationships also represses civil liberties; but it is one thing to maintain existing trade ties with such a country and quite another to augment the relationship just at the moment when human rights appear to be under particular pressure, as they are in the Soviet Union today. Yesterday's Senate action, which strikes us as especially appropriate at this moment, underlines the strength of the popular feeling in this country on this complex issue.

The Soviet leadership would do well to recognize that American moral indignation over the fate of the Russian dissenters is a fact of political consequence. We would like to see this concern also expressed openly and at the highest levels of the United States Government. The recent trip to Moscow of H.E.W. Secretary Weinberger and the scheduled visit of Secretary of the Treasury Shultz suggest, on the contrary, that the Administration is so intent on trade and detente that it is willing to shunt aside the equally important concern of the American people for human rights everywhere.

Under these circumstances, the kind of Presidential statement urged by the Senate is entirely in order. But so is passage of the "most-favored-nation" bill without strings or crippling amendments. We do not believe that it is appropriate, in a foreign trade or in any other kind of bill, for Congress to legislate on the internal affairs of another country.

MINING AND MINERALS POLICY SECOND ANNUAL REPORT

Mr. DOMENICI. Mr. President, I would like to bring to the attention of the Senate today, the Second Annual Report of the Secretary of the Interior under the Mining and Minerals Policy Act of 1970 (Public Law 91–631).

At a time when we have come to the realization that our natural resources are fast dwindling and that we are reliant upon these resources for life support, I think it is important that we take into account the availability of resources we do have. This report is timely because of the shortages we are experiencing and the shortages that are projected in the months ahead because of the failure to anticipate the problem that our natural resources are not limitless.

U.S. production is falling behind in relation to the rest of the world. The United States now produces only about one-fifth of the world's steel, one-fourth of its refined petroleum, and one-third of its aluminum metal.

Mr. President, I ask unanimous consent that a small portion of this report be printed in todays RECORD.

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

(Excerpt from Mining and Minerals Policy—1973 Second Annual Report of the Secretary of the Interior Under the Mining and Minerals Policy Act of 1970—page 25)

GLOBAL PERSPECTIVE

U.S. production and usage of minerals must be considered in the light of the total world situation.

Over the past two decades world production of major processed materials of mineral origin has increased sharply, as shown by Fig. 3. While U.S. production has increased in quantitative terms, its relative role as a world consumer of mineral raw materials and as a world manufacturer of products of mineral origin has shrunk. The United States now produces only about one-fifth of the world's steel, one-fourth of its refined petroleum, and one-third of its aluminum metal. Many other minerals are used in a proportion to steel, petroleum, and aluminum, and the same situation holds for them. Item 6 in each mineral profile in Appendix I gives details.

Consequently, the United States is encountering steadily increasing competition in the acquisition of non-domestic mineral raw materials as other industrialized countries also seek reliable sources of reasonably-priced mineral raw materials.

In addition, the United States is losing its competitive position in traditional products with large world markets and other industrialized nations are increasingly engaged in selling therein. Thus, our ability to pay for foreign mineral raw materials is diminished and our balance of trade and balance of payments problems are made worse.

CARGO SECURITY CONFERENCE

Mr. BIBLE. Mr. President, may I make another of my periodic reports to the State about progress being made in the governmental and private sectors to bring under control the $1½ billion to almost $3 billion lost every year through the thievery, pilferage, and hijacking of cargo from truck, air, rail, and maritime carriers nationwide. That impact is a serious one for small businesses and the consumer generally.

For several years now the Senate Small Business Committee has been in the forefront of efforts to persuade both Government and private carrier officials with responsibilities in these areas to pursue more aggressively their anticrime efforts. As an example, the 1973 National Cargo Security Conference in Chicago on September 6 and 7, marked the third such conference since 1970 and provided a focus and an updating of both private and governmental endeavors. As previously, the conference was jointly sponsored by the Department of Transportation and the Transportation Association of America, both of whom are to be commended for their affirmative actions to reduce this plundering of our commerce channels. Secretary of Transportaiton Claude S. Brinegar, Assistant Transportation Secretary Benjamin O. Davis, TAA Board Chairman Harold Hammond and TAA President Paul Tierney deserve real credit for their efforts in stimulating interest in this conference and its goals.

May I particularly call attention to a principal presentation at that conference made by Federal Bureau of Investigation Director Clarence M. Kelley in his first public address since assuming office. He highlighted some of the areas called to the Bureau's attention in the last several years by your Small Business Committee as a part of our work.

The wholehearted efforts pledged by Attorney General Elliot L. Richardson and FBI Director Kelley on behalf of the Department of Justice are thoughtful and constructive and therefore part of a blueprint for action in the months and years ahead.

Mr. President, I ask unanimous consent that a letter from Attorney General Richardson and the text of FBI Director Kelley's speech be printed in the RECORD.

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

DEPARTMENT OF JUSTICE,
Washington, D.C., September 6, 1973.

Hon. ALAN BIBLE,
Chairman, U.S. Senate Select Committee on Small Business, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for your thoughtful letter of August 1, 1973 in which you commended the efforts taken by this Department to bring about comprehensive law enforcement by Federal, state and local authorities with respect to cargo thefts and other concurrent jurisdiction offenses. I was particularly pleased to learn upon reading your letter of the excellent liaison and cooperation which has existed between your Senate committee and the representatives of the Criminal Division of this Department who have been working in the cargo security field.

As you know, we in the Department of Justice are aggressively pursuing our efforts to establish Federal-State Law Enforcement Committees and city-level cargo security working groups in order to maximize the effectiveness of law enforcement in this most important area. The Law Enforcement Committees will do much to eliminate needless duplication and confusion in the efforts of law enforcement officials to curb cargo theft and other concurrent jurisdiction offenses. By the same token, the cargo security working groups can aid in the coordination of the work of all concerned agencies and industry groups in local communities that want to effectively combat the problem.

To underline the continuing importance which this Department attaches to the law enforcement aspect of the cargo security problem, we intend to send certain United States Attorneys from major cities with a significant cargo theft problem as Departmental representatives to the third annual National Cargo Security Conference in Chicago on September 6 and 7, 1973. In addition, the Director of the Federal Bureau of Investigation will address the Conference at the closing luncheon on September 7, 1973.

Another concurrent jurisdiction offense which represents an area of major concern for both the Federal Government and the several states is auto theft. During the past year, the number of auto thefts committed throughout the nation approached one million. Since fiscal year 1971, the number of auto theft rings being investigated and prosecuted by this Department has jumped from 125 such rings to 225 at the present time. Indeed, these auto thefts not only directly affect large numbers of individual consumers, but these offenses also have a direct impact on the nation's business community.

As we in the Department of Justice move to expand and improve the Departmental cargo security programs which you mentioned in your letter, we will look forward to an equally productive relationship in the future with you and your committee in the fight against cargo theft, as well as other serious areas of crime similarly affecting individual consumers and the nation's business community.

With appreciation and best regards,
Sincerely,

ELLIOT L. RICHARDSON,
Attorney General.

CARGO SECURITY—A HIGH LEVEL PRIORITY FOR THE FBI

(An address by Clarence M. Kelley, Director, Federal Bureau of Investigation at the Third Annual National Cargo Security Conference, Chicago, Ill., September 7, 1973)

I welcome the opportunity of participating in your Conference today.

This is the age of transportation—when millions of our citizens depend on you, the handlers of cargo, for their daily existence. A stoppage in any type of transportation . . . land, sea or air . . . can well be a national emergency.

The very fact that cargo theft loss is estimated by the Senate Select Committee on Small Business at 1.5 billion dollars a year—or over four million dollars a day—makes it a problem of alarming dimensions. For this reason, your Annual Conferences, of which this is the third, are effective and valuable. They enable you, in the transportation industry and Government, to jointly discuss this grave problem, how best to handle it, and most importantly, what can be done to prevent theft.

For the FBI, theft from interstate shipment rates a very high investigative priority. In fact, over the years we have followed the general policy of instituting an investigation within the hour after receipt of a complaint in major theft cases. We know that these are investigations which must be handled quickly, efficiently and diligently—that, if they are to be solved, they require our very best efforts. I can assure you that this is still our policy—and will continue to be!

We can maintain this high-level investigative priority for cargo security cases . . . why?

Because of your cooperation—your reporting to us immediately the theft and your willingness to assist our Agents. I want to thank you most sincerely for your cooperation. We are all members of the same team and only by working together can we meet the challenge of the cargo thief.

I am happy to say that several top members of our FBI Theft from Interstate Shipment team, both from our Headquarters staff in Washington and our Chicago Office, are here today. This shows how deeply we are concerned. I hope you have availed yourself of the opportunity to discuss mutual problems with them.

As I view the whole area of cargo security, I am convinced, both from my experience in the FBI and as a Chief of Police, that hard-hitting, effective investigations by the FBI and local law enforcement are one of the most potent ways of combating this challenge. These investigations not only identify the criminals and bring them to justice, but reduce thefts by disorganizing armed hijacking gangs.

Let's take, for example, the Boston-Philadelphia corridor with its thousands of cargo loads daily.

This corridor is a tempting area for the armed hijacker. Over the years, this corridor has been harassed by gangs having close affiliations with underworld fences and organized crime. Loads of high-priority merchandise, such as liquor, cigarettes, wearing apparel and precious metals, are hijacked and within minutes disappear—almost as if a giant trapdoor opened and the cargo dropped through.

In late 1971, the FBI, working closely with local law enforcement, was able to smash vicious criminal hijack gangs in the Newark-New York area. The FBI arrested 32 indi-

viduals, of whom 25 have been convicted to date.

These gangs were highly professional . . . and ruthless. They had elaborate signals, drops and ways of quickly disposing of stolen cargo. They worked with precision and advance planning. They were not above using violence, with one of the gangs involved in the kidnapping and suffocation death of a driver.

They had become vultures of the highway, making every truck you sent out a potential target.

After these hijack arrests, the effects of the intensive investigations became readily apparent.

In our Newark-New York Office territories, armed hijackings involving interstate shipment reported to the FBI dropped from 317 in 1971, when the gangs were operating, to 173 in 1972, after the arrests were made . . . *a drop of 45 percent.*

As for truck thefts, the decline from 1971 to 1972 was 16 percent in the same geographic area.

So far this year, the decline of both *armed cargo hijackings* and *truck thefts* continues.

This decline can be attributed in large measure to the fact that hard-core hijack thieves have been taken out of circulation. Some of those convicted had been fences with contacts in the criminal underworld. Clearly, a substantial portion of the criminal redistribution system—the fences—had been penetrated and compromised.

Still another proof of the decline of organized gangs in the New Jersey-New York area has been the rise of the so-called "cowboy"—that is, the individual or small group which hijacks trucks at random whenever the opportunity presents itself. When you see cargoes of coat hangers, sausage casings, cookies and clipboards hijacked, you know that most likely a "cowboy" is involved. You know for sure when you later determine that the load has been abandoned on the streets.

Investigative experience teaches, however, that we cannot rest on our laurels.

In the criminal world gangs are quickly reborn. Remnants of old gangs come together. Or new criminal elements drift into the area, soon to be caught up with local criminals. I'm reminded of a recent case where a Western truck driver was apprehended in New Jersey illegally selling a load of shrubbery which had been consigned to Atlanta. When asked why he was so far off his route, he calmly replied, "I made a wrong turn at Chicago."

I want to emphatically assure you that the FBI . . . and our brother law enforcement agencies . . . are aggressively pursuing these investigations. We are keeping the pressure on—day after day. In this way, not only in the Northeast corridor but elsewhere in the Nation, we seek to keep the hijacker off balance—and your cargoes more safe.

The latest technological developments are being used by law enforcement. Since 1969, the National Crime Information Center (NCIC) . . . a nationwide computerized storage and retrieval system for criminal information . . . has played a key role in the field of cargo security. At present, NCIC contains over 4½ million records of which almost 20 percent represent stolen articles—such as typewriters, cameras and television sets (merchandise which can be identified), many of which come from cargo shipments.

For example, if 50 TV sets are stolen from a Little Rock truck depot . . . or a shipment of calculators from a waterfront pier . . . or securities at an airport terminal . . . the identification of this merchandise, if reported, can be placed in the NCIC computer and be instantly available to over 300,000 law enforcement officers in every state of the Union, the District of Columbia and Puerto Rico.

One day in August, to show the daily volume of the NCIC, there were over 140,000 transactions in a single 24-hour period. Every "hit"—or identification—helps us just that much in our work.

Then we are intensifying our efforts to identify the fences and middlemen operating interstate who make such thefts profitable. In this connection, we are utilizing provisions of the Omnibus Crime Control and Safe Streets Act of 1968. This Act, as you know, provides for court-ordered electronic surveillance in instances where the Government has been able to show probable cause that a violation, such as theft from interstate shipment, exists.

Here is an area in which the FBI and Federal Government should act because individuals operating interstate, particularly fences, present special problems of jurisdiction for local and state agencies.

However, even though cargo hijacking often grabs the headlines, the greatest loss of cargo, by far, remains now, as it has always been: *pilferage*, the petty theft of merchandise from warehouse, dock or carrier, either by employees or outsiders.

"We're being nickeled and dimed to death," said a spokesman for the trucking industry recently. By this he meant the theft of small items, a few cartons here and there, and repeated thousands of times, adding up to terrifying cumulative totals. This spokesman went on to assert that 80 percent of dollar losses in his industry came from pilferage or theft of small items on a repeated scale.

I am confident that petty thievery rates an equal problem for air, railroad and water transportation.

Hence, the most potent thief—the enemy we really face—is not the armed hijacker, dangerous as he may be, but the dishonest employee, the outsider who somehow evades security, and steals a few cartons, a box of shoes, some dresses or television sets. He may make use of these items himself or, as so often happens, he begins to work up his own personal disposal system for monetary profit. It is often simply amazing to see the ingenious fencing networks a single thief . . . or a group of them . . . can work up.

The cumulative effect of petty thievery can be devastating to company profits, to the quality of your service to customers, to the economic welfare of the country.

In the area of pilferage, you, as cargo handlers, are your own best friend . . . or enemy . . . as the case may be.

We in law enforcement can do much to help you. Time after time we are able to identify the criminal, to break up pilfering rings, recover stolen merchandise.

However, pilferage is largely an "in-the-house" problem and must have an "in-the-house" solution.

What I'm saying is that petty thievery at your piers, yards and terminals is largely a matter of *prevention*—that pilferage losses vary almost directly with the effectiveness if your own security programs.

Your Conference today—as well as the growing emphasis on security in the transportation industry—is proof of the concern you are focusing on this area of maximum losses. Many years ago, when I broke in as a young FBI agent, transportation companies gave little thought to internal security.

Today your industry—and very rightly so—is security conscious. Most companies have security officers . . . men who are professionally trained and highly competent. You conduct security-type educational programs among your employees. Congressional committees are exploring the problem. The Government, especially through the Department of Transportation, is lending invaluable assistance. In this partnership of Government and industry lie new initiatives and procedures to meet this dagger which is aimed at you.

I would like to point out that the Department of Justice has aggressively attempted to encourage state and local prosecutors to become more active in prosecuting cargo theft cases. Although most of the Federal-State Law Enforcement Committees are still in the formative stages, this venture has reached a milestone in that in some thirty states committees, including Federal and state law enforcement people, have begun to discuss specific problem areas. The FBI has actively participated in these committees.

The Justice Department also envisions the creation of local cargo theft working groups in major cities experiencing significant cargo theft problems. These groups will involve local, state and Federal prosecutors as well as industry representatives, such as one already instituted in Philadelphia.

Sometimes, however, we in law enforcement and you in cargo security must, so to speak, step back and take a new look, a new perspective.

Even though theft is an old problem, this doesn't mean that it cannot be attacked through new ideas, new approaches, new ways of doing things. We must be constantly alert to making changes in the interests of achieving positive results. Perhaps the greatest enemy of security—cargo security or any other type of security—is complacency, the concept that we've done it this way for years so it must be the best.

Whether we realize it or not, we today live in an era of growing criminal sophistication. The thief is today making extensive use of technological devices. He learns how to nullify and circumvent preventive techniques. He develops new ways and rationales for stealing.

Most vital in combating cargo theft is your willingness to make those financial commitments necessary for adequate security.

Unfortunately, effective security costs money. This means not only the hiring of competent security officers, but guards, and installation, among other things, of proper lighting, fences, perhaps TV monitoring. It also means careful selection of personnel, establishing adequate auditing and accounting procedures to determine and trace losses, conducting spot inspections at various stages in the cargo-handling process.

The spending of money, and the purchase of security-type equipment, however, are not the final answers. Most vital is the *personal interest of top management.* Security is much too important to be exclusively delegated and then forgotten by senior executives. Front office management must be personally interested. If you as an executive display concern, others in the company will also be concerned. The potential thief, if he be an employee, may also be affected by your emphasis on security.

I remember a personal experience of having some property stolen from my luggage on a trip from Florida to Kansas City. I have mentioned this incident on several occasions to airline employees who said they had often observed cargo handlers apparently rummaging through luggage. When I asked if they had reported this information to the proper authorities, they replied in the negative. Such an attitude, to my mind, appears in essence to condone the offense.

Unless there is support from the entire organization for security, there is little likelihood of achieving any degree of success. In other words, being security conscious is not only an individual responsibility, but also the responsibility of the whole company.

I realize, in such instances, employees do not want to become involved. Here perhaps is where management in this country has its greatest responsibility. We must reinstill confidence of the public in the American system. People must be made to feel their best interests are served by our system. Today, non-involvement is prevalent in all too many places. We must endeavor to make

employees feel that they are part of a system which works to their personal advantage.

However, to nullify this feeling of noninvolvement it might be well for employers to accept information from employees without later involving them. In other words, this type of data can be of great help in unraveling any dishonesty.

Every company security officer should take time to discuss with his local FBI representative and police just what steps, such as how to preserve evidence, he should take prior to arrival of the investigating officer. Many times what your company does—or doesn't do—in these early minutes can be exceedingly crucial.

Then there are steps which you as an industry—and as individual companies—can undertake to promote legislation which might help to reduce thefts.

Some States, for example, have passed or are considering legislative action to permit carriers to sue civilly for treble damages in instances where a receiver is found in possession of stolen goods. This concept might be very legitimately pursued by you in your local jurisdictions.

The theme of your Conference this year is "A Report on Local Actions."

This is a most appropriate theme—for it is chiefly local initiative, local responsibility, local leadership which will alleviate this pressing national problem.

It must be you, your company and your industry in action.

We in law enforcement can do much to assist you. But cargo security is basically a local concern . . . your concern as members of the industry.

Above all, there must be a spirit of cooperation—a working together for a common goal. You represent shippers of diverse types of cargo, from different geographical areas, with varying individual problems. But, in the final analysis, all of you have the common aim of making your shipments more secure.

I feel that this spirit of cooperation . . . reflected in the transportation industry and Government . . . is the harbinger of better things to come, that we are well on the way of breaking through this problem.

We in the FBI are proud that we are part of your team. Let's keep up the good work!

THE FAIR HOUSING OPPORTUNITY ACT

Mr. TOWER. Mr. President, as a result of an extensive 6-month study of Federal housing policy directed by Secretary of Housing and Urban Development James Lynn, the President has submitted to the Congress this week his housing policy recommendations and goals.

Today, I would like to comment briefly on one of the President's recommendations with which I am particularly pleased. In discussing the need to work vigorously toward stamping out discrimination in housing, the President said:

> The availability of mortgage credit has also been restricted in many instances on the grounds that the applicant's financial resources, which would otherwise have been adequate, were deemed insufficient because the applicant was a woman. These practices have occurred, unfortunately, not only in home mortgage lending but also in the field of consumer credit. I shall therefore work with the Congress to achieve legislation which will prohibit lenders from discriminating on the basis of sex or marital status.

During hearings held by the National Commission on Consumer Finance in May, 1972, the patent ambiguity of our laws regarding discrimination against women in mortgage lending and consumer credit transactions was emphasized. The Fair Housing Amendments of 1968 which prohibit discrimination on the basis of race, color, religion or national origin, neglect to specifically prohibit discrimination against women. As a result of these hearings, and in a further effort to eliminate the last vestiges of discrimination on the basis of sex in our society, my colleague and good friend from Tennessee, Senator BROCK, the ranking minority member of the Subcommittee on Consumer Credit of the Banking, Housing and Urban Affairs Committee, introduced in April of this year two measures which I feel are extremely important. The first, S. 1605, entitled the "Equal Consumer Credit Act," would amend the Truth in Lending Act to prohibit discrimination on the basis of sex or marital status in any consumer credit sale thereunder. As a cosponsor of this measure, I shared my colleague's delight when the Senate Banking, Housing and Urban Affairs Committee unanimously reported an amendment to S. 2101, the Truth in Lending Act Amendments of 1973, incorporating the major provisions of this measure. Subsequently, S. 2101 passed the Senate by an overwhelming vote of 90 to 0.

The second measure introduced by Senator BROCK is S. 1604, the "Fair Housing Opportunity Act" to extend the provisions of sections 804, 805, 806, and 901 of the Fair Housing Amendments of 1968 to include a prohibition against discrimination on the basis of sex in sales and mortgage lending transactions.

During 2 weeks of hearings in the Housing Subcommittee this past July, Senator BROCK demonstrated convincingly the need for this legislation. His testimony provided our subcommittee with irrefutable evidence of the blatant and systematic discrimination against women in these areas.

Mr. President, I commend my friend from Tennessee for his outstanding achievements to date in winning overwhelming support from our colleagues for these measures. In preparation for full Senate consideration of this question of discrimination in housing, I know that all Senators will find Senator BROCK's testimony most helpful and informative. For that reason, I ask unanimous consent that the full text of his remarks and S. 1604 be printed in the RECORD.

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

STATEMENT OF SENATOR BILL BROCK ON THE FAIR HOUSING OPPORTUNITY ACT BEFORE THE HOUSING SUBCOMMITTEE

Mr. Chairman, thank you for the opportunity to discuss S. 1604 my bill, the "Fair Housing Opportunity Act" to prevent discrimination on the basis of sex in housing by amending the 1968 Fair Housing Act. S. 1604 is a companion measure to my bill originally introduced as S. 1605 and incorporated as Title III of S. 2101 which passed this week.

A number of cases have come to my attention in which a wife's income has not counted toward purchase of a home. In other cases, a woman's income has not been counted toward home improvement loans. I have even seen examples where a family could not rent a suitable dwelling, because the wife was the chief wage earner, for example, and the husband was in school.

In addition, difficulties in the mortgage lending area, women do face a problem with regard to access to housing. This legislation is needed not only to assure that women have access to mortgage credit, but that women are not subtly denied opportunities to purchase homes or rent dwellings. For example, a real estate agent knowing that a creditworthy woman will face difficulty in obtaining a mortgage on account of her sex will tend not to view women as viable potential customers and will discourage an active search for a home purchase.

In the area of rentals, the denial of access has been more evident. There has often been an informal practice of failure to rent to single women (and single men, for that matter) on the basis of assumptions about their reliability in performance of their duties under their leases.

Five years ago when the Fair Housing Act was passed, what problems that were recognized in this area were seen as individual rather than systematic. In the years since the passage of the Act, it has become increasingly evident that prohibition against discrimination on account of sex should have been included in the Act, and I now seek to remedy this omission. For example, the Department of Housing and Urban Development's (HUD) Fair Housing Office took an informal survey during several months of 1971 and the early part of 1972. This study from June 28, 1971, through February 22, 1972, included a total of 709 calls. As HUD has pointed out this is by no means a complete study because letters alleging this type of discrimination have also been received at the Central Office, and both letters and telephone calls are also received at HUD's Regional and Area offices. (See Appendix A.)

Recognizing these problems, a number of states now have provisions similar to the one I am proposing in their laws prohibiting discrimination in housing on account of sex. These states include Alaska, Colorado, Delaware, Hawaii, Idaho, Indiana, Maryland, Illinois, Massachusetts, New Jersey, New Mexico, New York, Pennsylvania, and South Dakota.

DISCRIMINATION IN MORTGAGE LENDING

While the line of distinction between denial of access to housing and denial of mortgage credit is a subtle one, the two types of discrimination serve to reinforce one another. Let me turn to some of the cases that have come to my attention. In testimony before the National Commission on Consumer Finance, we particularly noted that single women have trouble obtaining mortgage credit. A variety of lender prejudices have resulted in single women traditionally being unable to obtain mortgages to buy real estate. Lenders have gone to such lengths as to worry that single women could not perform the necessary repairs to maintain a property. Yet, how many otherwise creditworthy single men, when applying for a home loan, have ever been questioned about their carpentry, plumbing or electrical ability? The assumption that men could perform these tasks while women could not is just the sort of discrimination based on sex that we are talking about. A judgment based on the ability of the applicant of either sex to pay for necessary maintenance would be much more to the point, but women are frequently denied even the most cursory examination of their means.

This exchange between a bank and potential customer is typical:

"Saturday morning, August 28, I spoke to a loan officer, Mr. Frank Cash, about obtaining a home mortgage loan. He gave me the current interest rate along with closing costs, etc. and then inquired about my husband. I told Mr. Cash that I had no husband. He then informed me that home loans were not granted to single persons without a cosigner. I told him that a co-signer was not necessary as my income was sufficient to

cover the loan I was asking for. He told me this was a requirement of the "loan committee" and there was no loan available to me as a single person without a co-signer.

"I find it very difficult to believe that I was denied a loan with absolutely no information about my ability to pay. Mr. Cash didn't ask me my age, about my work record, my salary—nothing at all pertinent to the credit information needed to obtain a loan. I was turned down solely because I am a single woman. This is an assumption on my part. I am now asking you, formally to supply me with the reason I was denied credit by your bank."

After sending this letter to the bank, the woman received a form letter from the bank's president which said:

"In conducting any well-organized business today, situations may arise due to the possible absence of complete information.

"Please feel free to visit my office personally, at your convenience, should you feel further discussion is in order."

When the woman called the president for an appointment, he told her that a personal visit really was not necessary as it was a "policy" of the loan committee and there "really wasn't anything more he could tell her." As far as I can determine, single males have not encountered any such refusals, at least to determine whether or not they might be eligible for credit.

On the other hand, mortgages may be granted if a male cosignature is obtainable no matter what the financial status of the male may be. The Wall Street Journal reported that a woman in her forties who, as head of her household, wanted to buy a house for herself and her children could not get a mortgage without the signature of her 70-year-old father, who was living on a pension. There is no evidence that single men in like situations have been required to obtain cosigners.

The failure to grant mortgage credit affects not only women as a group, but families as well.

For medium-income couples seeking mortgages, the failure to count the wife's income means that many couples who would otherwise qualify are denied the benefits of homeownership. Mortgage lenders tend to discount the income of married women who are regularly employed.

In testimony before the Commission on Consumer Finance and in press reports, a lender's "rule of thumb" has been outlined. In recent marriages—less than 5 years—or when the wife has been working only a short time, no recognition is given to the wife's income. With young married couples, no matter what their background, the wife's income is not recognized. If the wife is classified as a "professional" and is between the ages of 26 and 35, a lender may give half credit to her income. If she is over 35 years of age, it is customary to give full credit. If the wife is in a nonprofessional occupation, usually no allowance is made for her income up to age 35, half allowance between ages 35 and 42, and full credit beyond that age.

These customs in relation to wives' incomes seem to be motivated by the presumption that women are likely to become pregnant, and if they do, that they will necessarily terminate employment. The specter of pregnancy has governed much of the reactions of the banking industry in connection with counting a wife's income. In testimony before the Commission on Consumer Finance, Sharyn Campbell, an attorney representing the Women's Legal Defense Fund, presented evidence that banks have required letters from doctors or affidavits concerning birth control methods employed, or doctors' letters attesting to sterility, worse yet, in one case a couple was asked to assure that the wife would have an abortion before her income would be able to be counted.

I regard inquiries along these lines a serious invasion of personal privacy, and yet, in the past, couples needing loans have had little choice. On the other hand, I have heard no evidence presented showing that married couples tend to default on their loans when the wife bears children.

Family planning is a widely recognized concept in our modern society, and even when women do become pregnant there are many to whom motherhood and employment are not mutually exclusive. As a matter of fact, the lower and middle income families most need to count the wife's income in order to enjoy the tax advantages and benefits in community stability and community identification associated with homeownership. In this sector of the society, according to Labor Department statistics, married women are much more likely to continue working, yet it is these families that are hurt most by the idea that motherhood will terminate employment. Moreover, increasingly many women are working out of preference after the birth of their children. Today, more than 30 percent of the married women with children under 6 work.

Although in the past, pregnancy was often a reason women dropped out of the labor force, indications are that increasing numbers of women are choosing to combine motherhood with outside employment. In recognition of this fact, the EEOC guidelines issued under the equal employment opportunity law required that childbirth be treated as any other temporary disability, from the employer's standpoint. Thus women will not necessarily be faced with loss of job due to pregnancy should they need or wish to continue working.

In reviewing the question of equal access to mortgage lending and to housing, it has been brought to my attention that the several Federal agencies responsible for enforcement of the Fair Housing Amendments of 1968 have not been clear about their authority to extend the coverage of these provisions to prohibit discrimination in the basis of sex. The Fair Housing Amendments of 1968 prohibit discrimination in the sale and mortgage lending on the basis of race, color, religion, or national origin, but not on the basis of sex. For example, the Federal Deposit Insurance Corporation held hearings on this issue in December and has not yet reached a resolution of the question.

I have received letters of support for this legislation from some of the agencies and organizations involved. In a letter of June 22, the Federal National Mortgage Association stated:

"The Federal National Mortgage Association has long followed the policy that invidious discrimination in the availability of housing or housing finance on the basis of any immaterial consideration is to be avoided. Among immaterial considerations, of course, is the consideration of sex. We therefore have no problem at all with, and fully support S. 1604, which adds sex as a proscribed basis of discrimination under Title VIII and IX of the 1969 Civil Rights Act. We likewise have no problem with, and fully support, S. 1605 insofar as it would prohibit discrimination on account of sex in the granting of consumer credit."

In addition, some agencies have taken steps to end discriminatory policies. This week the Veteran's Association announced a new policy of counting wive's incomes in full in mortgage loans.

While it is my view that sufficient legal authority is probably available to the agencies to prohibit discrimination on the basis of sex, the amendment I offer here should remove any remaining doubt on this question. In testimony before hearings on this issue held by the FDIC in December, 1972, Mathew Hale, general counsel for the American Bankers Association, argued convincingly that if Congress wished to insure that discrimination based on sex in these areas were prohibited, that Congress should legislate specifically in these areas. I seek here to remedy this legislative oversight by the proposed amendment which adds prohibition against discrimination on the basis of sex to the provisions of the 1968 Fair Housing Amendments.

S. 1604

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Fair Housing Opportunity Act".

SEC. 2. (a) Subsections (a), (b), (c), (d), and (e) of section 804 of the Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes" approved April 11, 1968 (42 U.S.C. 3604), are amended by inserting a comma and the word "sex" immediately after the word "religion" each time it appears in such subsections.

(b) Section 805 of such Act is amended by inserting a comma and the word "sex" immediately after the word "religion".

(c) Section 806 of such Act is amended by inserting a comma and the word "sex" immediately after the word "religion".

(d) Subsection (a), paragraph (1) of subsection (b), and subsection (c) of section 901 of such Act are amended by inserting a comma and the word "sex" immediately after the word "religion" each time it appears.

SWEDEN'S NEW PRIVACY LAW

Mr. ERVIN. Mr. President, the impact of data banks on individual privacy is a matter of increasing concern not only in the United States but all over the world. Sweden has recently implemented a novel approach to curbing the abuses of data banks containing personal information about individuals.

While I do not necessarily advocate the importation of Sweden's data bank legislation into this country, I do feel that my colleagues here in the Senate, as well as the general public, may well benefit from taking a look at Sweden's approach to the regulation of data banks containing personal information about individuals. I, therefore, request unanimous consent that an article entitled "Sweden Has First National Law Covering Data Bank Operation" from the September 19, 1973, issue of Computerworld be printed in the RECORD.

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

INSPECTION BOARD TO MONITOR—SWEDEN HAS FIRST NATIONAL LAW COVERING DATA BANK OPERATION

(By E. Drake Lundell Jr.)

STOCKHOLM, SWEDEN.—What is called the world's first national law covering the operation of data banks that contain personal information is now in effect here with the appointment of Claes-Goran Kallner as the first chairman and director-general of the Swedish Data Inspection Board.

The board will eventually be composed of eight other members drawn from labor, Parliament, government agencies and business.

In addition, it will eventually have a staff of around 20 employees, including computer experts, lawyers and business graduates, all of whom are expected to be on board by the first of next year.

The Swedish law that created the Data Inspection Board gives that agency broad powers to control and regulate the maintenance of data banks containing any information on individuals—and is probably the first national law to establish such a government

agency aimed at protecting individual privacy.

According to extensive study by the HEW Computer Committee, Sweden earns this distinction.

Under the law, the Data Inspection Board came into existence on July 1 of this year, and will assume its full duties on July 1, 1974.

Under the "Data Act," signed into law by now ailing King Gustaf on May 11 of this year, no one in the country may keep or start a personal register without explicit permission from the Data Inspection Board.

However, this applies only to non-governmental agencies, since such registers can be established by the King or Parliament without permission. But the Data Inspection Board must be consulted before such registers are started in the government.

The board may give permission to start a system with personal information only if it finds no "undue encroachment on the privacy of individuals will arise."

If there is some question about the privacy of the records, the Data Inspection Board is to consult with individuals who would have records kept in such a system to determine their attitudes toward it before granting permission.

In addition, the law provides that no one other than the relevant government agency can keep records that involve police matters, psychiatric records and so forth.

"Permission to start and keep a personal register otherwise containing information about anybody's illness or state of health or information that anybody has received social assistance treatment for alcoholism or the like . . . may not be granted to a person other than an authority which is by law or statute responsible for keeping such a record," the act adds.

It also prescribes the keeping of any records on persons' religious or political views, but would permit religious and political organizations to keep records on their membership.

Whenever permission is granted to start a data bank, the Data Inspection Board is also required by law to "issue regulation as to the purpose of the register and the personal information that may be included. If there are special reasons, the permission may be limited to a certain time," according to the act.

In order to insure individual privacy, the board is also empowered to issue regulations on the way the information is collected for such systems, the way it is processed, the technical equipment used, what personal information may be made accessible, the keeping of the information and the control and security procedures to be followed by the data bank operator.

OUT DAMNED SPOT

If there is any reason to suspect that any information in a register is incorrect, "the responsible keeper of the register shall, without delay, take the necessary steps to ascertain the correctness of the information and, if needed, to correct it or exclude it from the register," the law states.

In addition, if that incorrect information has been given to anyone else, the operator of the system has a duty to update and correct those records as well as his own.

The law also requires the data bank operators to keep the records in the system complete and to supplement any incomplete files.

Any individual has a right to request to see his record kept in any data bank, according to the law, but that right is restricted to a once-a-year perusal of the file.

However, the data bank operator is obligated to provide the record to the individual for no charge for his inspection, unless the data bank operator, can convince the Data Inspection Board of the need for a fee in some special circumstances.

Even the people associated with operating the data bank are warned against unauthorized revealing of information kept in that system and are subject to criminal actions if they reveal any information in the system.

In order to supervise that in fact the provisions of the law are followed, the Data Inspection Board has the power to enter any premises where data banks are kept and operate the computers at those sites itself.

In addition, the keeper of the data bank is ordered by the law to provide the Data Inspection Board with any documentation or information on its operation that would help the board carry out its duties.

If the board finds "the keeping of a personal register has caused undue encroachment on privacy or if there is reason to believe that such encroachment will appear," it may issue new regulations to be followed by the data bank operator or it may revoke its license to continue operation.

Anyone violating the act is subject to a fine and imprisonment for one year, according to the law, and individuals are permitted to take data bank operators to court if they feel their rights have been violated.

A BENEFIT TO SMALL BUSINESSMEN AND THE SELF-EMPLOYED IN THIS COUNTRY

Mr. DOMENICI. Mr. President, this week the Senate unanimously voted to pass the Retirement Income Security for Employees Act of 1973. I would like to say a few words today on how this measure will be beneficial to the small businessman and the self-employed in this country.

The bill was revised in several ways by the Labor and Finance Committees before the Senate actually voted. In addition, during the floor debate on the bill, many amendments were added which would affect all employers.

I strongly urged my colleagues to support the bill on the premise that it would greatly benefit the Nation's workers—and the Nation's employers.

The measure as passed by the Senate does not require any private employer to set up a pension plan for his workers, but if he does, the legislation mandates minimum Federal standards for eligibility, vesting of benefits and contributions to the trust fund, and creates a Federal "reinsurance" system to protect workers against trust fund bankruptcies.

Under the terms of the bill, self-employed persons would be permitted to deduct up to $7,500 a year, or 15 percent, whichever is lower, instead of the presen $2,500 from their tax returns for amounts set aside in the "Keogh Law" self-employed pension plans. This was an increase of three times the present limitation.

Another provision was designed to help small corporation members, including proprietary employees, by allowing them to put aside substantial amounts of income, tax deductible, toward their own pension program—enough to acquire up to $75,000 maximum annuity per year, or three-fourths of their highest 3 years of earnings, whichever is lower. At the time the retirement annuities are collected by the beneficiaries, taxes would then be collected. This provision differed from the original language of the bill in that there would only be a limitation on the amount to be acquired as retirement income rather than a limitation on the amount set aside each year. Obviously, this is more favorable to the small businessman than the proposal originally drafted into the bill. It is intended by this proposal to put large and small corporations on equal footing when considering retirement opportunities.

Furthermore, the bill would allow a worker changing jobs to switch retirement credits to his new employer or to a special new Federal pension fund, provided that the old and new employers agree. Many businessmen who wrote my office were in favor of this voluntary portability proposal and I was pleased to see its incorporation into this bill.

Finally, an innovative, very good amendment also adopted by the Senate would allow all employers and employees who are not covered by a pension plan to bank as much as $1,500 per year, tax-deductible, in their own pension program. This money would be placed into a qualified custodial account as approved by the Secretary of the Treasury and all gains and interest accrued on these funds would also be tax free until an individual actually draws on this account at retirement age.

The benefits from such a proposal are obvious. All wage earners not covered by private pension plans, which means most New Mexicans, would benefit from being able to provide his own retirement program. No longer will wage earners be dependent solely on often inadequate social security annuities. I feel this proposal to be a most valuable addition to this landmark piece of legislation.

I have always supported legislation to encourage the continuation of small businesses and the creation of new business concerns. Competition is the goal to which we have dedicated our private economic sector, and the formation and continued existence of small businesses is an important spur to new competition. Without this, the continuous influx of new ideas and procedures may be curtailed and our economic growth could suffer.

The chance to achieve economic security—based on merit—is the heart of the American dream; and where pension benefits are unfairly reduced or denied the results are tragic for those who have earned a dignified retirement.

Mr. President, I am very hopeful that the House of Representatives will concur in the action of the Senate to expedite final enactment of this vital legislation. Chairman WILBUR MILLS, chairman of the House Committee on Ways and Means, has encouraged all interested parties to submit any comments on the provisions of the bill inasmuch as there will not be public hearings. If interested in sharing your views before the House votes on this measure, please write Mr. John M. Martin, Jr., chief counsel, Committee on Ways and Means, 1102 Longworth Building, Washington, D.C. I would also suggest interested persons write their Congressmen in order that they be made aware of their constituents' views on this most far-reaching, historic bill.

THE 1952 PRESIDENTIAL CANDIDACY OF SENATOR RICHARD B. RUSSELL, OF GEORGIA

Mr. NUNN. Mr. President, an excellent article on the 1952 Presidential candidacy of Senator Richard B. Rus-

sell appeared in the summer 1973 issue of Georgia Historical Quarterly. This article will be of great interest to all of you who knew this great American and now cherish the memory of his distinguished service in the U.S. Senate.

This compilation of editorials presents a thoughtful reflection of the man and the times. It is evidence of the significant contribution Senator Russell made to the shaping of the Democratic Party in 1952.

I ask unanimous consent that this article be printed in its entirety in the RECORD.

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

EDITORIAL REACTION TO THE 1952 PRESIDENTIAL CANDIDACY OF RICHARD B. RUSSELL

(By Philip A. Grant, Jr.)

On February 28, 1952, Senator Richard B. Russell of Georgia formally announced his candidacy for the Democratic presidential nomination. At the time of Russell's announcement President Harry S. Truman had not revealed whether he would seek re-election in 1952. Russell, responding to questions from newsmen after completing his formal statement, firmly declined to say whether he would support the President if the latter were renominated at the Democratic National Convention, in July.[1]

Four years earlier Russell had allowed his name to be submitted as a presidential candidate at the Democratic National Convention, in Philadelphia. At that time the Senator's candidacy had been primarily a gesture of protest against the inclusion of a strong civil rights plank in the 1948 Democratic platform. Although overwhelmingly supported by Southern delegates at the convention, Russell had been easily defeated by Truman for the presidential nomination.[2] During the 1948 campaign, however, he remained loyal to the Democratic Party and refused to support an independent states-rights ticket headed by Governor J. Strom Thurmond of South Carolina.[3]

Generally acknowledged as the leader of a conservative bloc of Senate Democrats, Russell in the years after 1948 had vigorously opposed many of the President's key domestic legislative proposals. The Georgian was also Chairman of the Armed Services Committee, in which capacity he had attracted national attention in 1951 while presiding over a Senate investigation of the controversial dismissal of General Douglas MacArthur.

During the days following Russell's announcement his candidacy received prime news coverage. In addition, approximately one-half of the nation's major newspapers printed editorials on the Senator's entry into the presidential race. Nearly all of these editorials assessed the probable effect of Russell's candidacy on the immediate future of the Democratic Party and the forthcoming presidential election.

A substantial majority of the principal newspapers in the Northeast offered editorial comment on Senator Russell's candidacy. Most of these publications, while discounting the likelihood that Russell would receive the Democratic nomination, foresaw that the Georgian might exert considerable influence either within the Democratic Party or over the outcome of the 1952 presidential campaign.

The New York *Herald-Tribune*, alluding to Russell as one of the "most potent" Southern Democrats, believed that the Senator was "running against Truman rather than for himself." Noting that the extent of Russell's opposition to the President's possible quest for re-election had been "purposely left to the imagination," the *Herald-Tribune* concluded: 'The Southerners are determined to reassert themselves within their traditional party, and in Senator Russell they have a candidate of immeasurably greater merit than Governor Thurmond."[4]

Stressing Russell's disenchantment with the President's domestic policies, the Baltimore *Sun* predicted that, if a split occurred in Democratic Party, the Georgia Senator would lead the rebels." The Baltimore publication analyzed the Russell candidacy as follows:

We doubt that Senator Russell and his major supporters have any real hope that he will be nominated at the Democratic convention or that, if nominated, he will be elected. What we are really seeing is a Democratic maneuver, an effort to prove to Mr. Truman that, if he finally decides to accept the nomination, he will split his party and prevent its return to Federal Office.[5]

The Washington *Post*, acknowledging that Russell was the "logical" candidate of the South, editorialized that the Georgian was respected as "able and conscientious." Doubting whether Russell could realistically hope to win the Democratic nomination, the *Post* emphasized the "unfortunate fact is that no Southerner has a good chance of becoming President." The Washington publication was convinced, however, that the Senator's "high standing in his party will give him a powerful voice in the Democratic National Convention, whether or not Mr. Truman is the nominee."[6]

Several other major northeastern newspapers viewed Russell's announcement as having serious implications for the Democratic Party. The Hartford *Courant* declared that Russell's avowed candidacy and his outspoken criticism of the President's leadership "raise the question of how far he might go with another Dixie revolt"[7] The Buffalo *Evening News* stated that Russell's mission would be to convince the Democratic Convention that the South "may find some place else to go if its wishes are ignored as brusquely this time as they were in 1948."[8] Referring to Russell's candidacy, the Newark *Evening News* observed that, if President Truman decided to run for re-election, Southern delegates "will have a place to go."[9] The Philadelphia *Evening Bulletin*, describing Russell and his principal supporters as men of "national stature and proved competence," speculated that their leadership might give the President "more formidable difficulty" than in 1948.[10] Foreseeing that Russell might ultimately seek the presidency on a third party ticket, the Washington *Evening Star* believed that the Georgian's February 28 announcement provided impetus to the strategy of Southern Democrats "to put together a strong bloc with which they can maneuver influentially in the party's presidential convention."[11]

Four northeastern newspapers, the *Boston Herald*, New York *Post*, Brooklyn *Eagle*, and Pittsburgh *Post-Gazette*, minimized the effect of Russell's candidacy. Insisting that Russell's nomination was a "virtual impossibility," the *Herald* concluded that the Georgian was "merely dramatizing the South's outcast role."[12] The *Post*, mocking that Russell was "marching through Georgia heading for nowhere," editorialized that his nomination "would mean sudden death for the Democratic Party."[13] Claiming that the Senator's appeal was "limited quite rigidly" to the South, the *Eagle* reasoned that his candidacy did "not assume important proportions."[14] The *Post-Gazette* suspected that Russell's candidacy was primarily a "symbol around which Southern Democrats can be rallied as to make the most of their numbers at the next convention."[15]

The overwhelming majority of daily newspapers in the South printed editorials on Senator Russell's announcement. Almost without exception these publications praised Russell as a distinguished public servant and predicted that his candidacy would enhance the political prestige of the South. There were, however, considerable differences of opinion whether his candidacy would have a major impact at the Democratic National Convention.

The Atlanta *Constitution* commended Russell to the American people as a "great and skilled leader who would make a good president." Recalling that the Senator had handled "grave responsibilities connected with the national welfare," the *Constitution* declared that he had exhibited "intelligence, character, and restraint." The Atlanta publication hoped that Russell would win both the Democratic nomination and the presidential election.[16]

Conceding that President Truman had the power either to assure his own renomination or dictate the choice of another Democrat, the New Orleans *Times-Piscayune* nevertheless welcomed Russell's candidacy. The New Orleans newspaper explained its position as follows:

"Senator Russell's entry should rally and concentrate the Jefferson-Jackson Democrats for a vigorous fight to restore the party's founding principles and thus lay the groundwork for their ultimate restoration. That effort is timely and well worth making even though it offers no immediate success. It should make possible the militant organization of Jefferson-Jackson Democrats for continued, united and resolute struggle that should triumph eventually. . . ."[17]

The Houston *Post* rejoiced that the Russell announcement provided the South with a candidate "on whom it can unite wholeheartedly" and afforded the nation with an opportunity to elect as President "one of the most able men in American public life." Asserting that the Georgian was recognized as a man who would "not turn his convictions for the sake of political expediency," the *Post* editorialized that his candidacy would be propitious "to all who wish to see the Democratic Party return to the highway of sound government on which it traveled for so many years with such great good to the nation."[18]

Advising its readers that Russell's candidacy "should be taken seriously," the Louisville *Courier-Journal* interpreted the Senator's entry into the presidential race as a "plain warning" to Truman. The *Courier-Journal* predicated that, if the President or another Democrat unacceptable to the South were nominated, an "independent ticket will come out, now meaning business." Certain that the threat posed by the Georgian's candidacy "goes farther than mere protest or revenge" the Louisville publication concluded: "It all seems to add up to the makings of another Sumter."[19]

Numerous other Southern newspapers commented on Russell's February 28 announcement. Viewing the Senator's candidacy as a "bargaining point," the Richmond *Times-Dispatch* warned that, if President Truman sought re-election, Russell and his supporters might divert enough Southern electoral votes to throw the presidential contest into the House of Representatives.[20] The *Virginian-Pilot* foresaw that the Russell candidacy could "grow into a formidable dissenting movement and possibly the controlling factor" in the 1952 election.[21] The Raleigh *News and Observer* believed that the Georgian's announcement would be "pleasing to many who are most violently opposed to the New Deal-Fair Deal tradition of the party."[22] Stressing that Russell's campaign was being abetted by "some of the oldest and wisest heads in American politics," the Charlotte *Observer* concluded that the Senator and his supporters were "playing for keeps."[23] The Charleston *News and Courier*, while admitting that there was practically no possibility of Russell winning the Demo-

Footnotes at end of article.

cratic nomination, predicated that if he "will lead the fight against Trumanism all the way to the general election in November millions of Southerners and real Democrats in other states will support him." [24]

Affirming that the Senator had "every right" to seek his party's nomination, the Savannah *Morning News* wondered whether Russell "would be willing to head up a Southern revolt against Harry Truman." [25] The Birmingham *News* felt that the threat posed by Russell's challenge "might be another factor influencing Mr. Truman against running." [26] Praising Russell as a "first-rate man," the Montgomery *Advertiser* thought it significant that Southern Democrats had a "presentable candidate around whom to rally." [27] According to the Chattanooga *Times*, the Georgian's candidacy was of interest "not so much as to how he will show in the Democratic Convention, but what he will do after he fails to win the nomination there." [28] Finding Russell's "lack of coyness refreshing and in sharply agreeable contrast to what goes on in the White House," the Memphis *Commercial Appeal* was "glad" that the Senator had become a candidate.[29] The *Arkansas Gazette* editorialized that Russell's candidacy would assure "firm, well-organized and skillfully manipulated Southern pressure against the renomination of Harry Truman or any candidate of his personal choice." [30] Anticipating that Russell could "easily lead a rebel party ticket," the Dallas *Morning News* speculated that, if such a development materialized, there would be a "decided probability" of the presidential election being determined by the House of Representatives.[31]

Approximately forty percent of the major newspapers in the Midwest responded editorially to Senator Russell's February 28 announcement. Unfortunately, such prominent midwestern publications as the Chicago *Tribune*, Detroit *Free Press*, and Milwaukee *Journal* refrained from commenting on Russell's declaration of candidacy. A clear majority of those newspapers which ran editorials believed that Russell's entry into the presidential race would prove harmful to the Democratic Party.

While lauding Russell as "one of the ablest members of Congress," the St. Louis *Post-Dispatch* also stressed that the Senator was disposed "to stand with the prejudices of his part of the country." The *Post-Dispatch* appraised the Russell candidacy as follows:

"Since there is almost no political reason for the Democrats to nominate a Southerner so long as the South is a one-party region, the Russell candidacy is not based on expectation of nomination. It becomes a bargaining maneuver. Under skilled direction, it could have a substantial influence on policies and the first and second place choices when the Democrats meet in Chicago in July. It could turn the scales at a moment of critical balance and win later rewards for those who joined with Senator Russell." [32]

The Cincinnati *Enquirer*, describing Russell as "dignified, articulate, and competent," contended that the Georgian's announcement would "galvanize anti-Truman sentiment in the South." Calling Russell's candidacy "more than a gesture of Southern defiance," the *Enquirer* voiced the opinion that the Senator's candidacy increased the probability of a third party ticket "strong enough to influence the campaign—and perhaps the election." [33]

Considering Russell's announcement as a "political event of the very first magnitude," the Minneapolis *Star* deduced that the Senator "might lead a sufficiently potent Southern revolt" to force the election into the House of Representatives. The *Star*, while conceding that it would be premature to speculate about how a Southern revolt might unfold, concluded that Russell's candidacy "very definitely signals political observers to be on the alert for some permutations of electoral college voting that haven't shown up in the United States for a long, long time." [34]

Several other midwestern newspapers concurred that Russell's candidacy might have a major impact on national politics in 1952. Believing that the Senator's announcement indicated that Southern Democrats were "determined to prevent the re-election of President Truman, come what may," the Cleveland *Plain Dealer* acknowledged that as a third party candidate the Georgian might throw the 1952 election into the House.[35] The *Ohio State Journal*, suggesting that Russell might agree to lead a third party ticket, speculated that the Senator's involvement in the presidential race "could turn out to be the crucial political event of the year." [36] Insisting that Russell's declaration reflected the "depth and determination" of Southern opposition to the President, the Indianapolis *News* editorialized that the South "will rise again—and with more responsible and influential leadership than 1948." [37] The Kansas City *Star* argued that Russell's announcement provided further evidence that the South was "deeply aroused" against the President.[38] Observing that Russell and his supporters wielded considerable political power, the Des Moines *Register* warned that an impending split in the Democratic Party could make a "vast difference" in the outcome of the presidential election.[39] The Du-Buque *Telegraph-Herald* construed Russell's candidacy as a "serious Dixie threat to secure bargaining power at the convention." [40] Citing the Senator's announcement as one of the "most significant" political developments of 1952, the Fargo *Forum* commented that Russell was "leading a movement that could seriously handicap a Truman candidacy." [41] The Wichita *Eagle* was convinced that the Georgian's candidacy "spells deep trouble for Truman if he has third term aspirations." [42] Acclaiming Russell as an "outstanding" Senate leader, the Omaha *Evening World-Herald* asserted that his candidacy was "the real thing, the main event, the long-heralded attempt of Southern Democracy, perhaps with some help from north of Mason-Dixon, to rid itself and the Republic of Trumanism." [43]

Only a small minority of the principal newspapers in the West published editorials on Senator Russell's announcement. Among the influential publications failing to comment on the Senator's candidacy were the Denver *Post*, Seattle *Daily Times*, San Francisco *Chronicle*, and Los Angeles *Times*. Most of the western newspapers which did express opinions sensed that the Georgian's candidacy was likely to be detrimental to the Democratic Party in 1952.

The San Francisco *Examiner*, one of the most prominent Hearst publications, believed that Russell's announcement assured a "hot pre-convention fight" for the Democratic nomination. Calling the Senator a "tough man to tangle with," the *Examiner* was intrigued that the Georgian "did not rule out running on a third party ticket." Accordingly, the San Francisco publication surmised that the prospect of a third party would be a factor influencing President Truman's political intentions.[44]

Although admitting that Russell was a "rallying personality for the South," the Salt Lake *Tribune* depicted the Senator as a "sectional candidate, a pawn of the political strategists." The *Tribune*, labeling Russell's candidacy as "clearly a stop Truman tactic," speculated that a "Southern bolt" from the Democratic Party might possibly culminate in the presidential election being decided by the House.[45]

Six other western publications editorialized on Russell's announcement. Weighing the effect of the Senator's entry into the presidential race, the Portland *Oregonian* prophesied that, unless the Truman Administration compromised with the South on the party platform, it would "face a schism wider and deeper than that of 1948." [46] The *Wyoming State Tribune* merely observed that the Georgian's candidacy "doesn't help" the President's position as a leader of the Democratic Party.[47] Feeling that Russell's move marked a "decided split" in the ranks of Democrats, the Spokane *Spokesman-Review* thought that, as a consequence, Republican prospects of winning the presidency were "considerably brighter." [48] The *Nevada State Journal* predicted that a third party candidacy by Russell would "practically assure" a Republican victory in 1952.[49] The *Idaho Statesman* asserted that Russell's announcement provided "one more graphic illustration of the degree to which impressive segments of the Democratic party are fed up with the leadership of Harry S. Truman." [50] Emphasizing that the Senator's candidacy involved "considerable political significance," the Albuquerque *Journal* concluded that Southern Democrats had "found a man around whom to rally." [51]

A large number of the newspapers commenting on Senator Russell's announcement voiced the opinion that the Georgian's candidacy might adversely affect President Truman's re-election prospects. These publications were certainly justified in editorializing that the candidacy of a man of Russell's stature indicated considerable resentment in the South against the President. Unfortunately, none of these newspapers had advance information on whether Truman actually intended to seek re-election. After the President unexpectedly announced on March 29 that he would not be a candidate for another term,[52] Russell could no longer base his appeal on anti-Truman sentiment.

While nearly all newspapers agreed that Russell was the strongest candidate the South could offer, few of these publications stressed that Southerners would account for only slightly more than one-fifth of the delegates at the 1952 Democratic Convention. It is noteworthy that Russell declined to enter any of the numerous presidential primaries outside the South,[53] and failed to win the endorsement of any prominent political figures in the populous Northern states.[54] Notwithstanding the editorial pronouncements of late February and early March, the impact of Russell's candidacy was bound to be slight unless the Senator succeeded in attracting at least minimal support in other parts of the nation.

Although Senator Russell was praised by an overwhelming majority of newspapers, virtually no publications predicted that he would secure the Democratic presidential nomination. Some newspapers assumed that the Georgian would receive substantially more than the 263 ballots cast for him at the 1948 convention. Nevertheless, Russell's support at the 1952 convention at Chicago was to be almost exclusively confined to the South, and his level of delegate strength would vary only slightly from that of 1948. After polling 268 votes (21.8%) on the first ballot, Russell's total would rise to 294 votes (23.9%) on the second ballot and decline to 261 votes (21.8%) on the third and decisive ballot. On each ballot Russell would receive an average of 46 of the 940 votes (4.8%) cast by delegates from states outside the South.[55]

Many newspapers speculated on the possibility of Russell ultimately seeking the presidency on a third-party ticket. If President Truman had insisted upon running for re-election or if the Democrats had adopted an especially distasteful civil rights plank in their 1952 platform, the Senator might seriously have considered leading a third-party movement. As early as May 22, however, Russell was to pledge his support to the nominees of the Democratic Party, provided that the platform was not offensive to the South.[56] At their convention in July the Democrats would nominate Governor Adlai E. Stevenson

Footnotes at end of article.

of Illinois for President and Senator John J. Sparkman of Alabama for Vice President. Since neither the Stevenson-Sparkman ticket nor the comparatively moderate civil rights plank were objectionable to the South, Russell was promptly to reaffirm his loyalty to the Democratic Party.[57] It must be remembered of course, that certain publications had prophesied that the threat of a third party candidacy by Russell might induce the Democrats to nominate candidates and adopt a platform acceptable to the South.

While subsequent events minimized the importance of Senator Russell's announcement of February 28, 1952, the mere declaration of candidacy by such a distinguished public figure was certainly worthy of editorial comment. Indeed those publications printing editorials on the Senator's candidacy were reacting to one of the first of many interesting political developments in a rather exciting election.[58]

FOOTNOTES

[1] A detailed account of Senator Russell's announcement, including the entire text of his formal statement, may be found in the New York *Times*, February 29, 1952, pp. 1, 12.

[2] In 1948 Truman had been nominated on the first ballot. The official vote had been as follows: Truman 947½; Russell 263; Paul V. McNutt ½. Among the Southern delegates Russell had outpolled Truman by a margin of 263 to 13. [It would be interesting to know the background of Russell's announcement; but this will have to await the arranging for research of the voluminous Russell Papers, which have been deposited in the University of Georgia Library, Athens, Ed.]

[3] The States-Rights Democrats in 1948 had nominated Thurmond for President and Governor Fielding L. Wright of Mississippi for Vice-President. The Thurmond-Wright ticket had polled 1,168,687 votes, carrying the states of South Carolina, Alabama, Mississippi, and Louisiana.

[4] *Herald-Tribune* (New York, N.Y.) March 1, 1952, p. 8.

[5] *Sun* (Baltimore, Md.), March 4, 1952, p. 12.

[6] *Post* (Washington, D.C.), March 1, 1952, p. 8.

[7] *Courant* (Hartford, Ct.), March 1, 1952, p. 8.

[8] *Evening News* (Buffalo, N.Y.), March 1, 1952, II, 2.

[9] *Evening News* (Newark, N.J.), March 1, 1952, p. 4.

[10] *Evening Bulletin* (Philadelphia, Pa.), March 1, 1952, p. 4.

[11] *Evening Star* (Washington, D.C.), February 29, 1952, p. A–12.

[12] *Herald* (Boston, Mass.), March 1, 1952, p. 8.

[13] *Post* (New York, N.Y.), February 29, 1952, p. 39.

[14] *Eagle* (Brooklyn, N.Y.), March 2, 1952, p. 18.

[15] *Post-Gazette* (Pittsburgh, Pa.), March 1, 1952, p. 6.

[16] *Constitution* (Atlanta, Ga.), March 1, 1952, p. 4.

[17] *Times-Picayune* (New Orleans, La.), March 1, 1952, p. 10.

[18] *Post* (Houston, Tex.), March 1, 1952, p. 8.

[19] *Courier-Journal* (Louisville, Ky.), March 2, 1952, III, 2.

[20] *Times-Dispatch* (Richmond, Va.), February 29, 1952, p. 16.

[21] *Virginian-Pilot* (Norfolk, Va.), March 1, 1952, p. 6.

[22] *News and Observer* (Raleigh, N.C.), February 29, 1952, p. 4.

[23] *Observer* (Charlotte, N.C.), March 1, 1952, p. 2–B.

[24] *News and Courier* (Charleston, S.C.), March 1, 1952, p. 4.

[25] *Morning News* (Savannah, Ga.), February 29, 1952, p. 6.

[26] *News* (Birmingham, Ala.), March 1, 1952, p. 4.

[27] *Advertiser* (Montgomery, Ala.), March 2, 1952, p. 2–C.

[28] *Times* (Chattanooga, Tenn.), February 29, 1952, p. 8.

[29] *Commercial Appeal* (Memphis, Tenn.), February 29, 1952, p. 6.

[30] *Arkansas Gazette* (Little Rock, Ark.), March 2, 1952, p. 4–F.

[31] *Morning News* (Dallas, Tex.), March 1, 1952, III, 2.

[32] *Post-Dispatch* (St. Louis, Mo.), February 29, 1952, p. 2–C.

[33] *Enquirer* (Cincinnati, Ohio), March 3, 1952, p. 4.

[34] *Star* (Minneapolis, Minn.), March 5, 1952, p. 18.

[35] *Plain Dealer* (Cleveland, Ohio), March 1, 1952, p. 10.

[36] *Ohio State Journal* (Columbus, Ohio), March 4, 1952, p. 4.

[37] *New* (Indianapolis, Ind.), March 1, 1952, p. 4.

[38] *Star* (Kansas City, Mo.), February 29, 1952, p. 44.

[39] *Register* (Des Moines, Iowa), March 1, 1952, p. 4.

[40] *Telegraph-Herald* (Dubuque, Iowa), March 2, 1952, p. 25.

[41] *Forum* (Fargo, N.D.), March 1, 1952, p. 4.

[42] *Eagle* (Wichita, Kans.), March 1, 1952, p. 6.

[43] *Evening World-Herald* (Omaha, Nebr.), March 1, 1952, p. 4.

[44] *Examiner* (San Francisco, Calif.), March 3, 1952, p. 26.

[45] *Salt Lake Tribune* (Salt Lake City, Utah), March 1, 1952, p. 12.

[46] *Oregonian* (Portland, Oreg.), March 1, 1952, p. 6.

[47] *Wyoming State Tribune* (Cheyenne, Wyo.), March 5, 1952, p. 6.

[48] *Spokesman-Review* (Spokane, Wash.), February 29, 1952, p. 4.

[49] *Nevada State Journal* (Reno, Nev.), March 6, 1952, p. 4.

[50] *Idaho Statesman* (Boise, Idaho), March 4, 1952, p. 4.

[51] *Journal* (Albuquerque, N.M.) March 1, 1952, p. 4.

[52] *Public Papers of the President of the United States: Harry S. Truman, 1952–1953* (Washington, 1966) pp. 220–26.

[53] Russell entered only the May 6 primary in Florida, defeating Estes Kefauver of Tennessee by a margin of 367,980 (56.3%) * * * (43.7%). Kefauver, however, won primaries in New Hampshire, * * * Nebraska, Illinois, Massachusetts, Pennsylvania, New Jersey, Maryland, Oregon, South Dakota, and California.

[54] Russell's only prominent supporters outside the South were three Senate colleagues, Carl Hayden of Arizona, Edwin C. Johnson of Colorado, and Patrick A. McCarran of Nevada.

[55] *Report of the Proceedings of the Democratic National Convention*, pp. 456, 484, 538.

[56] *Times* (New York, N.Y.) May 23, 1952, p. 12.

[57] *Report of Democratic Convention*, 1952, pp. 536–37.

[58] Although unsuccessful in his quest for the presidential nominee Russell continued his illustrious career in public service until * * * on January 21, 1971, Russell was Chairman of the Armed Services Committee, 1955–1969, Chairman of the Appropriations Committee, 1969–1971, President *pro tempore* of the Senate. 1969–1971.

PROGRESS BEING MADE IN TRANSPORTATION FACILITIES FOR THE HANDICAPPED—FEDERAL AVIATION ADMINISTRATION INDICATES ITS CONCERN—NEW YORK TIMES ARTICLE FOCUSES ATTENTION ON PROBLEMS

Mr. RANDOLPH. Mr. President, on August 24, the New York Times published an article by Robert Lindsey which describes how travel barriers are beginning to fall for physically disabled persons. It is very encouraging to those of us who are concerned about equal mobility for handicapped citizens to know that the tourist industry has discovered this portion of our population.

In particular, I would emphasize that paragraph which gives the "hot-line" telephone number—202–382–7735—for use by handicapped travelers who have encountered discrimination. Appropriate use of this Civil Aeronautics Board service will encourage a fair policy by the airlines toward the disabled.

I recently inserted in the RECORD a series of letters about air safety regulations and stated my hope that the Federal Aviation Administration's advance notice of proposed rulemaking on this problem would soon lead to a satisfactory conclusion. I emphasized my concern in an August 8 letter to FAA Administrator Alexander Butterfield. Mr. Butterfield replied that because of the large public response on the proposed regulations, public hearings will be held.

Additionally, Mr. President, mobility of the handicapped is an issue addressed by the Federal-Aid Highway Act of 1973 which I bring to the attention of Senators, readers of the RECORD, and concerned citizens.

Under the act, the Secretary of Transportation shall assure that mass transit projects receiving Federal financial assistance under the highway program shall be planned and designed so that mass transportation facilities and services can effectively be utilized by elderly and handicapped persons. The help will be given to those who, by reason of illness, injury, age, congenital malfunction, or other permanent or temporary incapacity or disability are unable without special facilities or special planning or design to utilize such facilites and services as effectively as persons not so affected.

The act also amends the Urban Mass Transportation Act to authorize the Secretary of Transportation to make grants and loans to States and local public bodies and agencies for the specific purpose of assisting them in providing mass transportation services which are planned, designed, and carried out so as to meet the special needs of elderly and handicapped persons.

Additionally, the Secretary is authorized to make grants and loans to private nonprofit corporations and associations for the specific purpose of assisting them in providing transportation services. These grants and loans would meet the special needs of elderly and handicapped persons for whom mass transportation services planned, designed, and carried out under the grants and loans to States and local governments are unavailable, insufficient, or inappropriate.

As chairman of the Committee on Public Works and as chairman of the Subcommittee on the Handicapped, I am intensely aware that we must assure that the elderly and handicapped persons have unlimited access to public transportation facilities and that such facilities are planned and designed so that they may be effectively utilized by these groups within our population. The Sub-

committee on the Handicapped and the Committee on Public Works are committed to equal rights and opportunities for all disabled individuals. It is on behalf of these groups, and the young, that we have been told that highways alone are not the answer to our transportation needs and that is true. But, unfortunately, most transportation systems and the way in which they are operated do not facilitate use by these people who must rely on them for transportation. This duty represents a challenge which we can not knowingly avoid. Meeting this need represents a contribution to the productiveness of our society and to the well-being of individuals who have a valuable contribution to make, contributions which they cannot make if they are denied access to public transportation and services.

Lack of adequate mobility is a handicap in itself as is the original handicapping condition. I am gratified at the progress being made, for it is further evidence that our attitudes are indeed changing and that we are treating the handicapped as other American citizens. Nevertheless, there is much to be done to secure full opportunity for the handicapped.

Mr. President, I ask unanimous consent that the Times article and my exchange of correspondence with Administrator Butterfield and the FAA announcement of the hearings be printed in the RECORD.

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

TRAVEL FOR THE HANDICAPPED EASES AS OLD OBSTACLES FALL

(By Robert Lindsey)

LYNNWOOD, WASH.—When Ruth Williams, a retired social worker who lives in Albany, reads a travel brochure it is in Braille.

Miss Williams has been blind since birth. But it has not deterred her from traveling to Paris, where she discovered the beauty of the Venus de Milo with her fingertips, or to London, where she glimpsed the city through the voices of its people and the sounds of its streets. This winter she will tour the Orient.

Lionel Bartholomew of Seattle is disabled by a stroke. Harriet Wheeler of Evanston, Wyo., cannot walk. Jane Whitney of Palo Alto, Calif., has cerebral palsy. All three are packing for an around-the-world trip next month.

Handicapped Americans have begun to travel as never before. Although traveling for the physically handicapped can be a succession of painful obstacle courses, many of the obstacles are now falling.

To a certain extent, the travel industry seems to have discovered the handicapped traveler recently.

At least five travel agencies around the country have developed special tours tailored for the blind and physically handicapped. They range from African safaris to round-the-world trips, to wheel-chair visits to the restored colonial village at Williamsburg, Va.

REGULAR AIRLINE TOURS

After an experimental program last year, Pan American World Airways this year became the first airline to offer regular tours to Europe and the Orient for the handicapped.

Meanwhile, new guidebooks have been published recently that help the handicapped make camping trips to state and national parks.

"I think a lot of people in the travel industry have just come to realize the existence of the handicapped," Mrs. Betty Hoffman, who operates the nation's first and largest travel agency dealing in tours for the handicapped, said in her office here.

"A lot has happened in the last two years," she continued. "Even in the last six months you could notice it. Some of the motels and airlines are asking me what they can do to help the handicapped."

MANY OBSTACLES REMAIN

Not all travel obstacles have fallen for the handicapped; many airports, bus and train depots, motels and resorts continue to confront visitors in wheelchairs or on crutches with a variety of curbs, steps and other barriers as impassable as a wall.

And employes of some airlines—especially smaller regional lines in this country—still refuse to carry passengers who cannot walk unless they are accompanied by an attendant. Some lines limit the number of non-ambulatory passengers they will carry in one jet.

The rationale for such policies is that disabled passengers might be unable to get out of a burning airliner fast enough after a crash without help. Between 1962 and 1972, there were 23 "survivable" airline accidents in America in which there was a post-crash fire, according to a Federal study.

The rules that determine who will be carried were set by the airlines themselves in 1962. Their agreement, later embraced as Government policy allows airlines to require an attendant and to refuse to carry any persons "handicapped to the extent that they offend other passengers" or who cannot care for their own "personal needs."

Organizations representing the handicapped have assailed the agreement. While conceding that many airlines bend the rules or do not enforce them, the organizations contend that policies differ widely from airline to airline, and even among different employes of the same airline.

ACTION BY AGENCIES

To determine the safety implications of carrying the handicapped, to learn whether disabled passengers are being discriminated against unfairly, and to develop a consistent national policy, the Federal Aviation Administration recently started investigating the problem. The Civil Aeronautics Board is considering whether to enact new regulations on the matter.

Meanwhile, the C.A.B. has established a "hot-line" telephone number in Washington that handicapped travelers may call to complain about discriminatory airline treatment. The number is: 202–382–7735.

Travel agents say that airlines that once were reluctant to carry a large number of handicapped passengers for safety reasons—Pan American was one of them—now have specialists that encourage this clientele. They say motel chains, such as the Holiday Inn group, are increasingly building special rooms proportioned to handle guests in wheelchairs.

"Old taboos are falling by the wayside and the tourist industry is waiving restrictions for the handicapped," said Murray Fein, a Hollandale, Fla., travel agent who also operates tours for the handicapped.

The travel industry's dawning of concern for these people seems to be accompanied by a growing determination by many handicapped persons to share in the travel experiences afforded others.

"UPLIFT" FOR HANDICAPPED

Pat Klinger, a foreign language translator who lives at Rossford, Ohio, is an example. She is 34 years old and paralyzed below the neck. She said in an interview that all her life she had longed to travel and, after going to Europe and Israel last year with a group of other handicapped people, "I realize I can do almost everything everybody else does. Traveling gives us a tremendous psychological uplift."

Travel industry experts cite a number of reasons for increasing mobility of the handicapped, including the following:

Efforts by representatives of the handicapped to remove so-called "architectural barriers"—curbs, impassable stairways and other obstacles—from many hotels and resort areas, and the growing number of cities and states that require removal of such barriers in new buildings.

The increased mobility of Americans generally, which has made the handicapped more conscious of travel and what it offers.

The increased number of people who are handicapped and can afford to travel—those with full-time jobs; the increasing population of older Americans, many of whom are partly disabled but want to travel, and the growing number of young Americans disabled as a result of injuries in Vietnam or in traffic accidents.

The number of persons who potentially could benefit from the opening of doors to handicapped travelers is large: About 250,000 Americans are confined to wheelchairs. Many thousands more have other serious disabilities.

The number is growing as more and more veterans who were crippled in Vietnam reenter the mainstream of civilian life. The Surgeon General's office has estimated that more than 2,100 military personnel are paraplegics—the loss of the use of two limbs—or quadraplegics—the loss of four limbs—because of war injuries.

Despite the recent gains, serious financial, physical and psychological problems remain for many handicapped persons who want to travel.

While more of them than ever before now hold jobs, many remain physically unable to work and must subsist on pensions that are eroded by inflation.

"The world just isn't made for handicapped people. That goes from parking lots to bathrooms," said Lita Callahan, a black, 24-year-old San Franciscan who has been confined to a wheel chair since she was injured in a car accident eight years ago. She said she managed trips to Lake Tahoe and other points, but said many public facilities had not complied with requests to remove curbs and other barriers.

Many resort areas, said Tim Foley of Boston, who at 40 has been confined to a wheel chair for 10 years since being afflicted by a form of cerebral palsy, seem designed to exclude the handicapped.

"They seem to want to put in more fancy things like spiral staircases and sunken gardens or entrances that could have been flat but instead have extra steps," he said.

And there are psychological barriers that work in two directions.

"Many resort hotels in Rome, Paris or Miami still refuse permission for the handicapped during the season," Mr. Fein, the Florida travel agent, said. "They say that their regular customers just don't want to see the handicapped and check out."

Betty DeArman of Birmingham, Ala., who is 40 and must use a wheel chair because of polio, said: "I've met some real nice people and some ugly people. One time there was a cerebral palsy-afflicted boy with us on a tour, and a motel wouldn't let us stay because they thought he had been drinking."

"A lot of people just don't like to be conspicuous, especially if they have some kind of deformity," Mr. Foley said.

"The younger men from Vietnam are especially sensitive about being seen by others if they have been disfigured," Mrs. Hoffman, the travel agent here in a suburb of Seattle, said.

A pioneer in a specialized field, Mrs. Hoffman, the wife of a retired Navy captain, has been arranging trips for handicapped clients for more than 10 years. What began as a sideline has grown into a major business catering to people across the country.

She and her 38-year-old son Jack learned

Braille and sign language. They conduct tours for the blind and deaf, mentally retarded persons, and those with a number of physical disabilities — multiple sclerosis, cerebral palsy, stroke, epilepsy, paralysis and others.

LIKE ANYBODY ELSE

"The handicapped traveler wants to see and be treated like anybody else," she said.

The travel agent must tailor the itinerary—for example, choosing hotels that have bathrooms accessible by persons in wheel chairs—to the special problems of the travelers.

"For men, it's important that you treat them as men," Mrs. Hoffman added. "Just because they may have lost their legs they still want to open doors for women, just like any normal man. They have pride."

Mrs. Hoffman arranges for blind tourists to feel the statues and architectural features in buildings and museums abroad, including the Louvre in Paris and the Vatican. Small models of famous landmarks such as the Eiffel Tower are handed out so the blind can feel the shape as they stand before it and a guide describes the landmark.

Most of the blind tourists carry taperecorders. When they return home, they relive their trips through the recorded sounds, just as others do so with color slides.

Some have special interests. One of Mrs. Hoffman's regular clients, John Watson of Indianapolis, an advertising man who became blind 13 years ago at 50, said:

"I'm a history buff. Just to go to Greece and stand some place where 2,000 years ago there was a Greek civilization excites me."

Miss Williams, the Albany woman, is one of three sisters who was born blind, because of a congenital disease. She is a retired state blind rehabilitation worker who has made three trips to Europe. By feeling the statues, she recalled "seeing" Michelangelo's Pieta at the Vatican and the statue of David in Florence and the Venus de Milo in Paris.

"Those sculptures," she recalled the other day. They almost seemed to be alive."

TRAVEL AGENTS OFFERING TOURS FOR HANDICAPPED

Following is a list of travel agencies that offer specialized tours for the handicapped:

Evergreen Travel Service, 19429 44th Street, Lynnwood, Wash., 98036.

Rambling Tours, Inc., P.O. Box 1304, Hallandale, Fla., 33009.

Flying Wheels Tours, P.O. Box 382, Owatonna, Minn., 55060.

Handy-Cap Horizons, 3250 East Loretta Dr., Indianapolis, Ind. 46227.

Bridge Travel Service, 832 East Bridge Avenue, Delray Beach, Fla., 33444.

Although no travel agencies in the metropolitan area directly offer regular tours for the handicapped, most local agencies can arrange to book passengers on trips operated by those cited above. The listed agencies also book passengers directly by mail.

SUBCOMMITTEE ON THE HANDICAPPED,
August 7, 1973.

Mr. ALEXANDER P. BUTTERFIELD,
Administrator,
Federal Aviation Administration,
Washington, D.C.

DEAR MR. BUTTERFIELD: On June 5, the Federal Aviation Administration issued an advance notice of proposed rulemaking to elicit information on the safety aspects of air travel by the handicapped. As Chairman of the Senate Subcommittee on the Handicapped, I applaud your action and expressed my hope that the FAA action would lead to a resolution of the safety problem so that the handicapped could have adequate access to air travel. Enclosed you will find a copy of my remarks made on the floor of the Senate; my letters to Paul Ignatius, president of the Air Transport Association of America and to the Honorable Robert Timm, chairman of the Civil Aeronautics Board; and of the statement which the Paralyzed Veterans of America made before the Civil Aeronautics Board.

I want to express my genuine and deep concern that this safety issue has not been resolved to date. As I have stated, simple justice demands that we pursue the goal of convenient access to buildings, services, facilities, and different modes of transportation for handicapped citizens. I strongly urge you to move forward and quickly develop an operational standard for the transportation of disabled persons.

With best wishes, I am

Truly,

JENNINGS RANDOLPH.
Chairman.

DEPARTMENT OF TRANSPORTATION,
FEDERAL AVIATION ADMINISTRATION,
Washington, D.C., August 28, 1973.

Hon. JENNINGS RANDOLPH,
Chairman, Subcommittee on the Handicapped Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

DEAR JENNINGS: Thank you for your August 8 letter expressing your views on our Advance Notice of Proposed Rule Making (ANPRM) concerning the Air Transportation of Handicapped Persons.

Your remarks in the Senate and letters to Paul Ignatius of the Air Transport Association of America and to the Honorable Robert Timm, Chairman of the Civil Aeronautics Board, as well as the statement of the Paralyzed Veterans of America before the Civil Aeronautics Board, will be made a part of the docket for this notice.

Because of the large response to our ANPRM, we are now planning to hold public hearings to give all persons an additional opportunity to provide information that may be helpful in the development of proper regulations. Information on these public hearings wil be published in the Federal Register soon.

Sincerely,

ALEXANDER P. BUTTERFIELD,
Administrator.

DEPARTMENT OF TRANSPORTATION: FEDERAL AVIATION ADMINISTRATION

[Docket No. 12881; Reference Notice No. 73–16]

AIR TRANSPORTATION OF HANDICAPPED PERSONS

Notice of public hearing

The Federal Aviation Administration will hold a series of six public hearings in order to receive the views of all interested persons regarding the safety aspects of the air carriage of handicapped persons and, in particular, concerning Advance Notice of Proposed Rulemaking (ANPRM) No. 73–16 (38 FR 14757), which concerns the air carriage of handicapped persons. The hearings will be conducted in accordance with the following schedule of dates and at the indicated locations:

September 27, 1973:

Miami Springs Villas, 500 Deer Run, Miami Springs, Florida 33166, Phone: (305) 871–6000 (Florida Room).

October 2, 1973:

Mayo Civic Auditorium, P.O. 895, 30 SE 2nd Avenue, Rochester, Minnesota 55901, Phone: (509) 288–8475.

October 4, 1973:

JFK Federal Building, Government Center, New Cambridge Street, Boston, Massachusetts 02203, Phone: (617) 223–2906 (Room 2003A).

October 10, 1973:

Concord Motor Inn, 6565 Mannheim Road, Rosemont, Illinois 60018, Phone: (312) 827–6121.

October 16, 1973:

Rochelles Motel and Restaurant, 3333 Lakewood Boulevard, Long Beach, California 90808, Phone: (212) 421–9494.

October 18, 1973:

Federal Aviation Administration, Auditorium—3rd Floor, 800 Independence Avenue SW., Washington, D.C. 20591, Phone: (202) 426–8357.

Each meeting is to convene at 9 in the morning.

In the event that there is a response to this notice of public hearing that exceeds the time that has been allocated to any one hearing (each has been planned not to exceed one day in length), the overflow will be accommodated by extending the hearing scheduled for October 18, 1973, at Washington, D.C., to the following day, October 19, 1973.

The hearings will be informal in nature and will be conducted by a designated representative of the Administrator under 14 CFR 11.33. At each hearing an FAA spokesman will make a brief opening statement regarding ANPRM 73–16. Since the hearings will not be of the evidentiary or judicial type, there will be no cross-examination of those persons presenting statements. However, interested persons wishing to make rebuttal statements will be given an opportunity to do so in the same order in which initial statements were made.

All interested persons are invited to attend the hearings and each such person is invited to present oral or written statements concerning ANPRM 73–16 at one of the hearings. Such statements will be made a part of the record of the hearings. Any person who wishes to make an oral statement at one of the hearings must notify the FAA by stating the date and place of the hearing at which he desires to make such statement and stating the amount of time requested for his initial statement. In addition, any person may submit relevant written comments. Written comments must be received by the FAA by October 30, 1973, so that they may be made a part of the record of the hearings. Written comments and all other communications concerning these hearings should be addressed to the Office of General Counsel, Rules Docket, AGC–24, Federal Aviation Administration, Department of Transportation, 800 Independence Avenue SW., Washington, D.C. 20591, marked "Attention: Presiding Officer, Public Hearing on ANPRM 73–16."

ANPRM 73–16 was issued by the FAA on May 30, 1973, pursuant to the FAA's policy for the early institution of public participation in rulemaking proceedings. An "advance" notice is issued to invite public participation in the identification and selection of a course or alternate courses of action with respect to a particular rulemaking problem. In this instance, the FAA is seeking the comments and recommendations of the public in regard to possible amendments to the Federal Aviation Regulations to permit, to the maximum extent possible, air transportation of physically handicapped persons while maintaining an acceptable level of safety in air carrier and air taxi operations.

ANPRM 73–16 presented background information on the air carriage of handicapped persons and solicited the views of interested persons concerning the establishment of an acceptable level of safety commensurate with the carriage of the maximum number and types of handicapped persons. In that Notice, the FAA expressed a particular interest in receiving comments regarding the following questions:

(1) What types of physical/functional disabilities or limitations should be allowed consistent with present evacuation criteria?

(2) What types of handicapped persons or physical functional disabilities should be allowed if a special attendant or assistance is provided to accomplish an emergency evacuation from an aircraft?

(3) Should a regulation be adopted which would permit (or limit) the carriage of a number and type of handicapped persons without the accommodation of that number

and type in the criteria established for emergency evacuation demonstrations?

(4) How many unassisted handicapped persons may be accepted as passengers on an aircraft without requiring the use of a special attendant or able-bodied helper? Should this limit be a fixed number or should it be a number which is a percentage of the full passenger seating capacity?

(5) For large groups of handicapped passengers what means of emergency evacuation might be employed to provide as acceptable level of safety?

(6) Should the length of the planned flight be a consideration in determining the number and/or type of handicapped persons to be accepted as passengers?

(7) Would an identification card which certifies the ability of a handicapped person to perform certain physical tasks be useful in eliminating uncertainties regarding his acceptance as an unaccompanied passenger? If so, who should issue the card?

(8) If you are a handicapped person, have you considered how you might evacuate an aircraft unassisted by other persons? Would you care to describe your functional limitations and any method by which you could effect an evacuation? (This information may be helpful in developing evacuation procedures and/or evacuation devices.)

(9) If you are a handicapped person, considering the possibility of being involved in an emergency evacuation, does the notion that you could be the last passenger evacuated from an aircraft seriously concern you?

In addition to the foregoing questions, the FAA would appreciate comments regarding the additional questions set forth below as well as in any other areas regarding the safety aspects relating to transportation of handicapped persons by air carriers.

(1) How many persons who are handicapped may be accepted as passengers on an aircraft for any one flight?

(2) Is there any one portion of the aircraft that is more favorable for the seating of handicapped persons than any other?

(3) In case of an emergency evacuation, are there measures that can be taken to minimize the danger that might be created by appliances such as leg braces coming into contact with fiber emergency evacuation chutes?

(4) Is there special equipment available that could aid in the evacuation of handicapped persons in the event of an emergency?

(5) What problems exist in regard to persons who are immobile being accepted as passengers on a commercial flight?

(6) Where aboard the aircraft should handicapped persons be seated in relation to the locations of exits?

(7) The present regulations require that an emergency evacuation demonstration be conducted to show that the aircraft can be evacuated in 90 seconds. The passengers in the evacuation demonstration include a mixture of passengers (male, female, young, and elderly), but do not include handicapped persons. Considering this information, should the number of handicapped persons permitted on any passenger flight be based on a passenger load factor such that the final load, including handicapped persons, can be evacuated in 90 seconds? Should the 90 second evacuation criteria be adjusted upward and, if so, to what level?

The FAA will carefully consider all statements presented at the hearing and relevant written comments received and made a part of the record and, in the light of those statements and comments, may issue an appropriate notice of proposed rulemaking.

A transcript of the hearings will be made and anyone may purchase a copy of them from the reporter.

(Sections 313(a), 601, 603, 604, and 1005 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423, 1424, and 1485) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on August 24, 1973.

C. R. MELUGIN, Jr.,
Acting Director,
Flight Standards Service.

[FR Doc.73-18176 Filed 8-28-73;8:45 am]

PENSION REFORM PROTECTION FOR THE AMERICAN WORKING MAN AND WOMAN

Mr. CLARK. Mr. President, the Senate's overwhelming approval of the pension reform bill is a landmark in the effort to protect the rights of the American working man and woman. It is called the Retirement Income Security for Employees Act, but in the simplest language, it is pension reform—a long overdue guarantee that retiring workers can depend on their pensions for income and dignity when they leave the job.

For all too long, many workers have been taking a gamble when they enroll in a private pension plan. They have no guarantee that after 40 years on the job, they will receive the pension that had been promised them. This legislation would take the element of chance out of pension reform, finally regulating this multibillion dollar industry. That is why I cosponsored the bill, and why I applaud the Senate's decision to pass it.

This legislation will protect the retirement benefits of some 36 million workers now enrolled in private employee pension plans. It sets minimum standards for eligibility, portability, and vesting and the legislation creates a Federal "reinsurance" system to protect workers against mismanagement and bankruptcy of pension funds.

The proposal requires pension coverage for workers aged 30 or over. At the end of 5 years, the worker will have earned a 25 percent "vested right" to the pension, and at the end of 15 years, all of that "vested right" will be guaranteed—even if the worker changes jobs or loses a job.

The pension reform legislation approved by the Senate is comprehensive and far-reaching, but it is hardly a revolutionary proposal. The bill simply guarantees workers what is rightfully theirs, what they have rightly earned on the job. A pension is nothing more or less than a form of earned income. It's just been deferred. To deny it to workers—because the pension fund is mismanaged, because the company goes out of business, or because the worker changes jobs—cannot be justified. It is no better than stealing, and this bill will help eliminate it.

This kind of theft is taking place right now. Over the last few years, a Senate investigation of pension plans has turned up some shocking instances of abuse. It found, for example, that more than one out of every five workers "covered" by private pension plans receive no rights whatsoever until the day they are eligible for retirement. In the first 7 months of last year, 683 pension plans shut down. Some 8,400 participants in just 293 of these plans lost $20 million in pension benefits, an average of $2,400 each.

Although the vast majority of pension plans are fairly and responsibly administered, the evidence of abuse and the potential for abuse demand immediate action to reform the system. Without reform, millions of workers in this country will reach retirement age and find that all they have is an empty promise—instead of a comfortable pension.

In correcting the system, we have the Nation's social security system as a guide. Many of the shortcomings of private pension plans do not exist in social security which provides truly portable benefits, universal coverage, generous vesting provisions, and efficient administration.

Social security goes a long way toward insuring a minimum standard of living for older Americans, but alone, it cannot guarantee a decent and comfortable retirement—especially not with the inflation of the last few years. Greater reliance on an effective private pension system would give millions of senior citizens the additional income they need to live comfortably.

Mr. President, I would like to take a few moments to discuss some of the major features of this legislation.

VESTING

Under the bill, vesting begins after a worker has participated in a pension plan for 5 years. After 5 years, the worker will be entitled to a 25 per cent vested right. That's how much he will have "earned" after that much time on the job. For every year worked after that, the employee will be entitled to another 5 per cent—until the 10th year on the job, when the vested rights would increase 10 per cent every year. Full vesting occurs after 15 years on the job. So, after 15 years, a worker can leave the company—for any reason—and still receive every cent of the pension benefits the worker has earned.

By the way, this legislation will not cover only younger workers just starting on the job. In calculating the years of employment, work before the passage of the law also will be counted. In this way, there will be no discrimination against workers nearing retirement age.

PENSION FUND FINANCING

The current minimum requirements for pension financing clearly are insufficient. The legislation approved by the Senate corrects that, requiring that a pension plan be fully-funded over a 30-year period. That means after 30 years, a pension fund has to have enough money to meet all of its benefit obligations. The Treasury Department will administer the program's minimum requirements, but the Secretary of Labor will have the authority to relax the standards in hardship cases.

GOVERNMENT INSURANCE

As things stand now, a worker can lose all of his pension benefits and rights if the pension plan folds. This pension reform bill would prevent that by guaranteeing payment of pension obligations if there's a sudden cancellation of the pension plan without sufficient funds.

PORTABILITY

Finally, one of the most important aspects of the new pension bill is its portability which will enable workers to bring their pension benefits with them when they change jobs. Under the bill, the Labor Department operates a central fund to co-ordinate the voluntary transfer of pension funds.

The Senate bill makes a number of other important improvements in the private pension system. It improves the tax treatment of pensions for self-employed individuals and employees of small businesses. It also gives the Internal Revenue Service and the Department of Labor increased power to settle pension disputes and monitor the financial stability of private pension funds.

Mr. President, this legislation is vital. It does nothing more than guarantee the American working man and woman the security that justly belongs to them. Pension reform is long overdue as it is, and I hope the legislation is quickly approved by the House and signed into law.

A COMPUTERIZED BILL STATUS SYSTEM

Mr. METCALF. Mr. President, last week I received a copy of a letter from the distinguished chairman of the Committee on Rules and Administration, Senator CANNON. In it he disclosed that a computerized bill status system was being developed in cooperation with the House of Representatives.

This development will be most helpful to us as will the other informational systems presently under study. Of outstanding significance also is the fact that the two bodies are cooperating in this vital effort.

As chairman of the Joint Committee on Congressional Operations and previously as a member of the Joint Committee on the Organization of the Congress, I have been deeply interested in the need for such a combined effort. Adequate information systems are absolutely essential to the future of the Congress. We cannot afford to bypass any opportunity to develop compatible systems. Therefore, this announcement by Senator CANNON is most welcome.

I congratulate him, the chairman of the Committee on House Administration and their members for this important step. Their initiative can have far-reaching benefits for the Congress.

I ask unanimous consent that Senator CANNON'S letter be printed as a part of my remarks for the RECORD.

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

U. S. SENATE,
Washington, D.C., September 14, 1973.

U.S. Senate,
Washington, D.C.

DEAR: . The Committee on Rules and Administration is currently developing and testing a comprehensive group of computer systems which will be of significant value to Senators, Committees and their staffs in the performance of their legislative and office related activities. I will report the status and availability of these systems to you in the near future.

One of the systems the Committee is currently pilot testing is the Library of Congress' Legislative Information Display System, which incorporates Bill Digest information with delayed status information on Senate and House actions. Additionally, Representative Wayne L. Hays, Chairman of the Committee on House Administration, has very generously offered the Bill Status System developed by his Committee, for use by the Senate. The purpose of this system is to record, store and disseminate legislative information on bills and resolutions introduced in Congress.

The House System offers two methods of disseminating Bill Status information. A telephone inquiry may be directed to the Bill Status Office (extension 5–1772) where an operator will provide a verbal response to the inquiry. The system is responsive to inquiries relative to bill number, sponsor, committee and subject matter. More than 130 possible legislative actions are currently identified by the system, including actions within House Committees.

The second method consists of the automatic tracking of legislative action on bills of special interest. As new actions occur, the legislative information is updated so that these printed reports reflect current legislative status. The updated report is automatically sent to the office of those subscribing to the service on the morning following the most recent legislative action. For your information, I have attached several examples of these automatic tracking reports. Requests for this service should be made using the attached form.

The House Status System has operated in a pilot mode since its inception in February of this year. The Committee on House Administration and the Committee on Rules and Administration are most interested in the further development of this system for the benefit of the Congress. A number of features must now be approached from a point of view that takes into consideration the needs of both the House and the Senate. For example, little detailed status information on bills before Senate Committees is currently available, in contrast to more detailed status information available on bills before House Committees. The reason for this imbalance is the fact that Senate clerks and Committee staffs have not been asked to assist in the acquisition of status data, as is done in the House. In order to make Senate information as timely as House information, procedures are being developed for collecting Senate status information. This is but one of a number of examples by which a planned cooperative development effort can provide benefits to both the House and the Senate.

It is hoped that the best features of the systems being developed by the Senate, House and Library can be modified and incorporated into an integrated Congressional system.

Questions regarding the above systems should be directed to Tom McGurn of the Subcommittee on Computer Services (extension 5–9073).

With every best wish, I am
Sincerely,
HOWARD W. CANNON, *Chairman.*

GREATER PITTSBURGH GUILD FOR THE BLIND HONORS SENATOR JENNINGS RANDOLPH

Mr. SCHWEIKER. Mr. President, early last month the Greater Pittsburgh Guild for the Blind held its 10th annual recommendation ceremonies at the rehabilitation center for blind adults at Bridgeville, Pa. The ceremonies honored three groups of trainees, 70 blind men and women, who participated in and completed a 15-week "personal adjustment to blindness program" between September 1972 and August of 1973. Graduate achievement awards were presented to three outstanding alumni and the President's award, given each year to an outstanding contributor in the field of blindness, was presented to my distinguished friend and colleague, Senator JENNINGS RANDOLPH. This award originally was restricted to blind individuals, but by action of the GPGB board of directors, it was decided that Senator RANDOLPH'S long career on behalf of the blind was more than deserving of this singular honor. I am privileged to serve with him on the Senate Subcommittee on the Handicapped, which he chairs, and I know of no individual more dedicated to helping the handicapped help themselves than the able Senator from West Virginia.

Mr. President, the Bridgeville ceremony was an inspiring one, for it gave recognition to many of those who have worked so long and so hard on behalf of the blind. Moreover, the examples of individuals overcoming their handicaps serve as inspiration to all who face this tragic handicap in the future.

Because this was a unique ceremony, I ask unanimous consent that a telegram of congratulations I sent to the graduates and an abbreviated transcript of the meeting be printed in the RECORD, including Senator RANDOLPH'S remarks and a listing of the board of directors of the guild, Walter A. Koegler, president of the Greater Pittsburgh Guild for the Blind, was master of ceremonies.

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

AUGUST 2, 1973.

BOARD OF DIRECTORS,
Greater Pittsburgh Guild for the Blind, Station House, 316 Station Street, Bridgeville, Pa.:

Deeply regret another engagement prevents attendance at 10th annual recommencement of Greater Pittsburgh Guild for the Blind this evening.

My best wishes to you, your associates, my distinguished colleague U.S. Senator Jennings Randolph, and your guests as well as my congratulations to the graduating class.

DICK SCHWEIKER,
U.S. Senator.

THE 10TH ANNUAL RECOMMENCEMENT OF THE GREATER PITTSBURGH GUILD FOR THE BLIND, AUGUST 2, 1973, BRIDGEVILLE, PA.

Judge Koegler: On behalf of the Board of Directors and Staff of the Greater Pittsburgh Guild for the Blind, I welcome you to our Tenth Annual Recommencement Ceremonies. One of our Trainees and a graduate this evening, the Reverend Charles Wheeler, Associate Pastor, St. James A. M. E. Church, will pronounce the invocation. . . .

In the introduction of the people, who in turn will make remarks, if I seem to slight any of them in my lack of laudatory comments, our time limit is rather short, by reason of the schedule of our distinguished honoree. I can say and encompass all the people I introduce, they are dedicated to the Guild, we love them and they've done a lot.

Judge Brosky, the distinguished President Judge of the Family Division of our County Court is familiar to all of us for his devoted service to the Guild. During his service on the Board and his tenure as President, the Guild's physical facilities and Staff were constantly expanded, so that the present facilities that we have are available to so many more people. We all join in thanking him for his past and continued interest in the Guild—Judge Brosky.

Judge Brosky: Thank you very much, Judge Koegler, Senator Randolph, Commissioner Staisey, distinguished guests at the head table, distinguished graduates and friends of our graduates. I deeply appreciate the kind invitation to join with your heads and hearts on this wonderful and memorable occasion in celebrating the Tenth Annual Recommencement of the Greater Pittsburgh

Guild for the Blind. This is a most unique type of program. There isn't another one like it in the whole country. One of the glories of this outstanding affair is that leaders from all walks of life, from government, industry, labor, and the professions, are here tonight to share this evening with our distinguished graduates who have reached that achievement in a great step forward to a better way of life.

The Greater Pittsburgh Guild for the Blind was founded October 21, 1959, although it was really operating under the name of St. Lucy's Auxiliary for the Blind and with a somewhat limited scope of activities. It was through the suggestion of His Excellency Cardinal Wright, then Bishop of the Catholic Diocese of Pittsburgh, who prevailed upon the Board of Directors to become a more ecumenical type of endeavor. Several of us who were on the Board then and are on it today, remember Monsignor Lackner, and he's still with us today, stressing the expansion of the Guild to have a dormitory and an educational program, not just to learn skills, but to learn how to live with a handicap. Through continued help of St. Lucy's, and personal contributions and a lot of borrowing of money from our banks, the Board of Directors began a new venture in the building on Centre Avenue in Shadyside across from Shadyside Hospital. This was the first Rehabilitation Center in Pennsylvania, and graduates you'll be interested to know it was open to nine Trainees on April 3, 1961. Someone said that we were one of eleven such schools in the Nation, however, when we compared our activities and our goals, we were the only Center of its kind in America.

Briefly, the Guild was founded to help bridge the gap between the injury causing blindness or the development of blindness and future vocational training and employment. It was known for many years that a person who was unable to handle his disabilities, even though he may have been trained at the college level, could not achieve well in getting along with people unless he understood and could handle his disability. The Guild was founded to help the blind person develop communication skills, mobility, handle the activities of daily living, such as personal grooming, eating, and spoken communications and similar activities, as well as personal and vocational counseling. It was thought then, and it of course has been proved since (with over 600 people), that this approach will cause them to be greatly successful in their later walks of life.

Our student demands were so great each year that the Board of Directors decided to either move to a bigger building or build a new Center. With prayers and a little luck, word came to the Board of Directors that an office building in Bridgeville was being vacated by Universal-Cyclops Corporation and if the Guild were interested, we could have it for what it cost them to build it. I think part of the deal was to take that big oak tree in the back of the lot. Anyway, the Guild bought it and today it houses our Rehabilitation Center where we now train, and note the comparison, annually 96 people. In ten years the Guild has had visitors from every state and 25 foreign countries.

The Guild has been instrumental in influencing development of many other centers and professional developments too numerous to mention. All of this has been possible because of an exceptional Staff of dedicated people, our Executive Director, Dr. Leon Reid, who combines his warm personality and tremendous energy to give growth, stability and enrichment to the students who receive the services of our Guild.

The most meaningful aspect of our efforts in the Guild is that handicapped people over the country and the world need assistance in being able to interpret their own capabilities in relation to their handicapping condition in order for them to survive. We know that many people can pass courses in high school and college and they can manage to survive, but they really cannot attain any great amount of achievement or, in many instances, can't even keep a job unless they handle their own disabilities.

Dear friends, and graduates, this has been the mission of the Guild, for purpose and our heritage and this is our duty to help our fellow man to make his life worthwhile and this to me is The Greater Pittsburgh Guild for the Blind. Thank you.

Judge Koegler: Because of his excellent recitation of the history of the Guild, he's going to attain another high office to add to his many accomplishments. I propose to nominate him as the permanent historian of the Guild.

Our next speaker I think has faced his current Guild service with mixed emotions. This gentleman runs a rather successful business and I don't think he's ever been confronted with running a business with no money, constant borrowing and a rather indefinite time on which to base your forecast of receipts. I'm referring in a very indirect way to our current Treasurer, Mr. Leo Russell, who is our Financial Officer . . .

Mr. Russell: Since much of your comments were indirect, I'll leave the answers indirect. I, too, though would like to express gratitude, in the position of Treasurer, to all the ladies of St. Lucy's for the great job they do and the big lift they give me when that check arrives.

Ladies and gentlemen, the rear page of your program aptly outlines the purpose of this gathering tonight, Recommencement—to begin again. The program here is but a stamp of recognition of the courage, skill and attentiveness you graduates have professed in cooperating with the Staff to press on in quest of special skills for daily living. You graduates know, too, of the special abilities of our Staff and their persuasiveness; a staff whom I know you found very devoted. The Board of Directors is proud of Dr. Reid and all of the people associated with him in the operation of this Center. You the graduates are truly the Guild. The hours and days you have given in battle to acquire special skills, the great life which will unfold for you after you depart will be a continuing tribute to your faith and an expression of you as the solid face of the Guild. On behalf of the Staff and the Board of Directors, we wish it known we are privileged and grateful to pay you honor tonight Thank you.

Judge Koegler: The next gentleman was smart enough to force the job of Treasurer onto Leo. Art Nicholson currently serves the Guild as First Vice President. I sincerely hope he has the privilege and honor I had, of succeeding me in the coming year. Mr. Nicholson, again, is a successful businessman in our local community here, civic leader and extremely devoted to the Guild.

Mr. Nicholson: Thank you Walt. I am sure you are all familiar with the prime goal of the Greater Pittsburgh Guild for the Blind which is independence through rehabilitation. The Guild, through the years, has been proud of the large percentage of its graduates, on the order of 85 percent who are returned to the mainstream of life, either in gainful occupations or their normal vocations, homemaker, or otherwise. Dr. Reid and other members of the Staff, in the course of their travels, try to take advantage of every opportunity to visit with graduates and keep up their contacts with them. We also hear by way of press clippings and magazine articles of the accomplishments of those who have been trained at the Guild However, in 1970 the Board of Directors decided that public recognition should be given to those whose achievements after graduation were outstanding and for this purpose they established the program of Graduate Achievement Awards to be presented at the Annual Recommencement. In the initial year of 1970, six such awards were made and in 1971 and 1972 three were made each year. We believe that the presentation of the Graduate Achievement Awards during the Recommencement exercises is a source of inspiration to the Trainees who are graduating, showing what others have done who have graduated before them and encouraging them to use their training to the best possible advantage. It is also a source of gratification to the Director and the Staff to know that their dedication and patient labor has borne truth in such achievements. Thank you.

(Judge Koegler then presented Graduate Achievement Awards to three outstanding graduates. Recipients of the 1973 awards are: Louis J. Bucci, of Pittsburgh, graduate of Group 17 in 1966; Harry Jenkins, of Nutters Fork, West Virginia, graduate of Group 18 in 1967; and Kathleen Williams, graduate of Group 33 in 1972 and an employee of the Goddard Space Flight Center of the National Aeronautics and Space Administration.)

Judge Koegler: The Honorable Leonard C. Staisey, lawyer, civic leader and politician—politician in the best sense of the word. He's Chairman of the Board of Commissioners of Allegheny County, but more importantly to us, a member of our Board of Directors and a past recipient of the President's Award for outstanding and distinguished service to our program. It is my pleasure to present our good friend Commissioner Staisey:

Commissioner Staisey: Thank you very much. Dr. Reid, Judge Brosky, members of the Board, America's best friend of the blind, Senator Randolph, our most honored guests tonight, the graduates, friends of the graduates and friends of this fine institution. I'm very happy to be here and I sincerely appreciate your invitation. And on top it gives me a chance to see Senator Randolph again. I'm sure he doesn't remember, but I met him back in 1960 in West Virginia when I was traveling the state for John F. Kennedy and then came back and ran for the State Office of Senator myself.

When you leave here you have a new obligation, not to yourself, but to our sighted friends. You know our sighted friends are kind of dull and they're slow to catch on. And you and I have to be educators, we've got to educate them to what blindness means. We've got to get them to understand that we're not from Mars, but we're for real. We're right from Earth. And we have to make them understand we have the same problems they do, working, finding enough money for taxes, raising kids, paying mortgages, etc. And above all, we've got to fix in their minds that you and I are average, ordinary people in every respect, except we can't see. And once they begin seeing us that way, then they see us for what we are, real people, and people who don't live with a handicap, but who have an awful lot of fun overcoming it.

And you have an infinity of possibilities and you have something else now, we now have a good friend, like enSator Randolph, who stands in this nation's capital representing us and speaking on our behalf and I know that with men like him and others in your state capitals and in your county, this whole list of discriminations that we talked about; you always hear the reciting you can't discriminate because of race, religion, national origin or sex. One of these days we're going to tack onto that, that you can't discriminate because of a person's handicaps. So, on this, the occasion of your graduation, you've had a lot of people go before you and they found success and they found contentment. The same thing can happen to you.

Remember that for every door that God closes, He opens another and all you need is the faith and courage to walk through

those new doors and because of people, like on the Staff here, Dr. Reid, and because of people like Senator Randolph, you don't walk alone, so remember for those who have the faith, they're the ones who are going to claim the future. Good luck to you.

Judge Koegler: We all very much appreciate Commissioner Staisey's inspirational remarks. I guess there's an expression that someone has to run the place. Our chief Operating Executive, I suppose you could characterize him as the man who makes the place go, is Dr. Reid. We are truly fortunate to have a man of Dr. Reid's training, experience and dedication as our Executive Director. Dr. Reid . . .

Dr. Reid: Mr. Nicholson, Mr. Russell, Trainees, distinguished guests, Judge Brosky and my dear friend, Senator Randolph. It's great to see those of you who have been out and came back tonight, those of you who have been out a long time. It's also great to see the friends, the members of the Board of Directors, St. Lucy's and all of you here, including Paul Jenkins and Miss Bailey who is also from West Virginia.

It's a pleasure for me to help honor one of my models and one of my inspirations in life. Senator Randolph was a Representative to the United States Congress in my district in Martinsburg, West Virginia and even before he was elected to that position, he was well-known in my area because of his humanitarian efforts and because of his tremendous forward thinking. He has always done things, long before others, such as, he was a member of the Board of Trustees of Salem College West Virginia when he was a junior in college. We're now just beginning to talk about students on the Board of Trustees of colleges. In his whole life he's been ahead of everything we're thinking about today . . .

We were talking about the tremendous disaster in West Virginia during the second term of his tenure in the House where several hundred men were killed in accidents. Senator Randolph was there to find out the causes and to help the families. Of course, he couldn't restore those that had died, but he helped those that had to live with this problem live more happily. So he's been concerned with the farmer, the construction worker, the metal worker, coal miner and everyone else you can mention. I remember visiting his office in the House of Representatives, as a young man, where on his walls, Senator, you had many citations from the air industry. Senator Randolph himself, at a very young age, after the second or third plane was put in the sky he had learned to be a pilot and had learned first-hand the aviation industry. He was out there to learn about it and, of course, to learn its attributes and, of course, he has carried forth this tremendous thing and now, of course, he is worried about space travel.

He has been interested in the preservation of our natural resources. He's interested in youth, and I was remarking tonight how when I was a teenager in high school he came to a place called Camp Horseshoe, Tucker County, West Virginia; this is near where Mr. Nicholson has his summer home, and he was always available to us kids. He was always there to give us advice and wisdom that has stuck with us always and we appreciate this and it stayed with us throughout our lives.

I remember his work with disability groups and I want to recount for the graduates that he has worked with the blind more years than any man in this room. Back in the early thirties he was taking students from the School for Blind in Romney, West Virginia, to the southern part of the state in Bluefield where Dr. J. Elliott Blaydes, Sr. was operating and treating these children. Senator Randolph got them down there by various hooks and crooks I might add, but he was there to serve these kids and help their needs, because Dr. Blaydes, a very wonderful man and former member of the Board of Director of this Guild, was there to help. He did this very well and this led to his standing up in 1932 in California, to make the motion to Lions International that they accept blindness as their international project and this was affirmatively voted at that meeting this and great organization carried this on over the years.

Senator Randolph believes in education, he feels it's the best avenue to the realization of anyone's potential. He comes from a family that believes in this and as his mother once told me many years ago, he loved people, he wanted everyone to achieve and make his home and community a better place to live. He believes in the great worth of all humans. He believes that all of us can be helped and he has devoted his life to that end.

Judge Koegler, I am very pleased to present to you for the President's Award, a wonderful man, a great statesman, humanitarian, educator and leader, an inspiration to many youths.

Both he and I are from West Virginia.

Judge Koegler: The Greater Pittsburgh Guild for the Blind presents to the United States Senator, Jennings Randolph, the President's Award for the Randolph-Sheppard Act, which carries his name, of course; his leadership in Lions International, his unequaled efforts in the United States Congress on behalf of the handicapped, his inspiration to handicapped children, youths and adults. It is my pleasure to present this award to you Senator.

Senator Jennings Randolph: It has been said that some ministers talk or pray too long. In West Virginia we have a reputation for that which sometimes reaches the moving of a minister from one church to another. . .

The only reason that you can sit me back in the chairs, is because I must return to a suburb of Bridgeville called Washington, D.C., and I must leave at 9:12. It will be difficult to do justice to what I would want to say, but no matter what I would fail to do in the justice of words as to their length, I could certainly not do justice to the young men and young women, 70 persons in all, not all present, but for those who are absent, for those who are here we are with you, we are one with you. We know that this is in a very genuine sense Recommencement to you. Recommencement for those who are about to graduate that all of us realize that perhaps the greatest challenge that we could accept would be to have a rebirth of responsibility.

As individuals, all of us, at this Recommencement, an individual responsibility and, Leon, if there has ever been a group of persons working together, moving forward together, but realizing the individual responsibilities, it has been the blind. This is a very real trait, a very genuine characteristic of the blind.

I'm pointing upward to all of these 70. Persons privileged not so much to have a time of recommencement, but by their example, to cause us to have a rebirth. We must be productive in a world of divisiveness and polarization, unkind words and malicious accusations. And I understand how important it is to have friends joining in a common cause. I know how vital it is to have the Chief of Services for the Blind, Joe Lobuts from West Virginia here tonight, carrying on as he has for a period of 20 years or more the work of the blind in our state.

You are a Commonwealth, you have all the money. In West Virginia we're just a State. We have all the problems, but we want you to help us to solve those, as we perhaps can make contribution to the solving of yours.

How happy I was to be out on the hill where the breezes were blowing at the home of Roseann and Leon Reid. Yes, I did know Leon a long time ago, when he was a camper at Camp Horseshoe in Tucker County, near Davis, high in the Alleghenies. I expect it's a good union to have a Pennsylvania girl join a West Virginia boy. I don't want to be too nostalgic, but, Leon, I don't want you to leave the work here, certainly not, but I want you to know that in West Virginia you always have a homeland. . . . I wish we would give Commissioner Staisey a second applause for a wonderful, inspirational speech tonight.

What an exciting man you are! How thrilling it is to catch the spirit, which you've given, I'm sure, to all of us as we gather here and so it's very easy for me to say, I'm eager to say that it's a joy for me to be here. I naturally am honored in accepting this award for perhaps one reason above all others. It symbolizes, not an award to me, but it symbolizes a truly worthy cause. That's what really counts. I want to continue, of course, to stand by you, walk with you, work for and with you. I want to join in the actions that lessen our concerns for these complex and trying times in which we live and as we labor together. My faith is undiminished that we will achieve more nearly our goals, and you the 70 tonight, and I come back to you, you're going to live in the better tomorrows because you're going to make them so . . .

And so the subject that I want to discuss is *"Loss of Sight Is Not the End of Vision"* and I'm sure you realize that that is true.

I understand that "we fear that which we do not understand." This idea is a broad one and can carry a wide range of situations with it. Lack of understanding, it's not enough to be tolerant of someone. People boast of that, but that's not enough. We have to be understanding of another person and try to realize his or her problems and relate them to what the problems are that we have and mix them all together? We have a common cause to help one another in the jobs we do. There is, of course, an innate fear that relates to the problems of the visually handicapped. Many people tell me, "you know he's blind and he can't do anything." You can hear that charge, The Greater Pittsburgh Guild for the Blind, proves by its work, that the charge is false.

I hope it's for every person that I speak because of your intense interest, not only having a membership of serving on a Board, but actually digging in and doing the job that needs to be done. Perhaps more than any other group in today's society, the blind have had to struggle against what I call public prejudice and ignorance to dispel the instinctive fear that they have encountered. This is not an over-statement. We have struggled for many years to improve employment opportunities of the blind and to change attitudes. Kathy spoke tonight, and told us of the attitudes of her family. How wonderful they stick with her. We can change the hearts of the persons who mistakenly think that the loss of sight is the end of vision.

Nine years ago I suffered in a hospital for many, many weeks. I was there for an operation before and after for a detached retina. I was trapped in a sense in a dark void and what did I begin to do? I began to experience some of the personal puzzles of that partial lowering of the blind, as it were, at the window out of which I'd been looking.

I couldn't see and sudden blindness, in part, was to be my lot, for a while.

More than half of the newly blind in America are past the nominal age of employability. As such, they have not been considered in the past as clients really for rehabilitation in the narrow sense of the training for new jobs. Overlooked in our rehabilitation program was the need to learn new personal skills for self-care, the blind have always had self-discipline and mobility, of course they have, and the need to adjust and intensify the other senses to a world of darkness.

They've been able to do that, sighted people really fall far behind in that attribute. One result of that experience that I had in the hospital is a major provision contained in the Rehabilitation Amendments of 1972.

I do not speak partisanly. The President of the United States vetoed this needed legislation, not once, but twice. Of course, there has to be a responsibility, not only for legislators who pass the bill, but the responsibility of a President, either to approve it or to fail to give it his signature. I attach no meaning whatsoever to the failure to do what those of us in the Congress have wanted done. But he did veto the legislation. We'll try again!

I report to you that our House-Senate Conference Committee is finalizing a rehabilitation bill. We've been meeting this week. We were to meet this afternoon at 3:30 and hopefully to finalize it between the House and the Senate, the versions that are different, and bring it back to our respective bodies. It contains new initiatives for helping the severely handicapped, including the visually handicapped. I have received assurances, and I announce them to you for the first time, that the President of the United States will accept this legislation and place his signature upon it. There can be one success which can, of course, wipe out the disappointments which I had mentioned and the measure is a good one, a compromise, to be sure. I sought in the two previous bills a provision for special rehabilitation training for independent living for middle-aged men and older blind workers. This proposal has been modified in the conference, but we do have an effort to provide special prospects in the rehabilitation program. We're going to have projects, Joe, in the rehabilitation services administration to concentrate on the needs of the older, blind population in the United States of America. And I spoke of the older people at the very beginning, beyond what we call the age of employability.

There have been many legislative successes over the years. There, of course, have been some disappointments. The program of sheltered workshops for the blind has been, I think, too static for many years. All those from the date of the initial legislation which, as a Member of the House of Representatives, I participated in, and that was 1938. I was then in the House of Representatives, worked with others, of course, for the passage of the original Wagner-O'Day Act. Senator Wagner is dead. Rep. O'Day is gone, but the legislation of which they were the principal sponsors, goes on and on and on to benefit people. I knew them both so very well, and they were individuals tremendously interested and not allowing themselves to be turned back.

We never had a Subcommittee on the Handicapped in the United States Senate until January of this year. We sort of had a half-way Subcommittee on the Handicapped, but now we have a full-fledged Subcommittee on the Handicapped. It's a part of the Labor and Public Welfare Committee and in that job as Chairman, I've tried and will continue to try to expand the sheltered workshop program. Why do we say that, because that original act, of course, was good. The amendments of 1971 are designed in that legislation, not only to provide additional job opportunities for the blind, but the other severely handicapped. We have a goal to expand the range of products and the services produced and so in the fiscal year 1972 there were 19 new commodities added to production at selected, or what we call sheltered workshops, and nine resale items were added.

These added jobs, 237 jobs, not thousands of jobs, but they created 237 jobs. For whom? For blind people. That's what is important tonight. Just the two actions, five hundred more blind persons gainfully employed, not on relief or charity—doing jobs for themselves—working as productive men and women in the United States of America and that's all the blind want. No handouts whatsoever, but the opportunity of a helping hand which should be extended to the blind to give them an opportunity to work. That's exactly what they want to do.

And then what happened? Last Monday, a great day for us, the President of the United States signed Public Law 93–76. It provides for additional funds for this Committee to expand its activities and products and the services of which I have just spoken. The rehabilitation amendments, the other programs to help the handicapped help themselves, these are designed to help men, not to supplant the humane work of The Greater Pittsburgh Guild for the Blind, you who work in the effort, you as volunteers and paid workers. What you have been doing in the years must be continued and even stepped up in the years ahead.

In terms of today's multi-million or multi-billion dollar budgeting the programs are exceedingly modest in their size and scope, but the existence of this work constitutes a long overdue recognition by your government that the problems of humanity are too large, sometimes they're just too complex to be solved by this organization, solved by organizations like this, no matter how big and diligent in their efforts. I know you are aware of our work in 1936. I had a friend, Senator Morris Sheppard of Texas and I talked with him about the sponsorship of legislation which would establish a program for the blind, to operate vending machines (facilities) throughout the United States. We, of course, were thinking about it because both of us had been interested in sight conservation. Are there any Lions here tonight? Several. As members of Lions International we were working in sight conservation programs.

I did travel in West Virginia and we raised over $3,000. That was a lot of money in 1931. That money paid for the hospitalization and transportation for these youth from our Romney, West Virginia school for the Blind. J. Elliott Blaydes, of blessed memory, when we asked what the cost would be for the operations, 76 percent of all the operations were successful, the young people were given sight or partial sight and became wage earners, he replied "there is no cost." And as simply as that he spoke and as simply he lived and as simply he passed away, having given in his lifetime 50 years of service, paid for by patients, but much of it by those who could not pay him.

Senator Sheppard and I realized it would be a problem. We had the opposition of the Post Office Department. Postmaster General, said in essence before the Committee, "you can't do this. The blind can't operate vending stands." We had barriers, of course, to break down, and we knew that it could be done. I report to you that legislation carried out by agencies, training programs and careful screening, all of this gave the opportunity for blind men and women to do work, just as Harry is doing in Nutter Fort. But these persons, they demonstrated their skills. We could pass a law, but the law is meaningless if they didn't make it work. That's exactly what they did. They made it work and they became creative and this is very important, and so they themselves laid to rest the dire predictions of the Postmaster General that it couldn't be done. So they're the entrepreneurs in our selling system today and doing a tremendous job. The growth of the program has been a little slow; we've had some problems, but it's going forward and the psychological barriers are falling every day . . .

We're working on special fares on the scheduled airlines, not only for the aged, but for the blind and we have other legislation in the mill. My joy is to have shared with you a night of happiness and deserved recognition of those who have been honored at this table, but most especially those who are honored in the student group. I shall ever be grateful for the award given to me. I thank you. I thank you. I thank you. I'll cherish your confidence—now and all my life.

Judge Koegler: I know you all appreciate the necessity of Senator Randolph leaving at this time. I discovered there's only one plane to Washington, D.C. that leaves at 9:12 so this is what he's trying to accomplish.

(After Senator Randolph's address, three groups of Trainees, who had completed training at The Greater Pittsburgh Guild for the Blind were awarded certificates.)

Group #35-period of training from September 5, 1972 to December 15, 1972. Certificates presentd by Mrs. James E. Gleason, President of St. Lucy's Auxiliary and member of the Board of Directors, the Class representative for this group was Mr. John Culver, Vice President, Reeves-Bowman Division, Cyclops Corporation, Dover, Ohio. The graduates of Group #35 are as follows:

Miss Jean Agin, St. Clairsville, Ohio; Mr. John Culver, Uhrichsville, Ohio; Miss Cathy Eichelberger Enola, Pa.; Mr. Anthony Ferry, Cincinnati, Ohio; Mr. Robert Hancik, Bethlehem, Pa.; Mr. Dale Hicks, West Grove, Pa.; Miss Cynthia Kudes, Pittsburgh, Pa.; Mr. Arthur Leindecker, St. Louis, Missouri; and Mr. John Yelland, Pittsburgh, Pa.

Mrs. Esther Low, Pittsburgh Pa.; Mr. Terry McManus, Pittsburgh Pa.; Mr. David Pruszynski, Pittsburgh, Pa.; Mr. David Rusch, Pittsburgh, Pa.; Mr. John Sanders, Pittsburgh, Pa.; Mr. Joseph Sofranko, Pittsburgh, Pa.; Mr. Callie Williams, McKeesport, Pa.; and Mr. Richard Wyble, Monroeville, Pa.

Group #36—period of training from January 3, 1973 to April 13, 1973. Certificates presented by Mr. Arthur J. Nicholson. Class representative for this group was Mr. Frank DeJulio of Pittsburgh, Pa. The graduates of Group #36 are as follows:

Miss Cynthia Aul, Indiana, Pa.; Mrs. Helen Bowen, Jeanette, Pa.; Mr. Harry Bratchie, Mars, Pa.; Mrs. Suzanne Brown, Kittanning, Pa.; Mr. David Campbell, Conneaut Lake, Pa.; Mrs. Myrtle Cook, Pittsburgh, Pa.; Mr. Clarence Davis, Dravosburg, Pa.; Miss Kathy Maier, Baden, Pa.; Miss Mary Marshalek, Langhorne, Pa.; Mr. John McGrath, Dubois, Pa.; Mr. Stanley Miller, Wooster, Ohio; Miss Nancy Milliern, Canonsburg, Pa.; and Mr. Robert Nale, North Apollo, Pa.

Mr. Frank DeJulio, McKees Rocks, Pa.; Mr. Barry Foulds, Trevorton, Pa.; Mr. Robert Hentschel, Butler, Pa.; Mrs. Mary Hickernell, Meadville, Pa.; Mr. Robert Johnson, Leetonia, Ohio; Mr. J. Nelson Kendall, Blairsville, Pa.; Miss Debra Kershner, Bridgeton, New Jersey; Mr. Charles Null, Dixon, Missouri; Mr. John Pitts, Ambridge, Pa.; Mr. James Spera, Canton, Ohio; Mr. William Tomchek, Coalport, Pa.; and Mrs. Janie Wormsby, Pittsburgh, Pa.

Group #37—period of training from April 23, 1973 to August 2, 1973. Certificates presented by Mr. Leo P. Russell. Class representative for this group was Mr. LeRoy Pemberton, St. Thomas, Virgin Islands. The graduates of Group #37 are as follows:

Mrs. Rhoda Aliskovitz, McKeesport, Pa.; Miss Linda Augustin, Fox Chapel, Pa.; Mr. Robert Bair, Canton, Ohio; Mr. Robert Barber, Harrisburg, Pa.; Miss Karen Barnett, Steubenville, Ohio; Mrs. Verna Braithwaite, St. Thomas, Virgin Islands; Mr. Ronald Chambers, Tarentum, Pa.; Mr. Larry Colbert, Beltsville, Maryland; Mrs. Loura Faye Connaroe, Seven Mile, Ohio; Mr. Thomas Dickhoner, Cincinnati, Ohio; Mr. Andre Greaux, St. Thomas, Virgin Islands; Mr. Randolph Taylor, Washington, D.C.; Mr. Charles Wheeler, Cadiz, Ohio; and Mr. Gerald Yeager, Petrolia, Pa.

Miss Wendy Heitsenrether, Montoursville, Pa.; Miss Sharon Hum, College Park, Maryland; Mrs. Annie Jones, Pittsburgh, Pa.; Miss Brenda Klaiman, Vineland, New Jersey; Miss Denise McQuillan, Pittsburgh, Pa.; Mrs. Gladys Miller, Pittsburgh, Pa.; Mr. LeRoy Pemberton, St. Thomas, Virgin Islands; Mrs. Louise Powell, Sewickley, Pa.; Mr. Joseph Schweitzer, St. Louis, Missouri; Mr. Benjamin Scott, Pittsburgh, Pa.; Mr. Joseph Sell-

man, Landover, Maryland; Mr. Robert Wade, Pittsburgh, Pa.; Mrs. Rosella Winters, Jeannette, Pa.

The program was closed by Mr. Leroy J. Bettwy, Assistant Director, recognizing former graduates and distinguished guests.

MEMBERS OF THE BOARD OF DIRECTORS

President, Honorable Walter A. Koegler; First Vice President, Mr. Arthur J. Nicholson; Second Vice President, Rev. Msgr. Paul M. Lackner; Treasurer, Mr. Leo P. Russell; Recording Secretary, Mrs. John A. Donahoe; Corresponding Secretary, Mr. Gordon Thompson.

MEMBERS

Mr. James S. Balter, President, Morris Paper Company, Pittsburgh, Pa.

Mr. Clifford Behrhorst, President, H. F. Behrhorst & Sons, Bridgeville, Pa.

Dr. J. Elliott Blaydes, Jr., Ophthalmologist, The Blaydes Eye Clinic, Bluefield, West Virginia.

Mr. Theodore W. Bossert, Retired Vice President-Alcoa, Carnegie, Pa.

Honorable John G. Brosky, Judge, Court of Common Pleas, Pittsburgh, Pa.

Mr. Alvin E. Dillman, Federal Hearing Examiner (Retired), Glenshaw, Pa.

Mrs. Ann Marie F. Donahoe, Pittsburgh, Pa.

Mrs. Frederick N. Egler, Pittsburgh, Pa.

Mr. John C. Evans, Pittsburgh, Pa.

Honorable Robert D. Fleming, Senate of Pennsylvania, Pittsburgh, Pa.

Mrs. A. C. Fox, Pittsburgh, Pa.

Mrs. James E. Gleason, Pittsburgh, Pa.

Mr. John S. Grant, Retired Vice President, Marsh & McLennan, Inc., Pittsburgh, Pa.

Mr. Edward J. Kelley, President, Automotive Ignition Company, Pittsburgh, Pa.

Honorable Walter A. Koegler, Attorney-at-Law, Koegler & Henderson, Pittsburgh, Pa.

Rev. Msgr. Paul M. Lackner, Pastor, Annunciation Church, Pittsburgh, Pa.

Rev. Dr. Robert Lamont, Bryn Mawr, Pa.

Most Rev. Vincent M. Leonard, Bishop of Pittsburgh, Pittsburgh, Pa.

Attorney Francis J. Lonergan, Ruffin, Hazlett, Perry and Lonergan, Pittsburgh, Pa.

Attorney John R. Luke, Luke & Dempsey, Pittsburgh, Pa.

Mr. William A. McDivvitt, Jr., President, Bridgeville Trust Co., Bridgeville, Pa.

Mr. Arthur J. Nicholson, President, Nicholson Pile Co., Bridgeville, Pa.

Mr. Leo P. Russell, President, Russell Industries, Inc., Bridgeville, Pa.

Honorable Leonard C. Staisey, Chairman and County Commissioner, Court House, Pittsburgh, Pa.

Mr. Gordon Thompson, Vice President, Marsh & McLennan, Inc., Pittsburgh, Pa.

Mr. John Troan, Editor, Pittsburgh Press, Pittsburgh, Pa.

Mrs. Andrew G. Uram, Washington, Pa.

Dr. C. William Weisser, Ophthalmologist, Pittsburgh, Pa.

Mr. Thorold S. Funk, Director, Div. of Vocational Rehabilitation, State Capitol Bldg., Charleston, West Virginia.

Mr. Joseph E. Lobuts, Chief, Services for the Blind and Visually Impaired, Charleston, West Virginia.

Mr. Paul Jenkins, Executive Vice President, Benedum Foundation, Pittsburgh, Pa.

Miss Betty Bailey, Benedum Foundation, Pittsburgh, Pa.

STATES MISTAKENLY RELAX LAWS ON MARIHUANA—GROWTH OF MULTIPLE-DRUG USERS SIGNALS NEW DANGERS IN FIGHT AGAINST DRUG USE

Mr. RANDOLPH. Mr. President, recently an acquaintance of mine, concerned about his son's first few weeks away at college, questioned the young man about campus conditions. "Tell me, is there much pot smoking in the dormitory?" he asked. The son replied affirmatively. Then the parent asked, hesitantly, "Have you smoked any pot?" The son replied negatively. "Why?" the father asked. "Well," the son replied matter of factly, "because it's against the law."

I commend the young man on his abstinence from marihuana, but I am increasingly concerned about his and many other young peoples' reason for not indulging in drug abuse. If an act is against the law—but otherwise harmless—then the simple solution is to change the law, the argument goes. Across the country, we are seeing increasing evidence that this type of reasoning is having its impact. Legislatures and city councils are moving toward the "decriminalization" of drug abuse involving so-called soft drugs. A recent Washington dispatch by United Press International reports that Texas has sharply reduced its penalty for possession of marihuana, that Oregon has essentially removed all criminal penalties for private possession, and that the house of delegates of the prestigious American Bar Association has called for an end to criminal penalties for marihuana smokers.

Moves to lessen the penalties for drug abuse can end the ofttimes harsh and unfair application of local statutes to marihuana smoking. Unquestionably, many young people have had their lives and careers irreparably damaged by criminal drug records. But the proponents of legalization of drug abuse are doing a cruel disservice to their young constituency when they baldly state—or even imply—that smoking marihuana is harmless. In a determined media campaign, they are attempting to focus attention on the defects of the law, while ignoring or obfuscating the known and unknown physical and mental dangers of drug abuse.

On August 29, the National Broadcasting Co. produced an enlightening and frightening interview with two acknowledged authorities in the field of treating drug addicts. Reporter Frank McGee conducted the interview with Dr. Mitchell Rosenthal, president of Phoenix House, and Dr. Roy Hart, supervising psychiatrist at the outpatient department of the Kirby Psychiatric Hospital in New York. Dr. Rosenthal reported that, while many young people are turning off on heroin, there is increasing evidence of drug abuse in the form of multiple usage of amphetamines, barbiturates, alcohol, and other alleged "soft" drugs. The result, according to Dr. Rosenthal, is a proliferation of advanced alcoholic and drug disorders at an earlier age. He calls the multiple-drug users "garbage heads" and it may be an apt description.

In response to a direct question from McGee on the so-called harmlessness of marihuana, Dr. Hart says:

I consider marihuana a very dangerous drug. Thus far, the American public has absorbed a great deal of folklore and mythology and has been ill-advised and has remained rather poorly informed as to the hazards and dangers of this very, very powerful drug.

Mr. President, the important message in this significant interview was delivered during the early morning hours of television. The audience to which it was directed, I fear, may have missed the message. I sincerely hope that NBC will, at some future time, present a variation of the interview at a more propitious evening time when a wider audience is receptive. Because of the importance of counteracting the mythology of marihuana, I ask unanimous consent that the UPI article on the growing movement to legalize this dangerous drug, together with a transcript of the NBC "Today Show" segment, be printed in the RECORD.

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

POT LAWS EASING UP THROUGHOUT NATION

WASHINGTON.—Advocates of reform of marijuana laws believe they may have turned the corner in their campaign toward eventual legalization of the drug.

They cite these recent events:

Texas, which had the harshest sanctions in the country against smoking marijuana, has sharply reduced its penalty for possession of the substance.

Oregon has essentially removed all criminal penalties for private possession and use of marijuana, reclassifying possession of up to one ounce as a "violation" with a maximum penalty of a $100 fine, the equivalent of an expensive jaywalking ticket.

The House of Delegates of the prestigious American Bar Association called for an end to criminal penalties for marijuana smokers.

POLICY SHIFT SEEN

Before the change in the Texas law, offenders could be sentenced to life imprisonment for possession of marijuana. Under the new law, private possession has been reduced to a low misdeameanor classification. This provides for a maximum jail term of six months and a fine of up to $1,000 for possession of two ounces of marijuana.

The Texas law also allows for a resentencing of those currently imprisoned.

According to NORML—the National Organization for the Reform of Marijuana Laws—700 persons are now serving marijuana-related sentences in Texas. "The new law will entitle many prisoners to be freed, and hundreds of others to have their sentences significantly reduced," it said.

Keith Stroup, director of NORML, says the Oregon decision represents a significant, genuine shift in public policy.

PENALTY REMOVAL SOUGHT

"As other states follow the lead of Oregon," he said, "we will see a dramatic reduction in the number of young people whose lives are irreparably scarred by a criminal conviction for simply smoking marijuana."

The President's Commission on Marijuana and Drug Abuse reported last year that under existing state laws 93 per cent of marijuana-related arrests were for simple possession and only 7 per cent were for trafficking.

The marijuana lobbyists, while eventually hoping for legalization of pot, are concentrating their efforts now on removing penalties for simple possession for private use.

Following the action in Oregon, similar measures have been introduced in nearly a dozen other state legislatures.

AGED WOULD BENEFIT

Among states eyed by reform advocates is Colorado, where the legislature held public hearings earlier this year on a measure to legalize sale of marijuana to adults through existing liquor outlets.

The Colorado plan—which would go farther than any existing law—would call for a tax of $6 an ounce which would be used for the state's old age pension fund.

Stroup and NORML do not expect to win all their legislative initiatives this year but they are convinced the tide has turned and the thrust of public opinion is on their side.

The ABA resolution calling for an end to criminal penalties seems to bear them out. It calls for "no criminal laws punishing the simple possession of marijuana by users." That links the ABA with such organizations as the National Council of Churches, the National Education Association, the American Public Health Association and the governing board of the American Medical Association.

AN INTERVIEW WITH DRS. ROSENTHAL AND HART

FRANK MCGEE. A few weeks ago a psychiatrist, Dr. Jerome Jaffe, appeared on our program. Dr. Jaffe, until last June, was head of the federal government's program to control drug abuse, and he stated that there has been a significant decline in the use of heroin in this country; the heroin epidemic, as he called it, was nearly over. But that's not to say that the drug problem is fading away.

Two men who are with us now are both psychiatrists whose work is mainly involved with the treatment of drug addicts. Dr. Mitchell Rosenthal is President of Phoenix House, one of the world's largest centers for treating addicts. Dr. Rosenthal says that methadone and barbiturate deaths are rising rapidly. Dr. Roy Hart, who was first a chemist, is supervising psychiatrist at the Outpatient Department of the Kirby Psychiatric Hospital in New York, and he's written extensively about marijuana. He deplores its increased use and he says it is a dangerous drug.

Gentlemen, I thank both of you for joining us, and first let's establish, Dr. Rosenthal, how we know that the use of barbiturates and amphetamines is on the increase.

Dr. MITCHELL ROSENTHAL. Well, what we're seeing at Phoenix House is a remarkable change in the type of drugs that the kids who are coming in are using. A year ago, 80–85% of the kids that were coming in were using heroin, primarily, as their drug of choice. Now that's dropped off about 25%, and we see now that some 40% of the people that are coming in are using amphetamines, barbiturates, alcohol, and none of them anymore are exclusive drug users. What they've become are sort of—the term that they're using is garbage heads. They use drug-of-the-week. If this week amphetamines are available, they'll use amphetamines. If next week a little more methadone is available, they'll use some methadone. The following week they may use alcohol, then some barbiturates, and mix it all up at the same time. It may start off with carbona for breakfast, you know, vodka for lunch, and amphetamines somewhere in the afternoon, and the notion that we can rest comfortably while this is going on because somehow the heroin tip of the iceberg has been reduced is a very, very misleading one.

MCGEE. Dr. Hart, what is the hazard to the body itself of mixing up these drugs? Is it greater if you mix them than if you use them separately?

Dr. ROY HART. There's no doubt about it. If you mix these drugs together, they have a tendency to potentiate one another, to implement one another, and to just increase the general morbidity and increase the risk of mortality.

Dr. ROSENTHAL. We're seeing, for example, now, with people in their twenties, in their early twenties, advanced kinds of alcoholic disorders and drug disorders which you usually don't see until people are in their fifties, kids who are going into acute alcoholic psychoses, into delirium tremens. This is really a very remarkable change.

MCGEE. What is responsible for that, Dr. Hart? Do you think this increased use of alcohol—reliance or dependence—abuse of alcohol?

Dr. HART. Well, of course, alcohol has been with us a long time, and it remains the number one drug of addiction. At the present time here in America, we have perhaps nine million alcoholic addicts. This is still the number one drug of addiction. In addition to that, we have all the other newer drugs that have come along. We have a cornucopia of drugs of abuse. And, as Dr. Rosenthal stated, the young drug abuser can just stick his head into the garbage pail and come out with anything almost anytime he wants, so we're into a period of multiple drug use. Within this picture, we still have to come back to marijuana because marijuana is the prototype. This is the original drug of abuse in modern America, beginning in the 'thirties for an initial period, and then coming back again in full force in the mid-1960s.

MCGEE. I understand that you don't—if I'm correct, and if I'm incorrect, you know, straighten me out—you don't necessarily agree with those who are taking a rather, well, let's say, overly lenient view toward marijuana as a drug, that it's not likely to cause all the harms and dangers that we've been led historically to think that it does. What is your position on marijuana?

Dr. HART. On the contrary. I consider marijuana a very dangerous drug. Thus far, the American public has absorbed a great deal of folklore and mythology and has been ill-advised and has remained rather poorly informed as to the hazards and dangers of this very, very powerful drug.

Mr. MCGEE. Well, the point that's often made is that if it's not abused, you know, if it's just used lightly and if one doesn't smoke too often or too heavily, or something like that, well, then the hazard's not so great. Is that true or is that part of the mythology that people have been so . . .

Dr. HART. This is part of the mythology. The fact remains that people may start out as experimenters. They may then graduate to intermittent users. Eventually they became moderate users, and eventually they become heavy users. Currently, two percent of the 24 million people who have experimented with marijuana in this country are heavy users. That is, they use at least three joints per day or more.

Dr. ROSENTHAL. There's good evidence to believe that if somebody is getting drunk on marijuana two or three times a week, that he's really going to change his ability to cope, that his memory is going to be affected, his ability to test the real life situations that he's in is going to be affected, and that his performance significantly deteriorates.

Mr. MCGEE. Does it bring about any physical change in the person, or is it all attitudinal?

Dr. HART. Well, there are many, many physical changes. One of the first recognizable disease entities that came along—that came to my attention—was a marijuana bronchitis. This can be rather severe.

Mr. MCGEE. Is it different from bronchitis from smoking tobacco?

Dr. HART. Yes, in many respects. One point has to be made clear, that is, in general, we are really speaking about cannabis, which exists in two major forms, marijuana and hashish. Marijuana is a weaker form, containing about one percent of THC. Hashish contains about five percent of THC. THC is a short form for delta-9 tetrahydrocannabinol, which we now know to be the active ingredient of the cannabis plant. People who smoke or eat hashish are in greater jeopardy because here we have about five-to-ten times the concentration of THC.

A study done among GIs in West Germany disclosed any number of cases of hashish bronchitis. When the patients with their hashish bronchitis were bronchoscoped, and little snippets of the bronchi were taken out and examined by the pathologist, there were very, very definite pathological changes noted. These changes were of a pre-malignant nature, one step removed from cancer. Now, this is in people who'd only been smoking hashish for a year or two. They have changes in their lungs which are reminiscent of the heavy cigarette smoker with thirty–forty years experience smoking.

Dr. ROSENTHAL. One of the dangers in talking about the subject this way, as important as it is to realize that you can get these kinds of bronchial changes, is that we start to focus in on a specific drug, and it would be like saying, well, what could happen if you're using 90-proof gin as opposed to 80-proof gin? The fact is that too many kids and too many people are using too much of everything all the time, and we're not just talking about illegal drugs. We're also talking about the misuse of legal drugs.

Mr. MCGEE. Such as?

Dr. ROSENTHAL. Last year in America, we had some 250 million prescriptions filled for tranquillizers, sleeping pills, and stimulants—speed and the like. And this increase has been going up at 15% a year. This year—by the end of this year, we will have had some 80 million prescriptions filled in America for Librium and Valium. One of the people in Washington, just last week, was looking to get some more controls on this. What's happening is America's becoming more and more narcotized and more and more accepting of drugs abuse in general. You know, you open up the average medicine chest and you just are amazed at what people are pumping into their bodies every day. Now, when adults are doing this kind of thing, the message that their kids are getting is very, very clear. That is, that it's all right for you too to use drugs so that kids, when they're going through . . .

Mr. MCGEE. Well, I've heard that for years, but how does one prove that?

Dr. ROSENTHAL. Oh, you prove it by changing national consumption . . .

Mr. MCGEE. No, no. I'm talking about how does one prove that a young person decides it's okay for me to use drugs because dad or mom takes medicine?

Dr. ROSENTHAL. Our evidence is very clear at Phoenix House. If you look at our population, our youngsters, by and large, have parents who have abused alcohol, who have abused marijuana, and who have abused other drugs, including the legal psycho-active drugs. So there is a connection between what parents do and what kids do.

Look, ten years ago or fifteen years ago, if a youngster came home drunk after school, his father didn't get into a discussion with him about the differences between bourbon and wine. He said, "You know what, son, you can't get drunk. We're not going to tolerate that." And he felt perfectly firm about saying that to his youngster. Today, a kid can come home—and this is happening—drunk on wine, drunk on marijuana, using other drugs, and parents have sort of gotten terribly blind to this. It's become part of—what? You know, we've accepted all kinds of pollution, and now we're accepting a kind of drug pollution that we're living with all the time.

Dr. HART. Yes, we like to refer to the drug menace as a form of internal pollution. Getting back to marijuana, now that the active ingredient, THC, has been isolated, the public should be made aware of the fact that this is a chemical that has an affinity for certain tissues of the body, and it also deposits in brain tissue, which is very rich in fatty tissue.

Mr. MCGEE. Is this permanent damage?

Dr. HART. This damage can be permanent, and if the individual stops smoking, there will be partial to almost complete recovery, but in any sense——

Dr. ROSENTHAL. It may take six months.

Dr. HART. Six months-nine months, and I have seen many cases where there has been residual damage and permanent damage. The fact remains that all over the world countries are trying desperately to get rid of their drug menace. The Single (?) Convention of the United Nations of 1941 has attempted

to abolish cannabis cultivation throughout the world. The Orient has been suffering under the burden of this horrible drug menace for five centuries, and at long last they are trying to end their problem. We are the first country in the civilized world to come along with even the idea of legalizing drugs of stupefaction, these stupefying drugs.

Mr. McGEE. Maybe a bit farther down the line, we'll get a chance to talk about this more. I wish we had more time now. Thank you both for being with us.

PROPOSED TITLE III REGULATIONS OF THE OLDER AMERICANS ACT

Mr. CHURCH. Mr. President, the vast majority of older Americans live on incomes which are very limited when compared to the high standards of younger Americans. As chairman of the Special Committee on Aging, I have been in a unique position to become very familiar with the daily problems the aged must combat. And, I have given long and careful consideration to provisions which might enable the elderly to live a life of dignity and self-respect.

On September 4, 1973, the proposed regulations for the title III grants for State and community programs on aging, of the Older Americans Act were published in the Federal Register. Title III is designed to assist State and area residents in coordinating and providing social services in a home environment to our elderly. In a country where the 65 and over population is expected to grow by about 3.5 million persons during the next decade, such services are desperately needed, especially since nearly 95 percent of the elderly live in their homes. These individuals, of course, try to maintain their independence and self-care as long as possible, and social services have been most effective in helping some of them to prevent needless and costly institutionalization.

Upon studying the proposed regulations governing title III, I wonder whether the basic purpose of the program has been somewhat misconstrued. The regulations are geared toward evaluating, planning, coordinating, and establishing a "linkage" between services by the State and area agencies, with less emphasis on the actual delivering of services to the elderly. The agencies, it seems to me, could be bogged down with redtape and bureaucratic exercises in "coordinating" existing services and prolonged inventory-taking. But who will deliver the services, and most importantly, where are these many services which must be coordinated? I hope that the Administration on Aging is not relying too heavily on social service programs which are marked for early extinction, such as those under the Office of Economic Opportunity and Model Cities. It is possible that the agencies could spend much of their time, planning, analyzing, and coordinating for services that are soon to be nonexistent.

In addition, I am concerned about the clause which states that the major emphasis will be on the "needs of low-income and minority elderly." I welcome concern about disadvantaged persons, but I strongly suggest that this definition be changed to a broader one, so as to make the program serve more than those on the welfare level. The eligibility definition for the title VII nutrition program for the elderly for example, is much broader in scope and excludes no one because of their income level.

In line with the above, the clause which describes the "fees" which the elderly will have the "opportunity to pay all or part of" should be made less burdensome and restrictive.

The State government's role in the title III program is assured by the requirement of having the Governor review and approve the plan and all amendments. However, local government is largely ignored in the regulations, and this omission could cause considerable difficulty when area agencies are obligating contracts, coordinating services, and developing plans. Local officials' involvement in planning and decisions, their representation on advisory committees, and consultative assistance would certainly enhance the possibilities of a more workable and cooperative relationship.

In the regulations' definition of "social services," "nutrition" is not listed. Since we have a title VII nutrition program, it is perhaps understandable that it need not be noted elsewhere. However, there are many nutritional programs presently functioning which are not part of title VII. These programs could still be coordinated with other social services to benefit the elderly. Nutritional services should be included as one of the social services which may be coordinated under title III.

Fortunately, the Administration on Aging recognizes that the title III regulations are of such great importance that special efforts should be made to assure their effectiveness.

On September 17, Commissioner on Aging, Arthur Flemming conducted a day-long hearing at which many constructive suggestions to improve the regulations were made. At a conference of the National Council on Aging 1 day later, Dr. Flemming said that he would give careful consideration to "very fine recommendations" made at the hearing and that he will insist that development of services take place along with planning. His words are assuring and significant.

Mr. President, again I stress the urgency and need for such social services to be made available to our elderly. Title III as proposed in the regulations takes a first step toward fulfilling this need, but must be improved to fully satisfy this demand. Greater emphasis should be placed on the actual delivery of vital social services, and the regulations should be simplified to keep the States and area agencies from being bogged down in paperwork. If these objectives would be achieved, then the intent of Congress would be fulfilled when it passed the older Americans comprehensive services amendments—to provide essential services, to enable older persons to live independently in their homes.

THE LOCKHEED SHIPBUILDING CLAIMS AFFAIR—I

Mr. PROXMIRE. Mr. President, 2 years ago Rear Adm. Nathan Sonenshein, as head of the Naval Ship Systems Command, peronally negotiated a $62 million tentative settlement of several ship building claims filed by Lockheed Shipbuilding and Construction Co. In 1968 and 1969 Lockheed had presented the Navy with claims totaling $158 million for five destroyer escorts and seven amphibious transport dock ships. Recently the Navy, after a thorough review of the claims and the tentative settlement entered into by Admiral Sonenshein, made a formal determination to pay only $6.8 million of the $158 million originally claimed by Lockheed.

The Navy's final decision in this case raises serious questions about Admiral Sonenshein's decision to enter into a tentative settlement for $62 million and about the legitimacy of major portions of Lockheed's claims. I am convinced from the testimony that has been given before the Subcommittee on Priorities and Economy in Government and other facts surrounding this matter, that Admiral Sonenshein was guilty of gross misfeasance in entering into the tentative settlement and in authorizing the payment to Lockheed of provisional payments on the claims. As a result of Admiral Sonenshein's actions $49 million in provisional payments were actually paid out to Lockheed.

DISCIPLINARY ACTION NEEDED

I am therefore formally requesting that the Navy take disciplinary action against Admiral Sonenshein and that an investigation be conducted to determine whether fraud was committed by Lockheed in the filing of the claim.

My suspicions about the tentative settlement were first aroused when I learned that Admiral Sonenshein had agreed to it despite the fact that the evaluations which should be performed prior to settlement of a claim had not been completed at the time of his decision. Normally, at least three critical steps are taken before tentative settlements are entered into on major shipbuilding claims. First, a team of experts makes a technical evaluation of the claim. Second, an audit is performed. Finally, the General Counsel prepares a memorandum of legal entitlement.

NO BASIS FOR TENTATIVE SETTLEMENT

None of these steps had been completed at the time of Admiral Sonenshein's decision that Lockheed's claim was worth $62 million. There had not been a complete technical evaluation of the claim, there had not been an audit, and no memorandum of legal entitlement had been prepared. On what basis then did Admiral Sonenshein decide that the claim was worth $62 million? And on what basis did he authorize provisional payments to be made to the contractor while the Navy was still reviewing the claim?

This question was given greater force by the most recent decision by the Navy that the claim was worth only $6.8 million rather than $62 million. I want to quote passages from the contracting officer's letter to Lockheed informing it of his decision to explain why my earlier suspicions about Admiral Sonenshein's activities have now been confirmed.

According to the contracting officer,

Lockheed denied his authorized representatives access to much directly relevant cost and pricing data, refused to disclose information to support the claims, and failed to cooperate with the Navy.

FACTUAL INADEQUACIES AND LACK OF SUBSTANTIATION

In 1971 Admiral Sonenshein submitted the proposed $62 million settlement for approval to the Contract Claims Control and Surveillance Group, the duly constituted reviewing authority for such claims. The Surveillance Group, as the contracting officer points out in his decision, after several weeks of review and deliberation concluded that the proposed tentative settlement "could not be approved because of factual inadequacies" in the area of legal entitlement and because of a "lack of substantiation of quantum with respect to the entire claim."

LOCKHEED WITHHOLDS INFORMATION

Subsequently, a team was set up in the Navy to try to obtain substantiation of the proposed settlement but for the most part Lockheed "declined to disclose cost or pricing data" and declined to disclose information "relevant to the support and substantiation of these claims."

The following excerpts from the contracting officer's letter give further emphasis to the lack of cooperation on the part of the Lockheed Shipbuilding & Construction Co., referred to as LSCC:

In support of its allegations, LSCC has submitted little or no historical cost, production and management data to substantiate its estimates. The contracting officer and his authorized representatives have requested relevant historical cost, production and management information but, with rare exceptions, such information has not been provided. The last such request was made on 20 March 1973, at which time the Navy stated its preliminary position in writing to LSCC on each of the claim allegation issues and requested any additional comments or available supporting data LSCC might have. LSCC has not responded to the Navy position or request.

Again, the contracting officer voices his complaint over Lockheed's uncooperative attitude and its unwillingness to give the Navy full access to the information necessary to determine the real value of the claim:

All ships procured under the instant contracts have been delivered; cost, performance and management data is now historical and should have been used to price the requested equitable adjustments. LSCC has effectively refused to use all of the available data, and, in fact, has denied authorized representatives of the contracting officer access to much directly relevant cost and pricing data.

PROVISIONAL PAYMENTS DESPITE LACK OF SUBSTANTIATION

These facts cast a dark shadow over Admiral Sonenshein's decision to pay $62 million for this claim. If he had no completed technical evaluation, no completed audit and no completed memorandum of legal entitlement, and if the claim itself contained factual inadequacies and lacked substantiation, and if Lockheed would not even cooperate with the Navy, or allow access to such cost and pricing data, then on what basis did Admiral Sonenshein decide that the Navy should pay $62 million for this claim? And on what basis did he authorize that $49 million actually be paid over to Lockheed as provisional payments on the claim?

Lockheed has appealed the Navy's decision to pay only $6.8 million to the Armed Services Board of Contract Appeals. While the appeal is pending Lockheed will retain the $49 million already paid. If it loses the appeal or is required to refund all or any part of the $49 million it will probably not have to pay interest on the unearned portion from the time the payments were received to the date of the contracting officer's decision. It can also be anticipated that pressures to allow Lockheed to keep the $49 million will build up as the case nears completion. There may very well be an effort to bail out Lockheed, as has been done before, rather than endanger the company's financial condition by requiring it to pay back the $49 million.

GROSS MISFEASANCE

The evidence shows beyond any doubt that Admiral Sonenshein's actions amounted to gross misfeasance and that he failed to properly exercise his responsibility over the taxpayers' money entrusted to him.

These are sad times for the Government and for the Department of Defense. Scandals are being uncovered with unprecedented frequency. The public is losing confidence in and respect for its own Government. One way for the Government to win back confidence and respect is to correct abuses that have been uncovered and to take appropriate action against responsible officials.

NAVY SHOULD INVESTIGATE POSSIBILITY OF FRAUD

The Navy is to be commended for its final decision on the Lockheed claim. But it needs to take two additional steps. I urge the Navy: (1), to clean its own house in the matter of Admiral Sonenshein and the Lockheed giveaway; and (2), to investigate the possibility that the claim was based on fraudulent representations.

I ask unanimous consent, to print in the RECORD the full text of the letter dated June 14, 1973, from the Navy contracting officer to Lockheed informing it of the Navy's final decision.

DEPARTMENT OF THE NAVY,
Washington D.C., June 14, 1973.

LOCKHEED SHIPBUILDING AND CONSTRUCTION CO.
Seattle, Wash.

GENTLEMEN: 1. In November 1968 and in January and February 1969 Lockheed Shipbuilding and Construction Company (hereafter LSCC), formerly the Puget Sound Bridge and Drydock Company, initially submitted consolidated claims for equitable adjustments under four Bureau of Ships (currently Naval Ship Systems Command, or NAVSHIPS) contracts, NObs–4785, NObs–4660, NObs–4765 and NObs–4902. The amounts claimed have been revised several times; the most recent revision being that accompanied by DD Forms 633–5 dated May 5, 1971, for a cumulative amount of $139,572,006. Other LSCC correspondence at various times stated these claims in an amount totaling as much as $158,018,440.

2. The DE 1052 Contract and Claim. Contract NObs–4785 is for the construction of five DE 1052 class ocean escort vessels. It was awarded to LSCC on July 22, 1964 as a result of formal advertising. The solicitation provided for a split award. LSCC was fourth low bidder; the three lower bidders received contracts for seven other DE 1052 class vessels each, with a balance of five vessels awarded to LSCC. Contract NObs–4785 had an initial fixed price of $60,285,000 and also provided for escalation; its specified original and amended delivery dates are as follows:

Vessel	Original delivery date	Amended delivery date[1]	Actual delivery date
DE–1057	Sept. 1968	May 1970	May 8, 1970
DE–1063	Dec. 1968	June 1971	June 22, 1971
DE–1065	Mar. 1969	Dec. 1971	Dec. 30, 1971
DE–1069	June 1969	Apr. 1972	Apr. 28, 1972
DE–1073	Sept. 1969	Aug. 1972	Aug. 11, 1972

[1] Bureau modification No. 3 of Feb. 8, 1965, extended these 5 vessels' delivery dates each for 5 months because of late delivery of Government-furnished equipment, viz: AN/SQS–26 sonars. Subsequent modification Nos. A–239 of July 3, 1967, and A–566 of Feb. 27, 1970, made further extensions resulting in the final amended delivery dates enumerated above, but reserved the parties' rights as to respective responsibilities for that balance of the vessel delays.

3. Since the DE 1052 class vessels constituted a new vessel class for which previous DE working plans were inapplicable, NAVSHIPS, on December 6, 1963, awarded Contract NObs–4715 to Gibbs & Cox, Inc., to prepare DE 1052 class working plans and other data. The DE 1052 vessel construction solicitation (which resulted in the split award to four shipyards) advised bidders of the Gibbs & Cox working plans contract, and provided that promptly upon execution of the lead ship (DE 1052) construction contract, the lead ship builder—which turned out to be Todd Shipyards Corporation, Seattle—was to subcontract to Gibbs & Cox for the NObs–4715 work, whereafter NObs–4715 was to be nullified. The DE 1052 vessel construction solicitation also informed bidders that on lots excluding vessel DE 1052 the standard NAVSHIPS working plan practice would be followed, namely, that such other construction contractors could either purchase working plans at the cost of reproduction from the lead ship builder or they themselves could prepare their own working plans.

4. On November 19, 1968, LSCC submitted a claim for a $30,783,460 equitable adjustment under Contract NObs–4785; by May 5, 1971, that amount had been revised to $45,181,080.

5. The LPD Contracts and Claims. The last three contracts enumerated in paragraph 1 are for the construction of amphibious transport dock (LPD) vessels, and were awarded as follows:

Contract No.	Vessels	Date awarded	Price	Method	Claims
NObs–4660	LPD 9 and 10	May 23, 1963	$50,445,000	Negotiated[1]	35.1M
NObs–4765	LPD 11, 12, and 13	May 15, 1964	69,774,000	Formal Adv	31.1M
NObs–4902	LPD 14 and 15	May 17, 1965	48,395,000	Formal Adv	28.2M

[1] Awarded without discussion on basis of initial price. All 3 contracts are fixed price with escalation

6. The original and amended contract delivery dates, and the actual delivery dates, for these LPDs are:

Contract No. and vessel	Original contract date	Amended contract date	Actual delivery date
NObs-4660: LPD-9	Sept. 30, 1966	Oct. 18, 1968[1]	Oct. 18, 1968
NObs-4660: LPD-10	Dec. 31, 1966	July 7, 1969[1]	July 7, 1969
NObs-4765: LPD-11	Apr. 15, 1967	May 1970[2]	May 15, 1970
NObs-4765: LPD-12	July 15, 1967	Dec. 1970[2]	Dec. 4, 1970
NObs-4765: LPD-13	Oct. 15, 1967	Dec. 26, 1969[2]	Dec. 26, 1969
NObs-4902: LPD-14	June 17, 1968	Feb. 1971[3]	Feb. 12, 1971
NObs-4902: LPD-15	Sept. 17, 1968	June 1971[3]	June 25, 1971

[1] By NObs-4660 modification No. A-738 of Mar. 9, 1970.
[2] By NObs-4765 modification No. A-737 of Mar. 16, 1970.
[3] By NObs-4902 modification No. A-499 of Mar. 9, 1970.

In none of the three foregoing modifications did the parties agree upon an apportionment of respective responsibilities for these delays in deliveries.

7. a. On January 20, 1969, LSCC submitted a claim for $24,151,451 under Contract NObs-4660; this amount was subsequently revised to $35,067,992 on May 5, 1971 on a DD Form 633-5 price proposal.

b. On February 6, 1969, LSCC submitted a claim for $24,991,341 under Contract NObs-4765; the May 5, 1971 revision increased this amount to $31,137,308.

c. On February 7, 1969, LSCC submitted a claim for $20,198,260 under Contract NObs-4902; the May 5, 1971 revision increased this amount to $28,185,626.

8. *The Course of Claim Investigation and Aborted Settlement Negotiations.* In February 1969, NAVSHIPS established a nucleus Special Task Force to investigate the three LPD claims. A different nucleus team was established to investigate the DE-1052 claim. Numerous visits to LSCC's Seattle facility were made in the course of these investigations. Commencing in December 1970 the parties sought to negotiate a settlement of these four claims. The following subparagraphs describe the events relating to the abortive settlement negotiations:

a. By Revision No. 7, of January 30, 1970, to the Navy Procurement Directives, a new paragraph 1-401.55 was added. It established requirements that NAVSHIPS (among other Navy activities) report major claims and obtain the approval of the Assistant Secretary of the Navy (Installations and Logistics) before making any commitment to a claimant on a settlement exceeding $5,000,000.

b. On December 30, 1970, then Deputy Defense Secretary Packard wrote to Senator John Stennis that,

". . . the remaining claims (referring to Lockheed's LPD and DE 1052 claims), totaling $159.8 million, have been the subject of intensive negotiations between the Navy and Lockheed. To settle these claims, the Navy has offered Lockheed $58 million. I am hopeful that a settlement of these claims can be reached. Generally speaking, all negotiations regarding this program have also been concluded. The single remaining issue is Lockheed's acceptance of this offer."

c. On January 5, 1971, Lockheed wrote to Mr. Packard:

"With reference to the ship construction claims, we are not prepared to accept the Navy offer of $58 million. It is our belief, however, that if both parties continue to pursue negotiations diligently a mutually acceptable solution can be achieved within a reasonable period of time."

d. Negotiations continued and on January 29, 1971, a final negotiating meeting was held with Rear Adm. N. Sonenshein, Capt. A. Holfield and Mr. R. Bates representing NAVSHIPS and Mr. R. Osborn and Mr. A. Folden representing LSCC. A tentative settlement agreement of $62 million was reached with the understanding that it was subject to required approval of higher authority. For reasons detailed below such approvals were never received.

e. On February 1, 1971, Lockheed President D. J. Houghton wrote to Lockheed shareholders: ". . . last week we reached *tentative* agreement with the Navy to settle our ship construction claims for $62 million . . ." (emphasis added).

f. In a NAVSHIPS memorandum to the Assistant Secretary of the Navy (Financial Management) dated February 12, 1971, the Acting Commander, NAVSHIPS, stated:

"b. Tentative settlement—$62 million.

"c. Provisional price increases made to date against these claims total $28.4 million.

"d. Additional provisional price increases of $21 million are in process. Provisional increases require documentation in the form of technical analysis, audit verification and legal determinations to safeguard the Government's interests, and NAVMAT approval in accordance with NPD 1-401.55(e). Hence, the authorization of provisional increases involves essentially all the steps required in final settlement.

"e. Final Settlement Date—15 March 1971. This date is largely theoretical. It is based upon completion of the extensive documentation required for each of the four contracts involved (including finalization of the Technical Advisory Reports (TAR's), DCAA final audit reports and formal legal memoranda) and submission of the post-negotiation business clearance by 10 March 1971 to NAVMAT and ASN (I&L) for approval in accordance with NPD 1-401.55. . . ."

g. On February 24, 1971, NAVSHIPS and Lockheed executed a modification to the four contracts involved in these claims for the LPDs and DE 1052s, to provide Lockheed provisional price increases on account of the claims. The modification states unequivocally that the settlement agreement of $62,000,000 was subject to approval by ". . . higher Government authorities in accordance with applicable regulations . . ." and continued:

"The parties agree that neither the above provisional increases in the contract price nor the above mentioned tentative settlement of $62 million shall be construed as an acknowledgement of the validity of any of the specific claims included in the Contractor's claims submissions under these contracts nor does the Government admit the correctness of any of the facts alleged in these submissions. Furthermore, these provisional increases in the contract prices and the proposed settlement of $62 million shall not be considered to represent the value of the Contractor's claims if the Contracting Officer shall find, in the event the supplemental agreements incorporating the proposed settlement are not executed, that the Contractor is entitled to equitable adjustments in the contract prices totaling less than the provisional increases in contract prices made to date or less than the proposed settlement of $62 million on account of the facts alleged in his claims submissions."

h. On May 20, 1971, then Defense Secretary Laird reported to Chairman Hébert of the House Armed Services Committee:

"Claims under on-going contracts for DE 1052's and LPD's totaling $159.8 million have been *tentatively* settled for $62 million. The LPD settlement has been approved and paid; the DE 1052 agreement is still in the process of review by the Navy." (emphasis added).

i. Secretary Laird's confusion about the status of review of the LPD claims by the Navy—which, incidentally, were not handled separately from the DE 1052 claim—was corrected by then Deputy Defense Secretary Packard's statement to the Secretaries of the Army and Air Force in a memorandum dated June 4, 1971:

"In June 1970, Lockheed's claims totaling $46 million for work under the five completed ship contracts were settled for $17.9 million. The settlement was reached through the Department of the Navy's established procedures for negotiating ship claims. Likewise, claims under four on-going contracts for DE 1052's and LPD's totaling $159.8 million have been *tentatively* settled for $62 million. *The LPD and the DE 1052 agreement is still in process of review by the Navy.* However, if it is assumed that a settlement of the $159.8 million claim will be for $62 million on these four contracts, the total Lockheed loss before taxes on all nine contracts will be approximately $89.6 million." (emphasis added).

j. On January 2, 1973, Lockheed prepared a four-page briefing paper on these claims, stating on page 2:

". . . USCC and NAVSHIPS renewed and increased negotiation efforts on the remaining claims, and on January 29, 1971 Lockheed Aircraft Corporation Group Vice President R. J. Osborn, LSCC's President A. M. Folden and the Commander, Naval Ship Systems Command N. A. Sonenshein arrived at a settlement figure of $62 million. Subsequently, supplemental agreements were executed which committed LSCC to that settlement amount as of that date, and committed the Navy likewise upon approval "by higher Government authorities in accordance with the applicable regulations."

Since the date of the "hand-shake" agreement on January 29, 1971, made in the spirit and within the parameters of Secretary Packard's plan, there has been virtually no progress by the Navy in finalizing the settlement agreement. . ."

9. *Navy Review Actions.* With respect to the LSCC consolidated LPD and DE 1052 claims, the Navy took the following review actions:

a. On March 25, 1971, NAVSHIPS submitted the proposed $62 million settlement sum for the consolidated Lockheed claims for review and hopefully for approval by the duly constituted reviewers in the Naval Material Command; that group was named the "Contract Claims Control and Surveillance Group" (or CCCSG). The CCCSG, after several weeks of review and deliberation, concluded that the proposed LSCC claims tentative settlement could not be approved because of factual inadequacies in LSCC provided information in the area of legal entitlement for certain claim elements and for lack of substantiation of quantum with respect to the entire claim. Accordingly, on August 3, 1971, NAVSHIPS withdrew the proposed settlement from CCCSG consideration.

b. Thereafter, in August 1971 NAVSHIPS requested the Superior of Shipbuilding, Conversion and Repair, 13th Naval District (SUPSHIP-13), whose office is the cognizant contract administration office with respect to the four LSCC contracts, to assemble a team to obtain improved substantiation of the proposed settlement in certain areas. For the most part, as described in greater specificity in paragraphs below, LSCC declined to disclose cost or pricing data to support its DD Form 633-5 price proposals for these claims, and other contract performance and production information relevant to the support and substantiation of these claims.

c. Notwithstanding the foregoing lack of cooperation from LSCC, on June 9, 1972, NAVSHIPS once again submitted the proposed LSCC claims settlement to the Naval Material Command for review and approval. On this occasion the NAVMAT reviewers were designated the NAVMAT Claims Board. On June 20, 1972, the DE 1052 portion of the submission was supplemented with the LPD portion of the submission. After six months review and consideration of these submissions, the NAVMAT Claims Board determined that the settlement was unsupported and not susceptible of approval. Accordingly, on January 24, 1973, NAVSHIPS once again

withdrew the submission from NAVMAT consideration.

10. The foregoing recapitulation of events in paragraphs 8 and 9 surrounding the tentative claims settlement agreement of January 29, 1971, and the submission and resubmission of the proposed settlement to higher authority for review and approval, and the two determinations not to grant approval by NAVMAT, lead to the unavoidable conclusion that in fact both LSCC and the Navy understood that the $62 million claims settlement was not unconditional. It required review by higher authorities and approval by the Chief of Naval Material and by the Assistant Secretary of the Navy (Installations and Logistics), in accordance with Navy Procurement Directives, paragraph 1–401.55. Such approvals were never received because the NAVMAT Claims Board perceived certain general and specific inadequacies in LSCC's claims support and substantiation. Three major claim items were identified as inadequately documented in the SUPSHIP 13 letter serial 130–2904 of October 17, 1972, to LSCC. Further, in NAVSHIPS letter serial 90–02 of 26 December 1972 to LSCC the Navy stated:

"We have completed a preliminary review of this additional data submitted by your company, which, though responsvie in some respects, still fails to present a clearly discernible 'cause and effect' relationship between alleged Government-responsible actions, on the one hand, and the claimed resulting increased costs to LSCC, on the other. The paucity of data showing such relationship applies also to the other elements of the LPD claims, as well as to the DE 1052 Class claim.

"To ensure consideration in this Command's final consideration of your claims, you are invited to submit to this Command, via the Supervisor, any material establishing the above-noted relationship, including any incisive rationale, supported by historical cost data."

For the foregoing reasons the tentative January 29, 1971, NAVSHIPS settlement did not receive the higher level approvals required by applicable Navy directives. Similarly, the provisional payments NAVSHIPS made to LSCC on account of these claims—for details, see paragraphs 14–15 below—were premised upon an exposition of a portion of the claim facts, specifically, LSCC's claim assertions and representations taken at their face value, without regard for a full and complete evaluation of other contemporaneous events in the performances of these contracts, many of which were later found to be attributable to non-government responsible causes. Those provisional payments were also influenced by anticipated LSCC cost overruns projected from costs incurred and to be incurred to complete contract performances as of January 1971. Accordingly, the provisional payments were found to be subject to the same deficiencies in support and substantiation as was the tentative $62 million settlement of January 1971.

11. *LSCC Claim Itemization.* LSCC has broken down its claims into subject areas of alleged Government-responsible causes of additional costs which are said to constitute entitlement to equitable adjustments in the countracts' prices. Enclosure (1) sets forth the Contracting Officer's determinations and findings related to these various allegations. For convenience only, some allegations common to all contracts have been treated in the same section of the determinations and findings. Each contract, however, has been treated as a separate entity. Enclosure (2) lists and classifies alleged improper rejections of LSCC work discussed in enclosure (1). Enclosure (3) lists the change orders included in the consolidated claims; determinations and findings relative to them are included in enclosure (1).

12. In support of its allegations, LSCC has submitted little or no historical cost, production and management data to substantiate its estimates. The Contracting Officer and his authorized representatives have requested relevant historical cost, production and management information but, with rare exceptions, such information has not been provided. The last such request was made on 20 March 1973, at which time the Navy stated its preliminary position in writing to LSCC on each of the claim allegation issues and requested any additional comments or available supporting data LSCC might have. LSCC has not responded to the Navy position or request.

13. All ships procured under the instant contracts have been delivered; cost, performance and management data is now historical and should have been used to price the requested equitable adjustments. LSCC has effectively refused to use all of the available data, and in fact, has denied authorized representatives of the Contracting Officer access to much directly relevant cost and pricing data.

Since LSCC has been unable to support adequately many elements of its claims, it appears that an impasse has been reached. Accordingly, the Contracting Officer deems it necessary to make a unilateral determination of the amount due LSCC by way of equitable adjustment in the prices of the four contracts. In considering the claims as originally asserted, the Contracting Officer finds in some subject areas that there is no data to support a determination of entitlement; in other areas, when entitlement has been established, the equitable adjustments must be based on Navy-developed estimates. The Navy-developed manhour estimates have been priced using Defense Contract Audit Agency-developed composite historical contract labor rates.

14. The Contractor has previously received provisional price increases on each contract on account of these consolidated claims as follows:

NObs	Mod.[1]	Payment
4660	8	$14,435,000
4765	7	13,128,000
4785	12	10,081,158
4902	7	11,387,000

[1] These modifications were embodied in a single supplemental agreement, executed on Feb. 24, 1971, effective Jan. 29, 1971; this modification incorporated the provisional payments made by earlier modifications and set forth the cumulative provisional payments for each LPD contract. The cumulative DE–1052 contract provisional payment of $10,081,158 was not stated in Mod. 12 to contract NObs–4785 but rather in field Mod. No. A–742 issued Feb. 5, 1971.

15. Paragraph 4 of each of the foregoing modifications provides that upon final resolution of the claim, if the equitable adjustment resulting from such resolution is less than the provisional increase, the contract price as provisionally adjusted shall be reduced by the amount of the equitable adjustment, and the balance shall immediately be refunded to the Government, or credited to the Government against existing unpaid invoices. The equitable adjustments resulting from the Contracting Officer's determinations and findings in enclosure (1) are summarized by contract in enclosure (4) and totals brought forward below. Accordingly, inasmuch as the total adjustment in the prices of contracts NObs–4660, 4675, 4902 and 4785 as determined herein do not exceed the provisional payments previously made, pursuant to paragraph 4 of the modifications cited above, the contracts' prices are hereby adjusted as follows and demand is made for the balance due:

NObs	Provisional payment	Equitable adjustment	Balance due U.S. Government
4660	$14,435,000	$1,796,805	$12,638,195
4765	13,128,000	1,832,191	11,295,809
4785	10,081,158	821,892	9,259,266
4902	11,387,000	2,334,661	9,052,339
Total	49,031,158	6,785,549	42,245,609

Notice is hereby given that, in accordance with the General Provision No. 42 of each contract "Interest", commencing thirty (30) days from receipient of this Final Decision, an interest charge at the rate of six percent (6%) per annum will be assessed on any unpaid balance.

16. LSCC's Premature May 24, 1973 "Appeal" Letter. On May 24, 1973, Mr. F. Trowbridge vom Baur, counsel for LSCC, wrote a letter to the Secretary of the Navy, with a coup to the Armed Services Board of Contract Appeals, purporting to "appeal" the LSCC claims on the DE 1052 and LPD contracts. Two bases were presented: that the Navy has not honored the January 29, 1971 contract modification settling these claims for $62 million, that Navy failure to issue a final decision of the Contracting Officer constitutes an appealable action. The factual misconceptions inherent in the first basis are rebutted in paragraphs 8, 9 and 10. With respect to the second basis, on March 20, 1973, NAVSHIPS sent LSCC a detailed 71 page explanation of the Navy's position on each element of the consolidated LPD and DE 1052 claims. That March 20th letter stated:

"You are requested to carefully review the Navy's position and to provide any comments or additional data you may have prior to April 20, 1973. Your comments will be carefully weighed and considered prior to formalization of any further settlement offer or any final decision of the Contracting Officer. Should you desire, a meeting can be arranged to allow further discussion of these matters."

By letter of April 13, 1973, LSCC requested that ". . . no further action be taken with regard to . . ." the Navy's March 20, 1973 letter. Thus although LSCC specifically requested that a final decision on this matter be held in abeyance, NAVSHIPS received no further communication from LSCC until receipt of the foregoing May 24, 1973 "appeal" letter from Mr. Vom Baur. These facts clearly indicate that the "appeal" by Mr. Vom Baur is premature.

17. This is the final decision of the Contracting Officer. Decisions on disputed questions of fact and on other questions that are subject to the procedure of the Disputes clause may be appealed in accordance with the provisions of the Disputes clause. If you decide to make such an appeal from this decision, written notice thereof (in triplicate) must be mailed or otherwise furnished to the Contracting Officer within thirty days from the date you receive this decision. Such notice should indicate that an appeal is intended and should reference this decision and identify the contract by number. The Armed Service Board of Contract Appeals is the authorized representative of the Secretary for hearing and determining such disputes. The Rules of the Armed Services Board of Contract Appeals are set forth in the Armed Services Procurement Regulation, Appendix A, Part 2.

W. E. SHULTZ,
Commander, Supply Corps, U.S. Navy,
Contracting Officer.

FARM PRODUCTION GOALS CANNOT BE ACHIEVED WITHOUT ADEQUATE SUPPLY OF FERTILIZER

Mr. HUMPHREY. Mr. President, on August 21, 1973, I wrote the Secretary of Agriculture requesting that he form an interagency task force to deal with our Nation's fertilizer shortage. On September 10, 1973, I and a number of other Senators met with Dr. Dunlop, Director of the Cost of Living Council, regarding this same problem.

Following the meeting, I joined with several other Senators in urging the U.S. Department of Agriculture to respond promptly to Dr. Dunlop's request that the Department provide him with an anal-

ysis of this problem. He indicated he would use the analysis as a part of the evidence in determining whether existing price ceilings on domestic fertilizer prices should be lifted.

Mr. President, I have just received a letter and table from the Department of Agriculture in response to this most recent request. I ask unanimous consent that they be printed in the RECORD following completion of my remarks.

The Department's letter indicates that it delivered its analysis of this situation on September 18, 1973, to the Cost of Living Council.

It should be noted in the table accompanying this letter that the Department is projecting an estimated 1 million ton shortage of nitrogen fertilizer and a 700,000 ton shortage phosphate—DAP—fertilizer during this fertilizer year—July 1, 1973 to June 30, 1974.

Given the urgent need for fertilizer by Great Plains wheat farmers who are now planting winter wheat and their inability to acquire the supplies they need due to price ceilings now imposed on domestic sales of fertilizers, I urge Dr. Dunlop and the Cost of Living Council to give us an early decision regarding this matter, and that their decision be to lift these ceilings immediately.

I am convinced, by the evidence I have studied, that U.S. farm producers can afford and are willing to pay, if necessary, higher prices for fertilizer in order to secure the supplies they need to attain their maximum production goals.

Failure to lift these ceilings on domestic fertilizer prices will prevent U.S. farmers from competing for available supplies with foreign buyers who are not subject to any such ceilings. As a result of the ceilings, these foreign buyers can and are depriving U.S. farmers of fertilizer supplies by paying over $20 to $25 per ton more than our U.S. farmers are now permitted to pay.

So Members can fully appreciate the importance of our resolving this stuation, and promptly, I request unanimous consent that a letter and study I just received from the Council of Farmer Cooperatives regarding the general U.S. plant food supply outlook for 1973–74 be printed in the RECORD following the USDA letter I mentioned earlier.

We must remember, Mr. President, that 30 percent of all U.S. crop production depends directly on the application of fertilizer. We must also remember that the fertilizer industry is the largest single user of natural gas in this Nation—450 billion cubic feet per annum. Therefore, we must not only take action to insure that our Nation's farmers can purchase the fertilizer they need to achieve our national production goals next year, we must also take steps to insure that our fertilizer industry gets the natural gas it will require to make those larger fertilizer supplies available.

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

DEPARTMENT OF AGRICULTURE,
Washington, D.C., September 18, 1973.

Hon. HUBERT H. HUMPHREY,
U.S. Senate.

DEAR SENATOR HUMPHREY: This is in response to your communication of September 10, 1973, regarding your meeting with COLC and representatives of the fertilizer industry. The Department has been monitoring and vigorously working on analysis of the fertilizer situation and the potential domestic shortages for several months. We are responding to COLC's specific request made earlier this week for an analysis of domestic and foreign capacity as well as prospective output for 1974. In addition, we will furnish to COLC information as to the extent to which multiple price systems have emerged.

It would seem that there are two important questions that need to be analyzed. What could be expected to happen to this country's crop output in 1974 if the present Phase IV regulations are continued on fertilizer, and is the foreign demand strong enough that there will not be significant reductions in fertilizer exports regardless of reasonable upward adjustments in domestic price.

Because of the desire to make a timely decision, we are planning to complete the development of this material and furnish it to COLC Tuesday, September 18. This information will be furnished without recommendation and further analysis will be made by USDA.

Other actions that we have taken in light of the potential fertilizer shortage include meeting with AID and the initiation of an intensive educational program on conservation and techniques for more efficient use of available supplies of fertilizer. Meetings were held earlier this week with AID officials to discuss fertilizer exports generated by AID. AID is now committed except for emergencies to an embargo on fertilizer shipments during the months of February through May. February through May is this country's high use period.

Enclosed for your information are initial estimates of projected supplies and requirements for nitrogen and phosphates.

Sincerely,

CARROLL G. BRUNTHAVER,
Assistant Secretary.

TABLE 1.—ESTIMATED SUPPLIES OF N & P_2O_5 IN 1972–73 AND PROJECTED SUPPLIES AND REQUIREMENTS FOR 1973–74[1]

	Nitrogen 1,000 tons N		Phosphate 1,000 tons P_2O_5	
	1972–73	1973–74	1972–73	1973–74
Supply from domestic production	9,891	10,000	6,292	6,600
Imports	851	800	312	300
Total available supply	10,742	10,800	6,604	6,900
Exports	1,350	1,700	1,424	1,700
Percent available supply exported	12.5	15.7	21.5	24.6
Net supply for U.S. farm use	9,392	9,100	5,180	5,200
Estimated 1973–74 requirements		10,100		5,900
Percent net supply is of requirements		90		88
Deficit		1,000		700

[1] Fertilizer year July 1 to June 30.

Mr. PAUL S. WELLER, Jr.
Director of Public Affairs, National Council of Farmer Cooperatives, Washington, D.C.

DEAR MR. WELLER: Thank you so much for your letter concerning our critical shortage of farm fertilizers in this country.

I particularly appreciate having your U.S. Plant Food Supply Outlook for 1973–74. It will be a helpful resource material in the work I am doing in this area.

Again, thank you for keeping me so well informed.

With every best wish.

Sincerely,

HUBERT H. HUMPHREY.

NATIONAL COUNCIL OF FARMER COOPERATIVES,
Washington, D.C., September 17, 1973.

Hon. HUBERT H. HUMPHREY,
U.S. Senate, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR HUMPHREY: The farmer cooperatives want to applaud your valuable efforts this past week in pressing for a solution to the increasingly critical shortage of farm fertilizers. You are to be commended for such timely assistance.

We in the farmer cooperatives are obligated and dedicated to supplying U.S. farmers with adequate supplies of fertilizers for their domestic use. This has become increasingly difficult over the past several months, as raw products are exported to more lucrative foreign markets. At least one of our major fertilizer manufacturers has been placed on allocation for phosphate due to commercial interests shipping this raw material abroad.

We have met personally with Secretary Butz and members of his economic staff to brief them on the critical shortage. They have been most receptive to our presentation, and have suggested our continued efforts with you and the Cost of Living Council. It is their feeling that a joint effort between the Legislative and Executive Branches is desirable to solve this pressing problem.

The enclosed fertilizer situation outlook, as prepared by one of our major cooperatives, was presented recently to USDA officials. We enclose a copy for your information, in the hope that it will assist you in your continuing efforts on the farmer's behalf. Thank you again for doing such a fine job.

Sincerely,

PAUL S. WELLER, Jr.,
Director of Public Affairs.

U.S. PLANT FOOD SUPPLY OUTLOOK FOR 1973–74

(NOTE.—Charts referred to not reproduced in the RECORD).

In 1973–74 U.S. farmers will be faced with real shortages of nitrogen and phosphae fertilizers. These shortages have already begun to become apparent as indicated by farmers' difficulties in obtaining nitrogen for wheat planting in the high plains area. Since most of the U.S. plant food consumption actually takes place in the spring season, the full impact of the developing nitrogen and phosphate shortages will not be felt until the spring 1974 planting season. CF Industries and its member cooperatives are keenly aware of the magnitude of the developing shortage, having just completed the 1972–73 fertilizer year with dry nitrogen products, nitrogen solutions, and all phosphate products having to be allocated. It is believed that the shortages of nitrogen and phosphate will have a major impact upon agricultural production from crops planted during 1973–74, and for this reason, the following presentation was made to the Honorable Earl L. Butz, Secretary of Agriculture, on August 23, 1973.

DEVELOPMENTS IN THE EXPORT MARKET

To understand the reasons for the shortages of nitrogen and phosphate fertilizers in the U.S., one must consider developments in the second largest market for plant food materials. Perhaps the most outstanding development in the export market has been the skyrocketing of prices for phosphate fertilizers. Chart 1 indicates the relationship between the export and domestic wholesale prices for granular triple superphosphate for the period 1969 through 1973. Historically, phosphate fertilizers have been sold in the export market at a dollar price per metric ton that was equivalent to the domestic price per short ton, or, in other words, the export price was generally about 10 percent lower than the domestic price. In 1970 the export price for GTSP exceeded the domestic price, and in the past two years the export price increased by 49 percent. This increase far exceeded the domestic price increase, which was

limited by price controls, and in 1972–73 the export price was $35 per short ton above the domestic price.

A similar analysis for diammonium phosphate is presented in Chart 2. In the past two years the export price of DAP increased by 85 percent, and in 1972–73 the export price of DAP was $32 per ton higher than the domestic price.

Nitrogen prices in the export market also increased markedly during the past two years, with the price of ammonia and urea increasing by 100–110 percent. Most of this increase in nitrogen export prices came during the last half of 1972–73. These increases occurred in spite of the U.S. application of nitrogen fertilizers being retarded by wet weather during the fall and spring seasons.

The increase in export prices for nitrogen and phosphate generally reflect the high level of demand for these fertilizers in the offshore market; for example, during the past two years exports of phosphate fertilizers increased by 58 percent to 1.42 million tons of P_2O_5 content. This means that the level of exports during the two-year period increased by 524,000 tons of P_2O_5. Had this additional volume of exports been available to the U.S. farmers in 1972–73, their fertilizer P_2O_5 supply would have been increased by 10 percent. During the past two years, exports of nitrogen have increased by 25 percent to 1.35 million tons of nitrogen content, or an increase in annual nitrogen exports during the period of 273,000 tons of nitrogen. In 1972–73, had this incremental export volume not been exported, the U.S. farmers' nitrogen supply would have been increased by 3 percent.

DOMESTIC PLANT FOOD SUPPLY

The much improved export prices presented most U.S. fertilizer manufacturers with a more attractive marketing alternative compared to their normal emphasis on the domestic plant food market. With export prices being boosted by supply-demand forces, and with domestic plant food prices being restricted by price controls, the U.S. farmer finds himself in a non-competitive position with respect to the export demand. With the increased planting of crop acreages in 1972–73, the domestic demand for nitrogen should have been up sharply, but was retarded by wet weather to an increase of only 3 percent. U.S. phosphate consumption was limited by available supply to an increase of 6.4 percent, which is still a very respectable increase. The outlook for the current fertilizer year, 1973–74, indicates real shortages of both nitrogen and P_2O_5.

Chart 3 depicts the relationship between U.S. total nitrogen supply, including imports, and U.S. total nitrogen demand, including industrial usage and exports. CF Industries is forecasting that in 1973–74 nitrogen supply will fall short of nitrogen demand by 312,000 tons of nitrogen (the equivalent of a large ammonia plant's annual production capacity). With the new Farmland and Agrico ammonia plants scheduled to come on-stream for 1974–75, the shortage is forecast to decline to 192,000 tons of nitrogen in that year. The inability to secure firm long-term natural gas supply commitments has prevented the development and announcement of additional ammonia production capacity. If no additional ammonia plants are built, the U.S. nitrogen shortage will continue to increase to 1.1 million tons in 1975–76 and a projected 5.2 million tons by 1981–82.

CF is projecting a nitrogen shortage this year of 312,000 tons, assuming that nitrogen exports will decline to 1.2 million tons. This assumption is based upon normal weather prevailing during the planting seasons, eliminating the need to export ammonia to keep plants running as occurred due to heavy inventory carry-over into 1972–73. If nitrogen exports remain at the same level as 1972–73, then the domestic shortage would increase to 462,000 tons.

Chart 4 presents the U.S. phosphate supply-demand balance for the period 1972 through 1975. The total phosphate supply represents 87 percent of the theoretical availability, including domestic production capacity and a minor volume of imports. The operating factor of 87 percent represents the exhibited attainable level of efficiency for the phosphate industry. The total demand for phosphates represents domestic fertilizer, feed, and industrial requirements plus phosphate exports. For 1972–73 CF Industries estimates that supply was 87,000 tons of P_2O_5 short of meeting demand, and this shortage was offset primarily by reduced application rates on crop acreage.

CF industries forecasts that with the additional acreage expected to be planted during 1973–74, and an anticipated increase in P_2O_5 exports to 1.6 million tons, there will be a net shortage of 668,000 tons of P_2O_5 for the domestic plant food market. Phosphate exports are forecast to increase in 1973–74 due to continuing strong export prices and contractual commitments made during 1972-73.

IMPACT ON U.S. CROP ACREAGE

While it is not possible to pinpoint the exact timing and geographical location of the nitrogen and phosphate shortages forecast for this year, it is possible to relate them to major crop acreages. Here it is assumed that 1973–74 acreages for corn, wheat, and soybeans will increase as follows:

U.S. CROP ACREAGE

[Million acres]

	Corn	Wheat	Soybeans	Total	Increase
1972	66.5	47.4	45.8	159.7	
1973	72.5	53.6	55.7	181.8	22.1
1974	75.0	57.0	60.0	192.0	10.2

If the shortages of nitrogen and phosphate, as forecast by CF Industries for 1973–74 at 312,000 tons of N and 680,000 tons of P_2O_5 were to fall completely upon the major crops of corn, wheat, and soybeans, 16.7 percent of the estimated 192 million acres of these crops would be impacted in 1973–74. A total of 16.3 million acres of corn and wheat would receive no nitrogen, and 32.1 million acres of corn, wheat, and soybeans would receive no phosphate. It is interesting to note that the total increase in acreage (harvested basis) of corn, wheat, and soybeans for 1973 and 1974 crop years, as tabulated above, amounts to 32.3 million acres, which is a conservative estimate compared to the total crop acreage increase of 40 million acres set as a goal by the USDA. The total two-year increase in acreage of these two crops would be without phosphate fertilization if the total phosphate shortage fell on only these three crops. A total of 90 percent of the two-year increase in corn and wheat acreage would be impacted by the nitrogen shortage if it fell on only these two crops.

This analysis, indicating that the nitrogen and phosphate shortages will impact 16.7 percent of the corn, wheat, and soybean acreages in this fertilizer year, is one way of quantifying the severity of the shortage. In actual practice the shortages will be spread across the U.S. and all crops, although probably in a disproportionate allocation. The general conclusion to be reached here is that the shortages will result in underfertilization and reduced crop yields, which, in turn, will have a inflationary impact upon U.S. food and fiber prices due to increased production costs.

WHAT ARE THE ALTERNATIVES?

There are basically two alternatives for the administration with respect to the plant food shortage:

1. Leave the U.S. farmer short of fertilizer when additional acreage and increased crop production is greatly needed to meet high demand levels and hold down price escalation due to intense competition; or

2. Maximize the available U.S. supply of nitrogen and phosphate fertilizers.

The first alternative does not appear to be either productive or viable. The second alternative—maximizing nitrogen and phosphate supplies for the U.S. farmer—can be done in two ways as follows:

1) *Reducing Exports*

The volume of fertilizer being exported from the United States has been increasing dramatically. Recent experience with restricting U.S. exports, as, for example, by an embargo on soybean products, has proven to be most unpopular with U.S. producers and foreign customers in that it represents a disruption in the normal market interaction and, in many instances, contractual commitments. One area of exports, however, which should be considered for limitation, are government-sponsored export programs.

The volume of fertilizer exports fostered by the U.S. Agency for International Development (AID) has grown significantly in the past two years. As shown on Chart 5, from 1971 to 1973, AID-financed exports of U.S. fertilizer production have increased from 707,000 tons to 940,000 tons, an increase of 33%. The dollar value of these exports has increased by 156%. In fact the U.S. government is financing fertilizer exports at the highly inflated export prices at the same time that U.S. farmers are short of fertilizer and prevented from paying export competitive prices by government price-control programs.

It would appear that the farmer can pay these prices by taxation, if his fertilizer is exported out of the country.

It is very strongly recommended that AID-financed fertilizer exports be curtailed until export prices return to more normal levels, and the U.S. fertilizer supply-demand situation is significantly improved.

2) *Freeing up Domestic Fertilizer Prices*

Perhaps the most effective short-term means of increasing the amount of nitrogen and phosphates available to the U.S. farmer is the reregulation of fertilizer prices. This would permit the U.S. farmer to compete with the export demand for his plant food requirements. Undoubtedly domestic fertilizer prices would be drastically increased by this action—it is not inconceivable that domestic phosphate prices would double. While this would appear as an inflationary factor in the economy, it would have a far greater non-inflationary impact because of the production multiple involved in increasing crop yields by the use of concentrated fertilizers. The higher cost of the fertilizer would be more than offset by the low cost of the incremental food and fiber production.

Recognizing that the short-term fertilizer prices that would result from deregulation would be in some respects unreasonable from the standpoint of return on investment to the fertilizer producer, the higher prices would, however, reflect actual market competition. The impact upon the farm economy of the higher fertilizer prices would be much less than the impact of reduced crop yields due to under-fertilization.

NATURAL GAS SUPPLY

As indicated by Chart 4, the shortage of phosphates in the United States is predictably short-lived, with sufficient new production already announced or under construction to create a phosphate surplus for 1974–75. The development of additional phosphate production capacity is facilitated by the availability of phosphate rock and sulfur—the two primary raw materials in phosphate production.

As shown in Chart 3, however, the shortage of nitrogen in the United States is forecast to increase for the foreseeable future; that is to say, the supply and demand lines are

divergent. This prediction of prolonged shortage is due to the inability of domestic nitrogen producers to secure adequate long-term supplies of additional natural gas—the primary raw material in nitrogen production.

The availability of natural gas for nitrogen production is critical to the food and fiber supply of the United States. Although less than 5% of U.S. natural gas consumption is for petrochemicals, such as ammonia, these products have been disproportionately affected by the natural gas shortage because of the long-term supply commitment required to justify the major capital investment in a chemical plant ($33 million for a modern ammonia plant). The U.S. government, through the Federal Power Commission, has been establishing Use Categories for natural gas. Category 1 is the highest priority use and is reserved for residential heating and critical heating requirements, such as hospitals. Petrochemicals, including ammonia, have been placed in Use Category 2, recognizing the strategic nature of these materials.

Although high priority has been given to the use of natural gas for nitrogen production, this has had relatively little impact on the actual availability of natural gas for new ammonia plants. As a result, the outlook for meeting the growing demand for plant food nitrogen, as well as industrial nitrogen demands for fibers and plastics, is not encouraging. Unless natural gas is made available, the U.S. will have to rely to an increasing extent upon foreign sources of nitrogen. These uncontrolled sources will generally involve high delivered costs for nitrogen, which will have a double inflationary impact upon the economy: increased imports affecting the Balance of Trade and higher cost raw material affecting the cost of food production. It is strongly recommended that the government take steps to ensure that long-term supplies of natural gas will be made available to the fertilizer industry.

THE VOICE OF AMERICA

Mr. PERCY. Mr. President, there is one American institution which is better understood and appreciated in 140 or more countries of the world than right here in the United States of America. That institution is the VOA—the Voice of America. For 31 years it has been the official broadcaster of our country to the world, now transmitting in 36 languages.

In English, in Russian, in Mandarin, in Swahili, in Hindi, it speaks to the world. In Portuguese, Indonesian, French, Czech, Romanian, Spanish and many other major and exotic tongues, VOA reports the news of the world to the world. It backgrounds and explains topical events both here and abroad as well as official policy of the United States. Through feature reports, interviews, and special programs, the Voice mirrors the American scene for the doctor in India, the architect in Iran, the farmer in Nigeria, the scientist in Japan, the student in Hungary, the jurist in Sri Lanka, the environmentalist in Israel, the banker in Venezuela, the manufacturer in Germany, the educator in Brazil, the writer in the Soviet Union.

The Voice of America has built a solid reputation for credibility and since the 1950's has operated within the following guidelines, sometimes referred to as the "VOA charter":

VOA will establish itself as a consistently reliable and authoritative source of news. VOA news will be accurate, objective, and comprehensive.

VOA will represent America, not any single segment of American society. It will therefore present a balanced and comprehensive projection of significant American thought and institutions.

As an official radio, VOA will present the policies of the United States clearly and effectively. VOA will also present responsible discussion and opinion on these policies.

Here are some of the ways in which, in my opinion, VOA fulfills its mission and meets the obligations of its charter. The news division of the Voice writes basic material in English for some 250 newscasts a day for broadcast in 36 languages. It writes about 80,000 words a day from approximately half a million daily words of source material. Since most of this material was written for Americans and assumes background knowledge not generally available overseas, the rewriting and editing job is extensive. There is a central desk which handles U.S. stories, and there are five regional desks which prepare items pertaining to the five major world areas: Europe, Africa, the Middle East, Asia, and Latin America. As the official Voice of the United States of America, VOA must be sure of its facts; no story is released for broadcast without first being double-sourced as to legitimacy. Although in any enterprise there must be a margin for error, personnel of the Voice of America are proud of VOA's record of accuracy and objectivity in reporting the news.

In addition to reporting straight news, the staff members in all language services also prepare news backgrounders, commentaries, and topical features.

Another way in which the Voice of America fulfills its charter commitments is through its balanced reflection of American culture. And that, as stated in the charter, means not any single segment of American society, but all of American society. Let me give just a few examples of this. In English and the other languages in which the Voice broadcasts the foreign listener may hear on any given day "An American Short Story," a review of a new book, or a discussion of some domestic problem facing the Nation. He may "tour" an art gallery in Minneapolis or New York or Phoenix and learn something of interests and trends in painting, sculpture, photography, or ceramics. He may hear one of America's 100 major symphony orchestras interpret not only the classical composers of the past, but contemporary American composers as well. The listener might also hear America expressed through the idiom of jazz or country music or soul or rock. He can keep up-to-date on the latest in the fields of medicine, science, engineering, and space exploration.

Certainly a high point in VOA listenership came in 1969 when Apollo 11 landed the first earth men on the surface of the Moon. VOA broadcasts were relayed or rebroadcast by more than 3,000 foreign stations, including 888 TV stations and 39 major national and international broadcasters. In addition, other radio/TV networks continually monitored VOA and utilized its coverage as "the principal source of authentic information on flight developments." Throughout the 8-day mission, USIS centers in all world areas were jammed with people listening to VOA piped over loudspeakers.

In 1962, UNESCO estimated VOA broadcasts of the John Glenn flight were heard by a world audience of 300 million—a record audience which was more than doubled with Apollo 11. Audience estimates received from only 66 non-Communist countries totaled more than 615,000,000 people reached by direct and relayed transmissions of VOA's Apollo coverage. If estimates were available for the U.S.S.R., China, and other Communist countries, as well as some 35 other countries around the world. VOA believes its total audience might have been more than three-quarters of a billion, 27 percent of the world's population outside the United States.

A special documentary celebrating the event, "Eagle on the Moon," won awards in this country and abroad. The Voice of America has also won its fourth consecutive Peabody Award.

Anyone who listens for an extended period of time to the broadcasts of the Voice of America cannot help but feel he has some acquaintance with the American people, their land and their pluralistic society. He gains an understanding of American policies, monetary problems, farming methods, attitudes in child development, trends in education, and, most remarkable of all—a healthy respect for this open society—a society that is sure enough of its foundations that it can and does periodically examine and reexamine its state of affairs, its attitudes, its commitments, its hopes and its dreams.

In no other medium is the one-to-one, person-to-person form of communication so effective. It is the one effort that reaches its "target" without a middleman, either American or foreign. VOA is a continuous, daily presence on the air, regularly available to the listener. By going directly into the home of the listener, it is uncensorable and independent of any particular political situation in any given country. It may or may not be tuned in on a given day by a given individual, but it is available and its impact is cumulative.

Shortwave radio listening overseas is done by the better educated and better informed members of society, as borne out by the mail received daily in Washington from all over the globe. VOA listeners comment on and ask for additional information in such important fields as medicine, science, education, and agriculture.

I would like to cite some examples of VOA effectiveness in doing its job.

A recent radio survey in five Ivory Coast cities indicates that 33.7 percent of the adults are regular listeners to VOA French, and that the only station with a larger audience is the local Ivory Coast network, RTI.

A regular listener to VOA Romanian, now living in West Germany, sent a $50 contribution for the Mississippi flood victims in gratitude for American assistance to Romanian flood victims in 1970.

Al-Anwar, Beirut's second largest daily, carried in full a Voice of America editorial on the Arab-Israeli conflict.

A young Jewish historian who left the U.S.S.R. last November reported that foreign broadcasts "play an extremely important role in keeping the Moscow intelligentsia informed." He estimated that his friends obtained most of their information on world events from these broadcasts. He and his friends listened often to VOA, BBC, and Radio Liberty.

A UN Fellow from India, visiting the hosts of the VOA English-language "Breakfast Show," said:

There are thousands of my countrymen who have listened to the VOA programs with a lot of interest, like me. A regard for this great country has been established through your fine medium of communication, better, in my opinion, than any other media now available.

Three labor leaders from Africa also visited the "Breakfast Show" this summer. Their spokesman said:

The visit to the Voice of America is satisfying pleasure fulfilling a long-time ambition.

Orthodox Christmas was observed on January 7 of this year with a special broadcast by the Ukranian service. Comments from listeners in the Ukraine were many and included these:

The hour passed like one second. I'm sorry it had to end. I cried the whole time. My son returned from work and said everyone was talking about the broadcast and the Christmas greeting.

The Christmas broadcast was something tremendous for all of us. It is a memory we will long treasure. There were a great many people in our home; the whole family gathered, as well as neighbors. The reception was very good. All expressed their thanks with great joy and with tears in their eyes . . . and we clinked glasses to your health for giving us a lovely gift for Christmas.

Another recent visitor to VOA was Mr. Moses Ekpo, editor of The Chronicle, a newspaper in Calabar, Nigeria. Mr. Ekpo had asked to meet the staff which produces "African Panorama," "Africana," and "African Safari" because those are the programs his paper records to use as a source of both news and features. Mr. Ekpo said he uses Reuters and AFP—Agence France Presse—for his news of Europe, but depends on VOA for news of America and Africa, noting that VOA correspondents with their reports from Africa are one of the primary reasons for VOA popularity in Nigeria.

Visitors from many countries come to Washington to meet in person the VOA broadcasters they have "known." But VOA broadcasters also travel. Spanish broadcaster Fred Schiele met with media representatives in six Latin American countries this year. His trip included interviews on five TV stations in Costa Rica, Venezuela, and Guatemala, guest appearances on 25 radio stations in the six countries, and press coverage in more than 20 local newspapers. At Schiele's first stop, Guatemala, the Uruguayan ambassador telephoned him at the U.S. Information Service office. The diplomat said:

I heard you were in town and I wanted you to know how much I enjoy VOA broadcasts—they're my contact with the world.

Other "Voices" of America who traveled abroad this year were Pat Gates and Philip Irwin, major hosts of the English-language Breakfast Show, a morning program of news, features, and music that is heard in virtually every country of the world every day. Mrs. Gates and Mr. Irwin made a nine-country goodwill tour through Africa and Asia. The tour took them to 12 cities in 32 days of tightly scheduled travel and personal appearances. Proposed as a personal appearance and goodwill mission, it had several aims: to honor the many requests from VOA listeners that they visit their countries, cities, villages, and even homes; to afford the program hosts an opportunity to renew that their sensitivity to their audience; to show interest (by known Americans) in local activities and projects such as volunteer work and environmental concerns; and, through Mrs. Gates' and Mr. Irwin's popularity and personality, to promote interest in not only the Voice of America, but in the United States as well.

Like many of their colleagues—Willis Conover, for example, who is known worldwide as an authority on American jazz—they are practically unkown at home, but overseas they are not only "known" but are treated as friends and stars. They were warmly received in every country they visited—Ghana, Nigeria, Kenya, Pakistan, India, Sri Lanka, Malaysia, Singapore, and Indonesia. They were covered by radio, television, and newspapers from West Africa to East Asia. They followed a rigourous schedule visiting schools, hospitals, housing developments, industrial complexes, environmental agencies, government officials, and private citizens in their homes. They entertained thousands of their listeners—some traveled up to 300 miles to meet them—at specially arranged "Evenings with Pat Gates and Philip Irwin" held, for the most part, in USIS auditoriums or, as in the case of Sri Lanka, in a theater.

Their popularity, gained through daily broadcasts as hosts of the VOA Breakfast Show over a period of 10 years, was immense. As Mrs. Gates said in her post-trip comments:

People identified with us because we are allowed to be real people on the air, not just deliverers of information.

One woman in Karachi, who had studied in the United States for her doctorate, said to her:

You do a great service for humanity with your program.

Mr. Irwin, in his report, cited the importance of the shortwave receiver to peoples in other countries. He said:

For many a shortwave receiver is their single most valuable and obtainable luxury item. They use it to listen to whatever broadcaster can capture their attention and interest and stimulate their imagination and participation. Competition for this audience is increasing as "national radios" trend to mass-audience appeal programming.

The English Division of VOA broadcasts more than 173 hours per week, reaching virtually every country in the world. One may ask, why English? The importance of this cannot be overstressed:

English is the language of the United States. Broadcasting in English is a means of showing the flag.

English is a world language, and the only one VOA has for speaking to the entire world.

One-third of the world's people live in countries where English is an official language; it is the second language in most countries today, and its use is growing; it is the first foreign language of most of the world's school system; and it is the language of the new technology, of commerce, and of the arts and sciences.

Outstanding Americans, from the President on down, as well as other English-speaking persons, can address the VOA audience in their own voices, adding to credibility and the sense of immediacy. With its present schedule, VOA can and does broadcast Presidential and other major speeches live to all parts of the world.

VOA English-language broadcasts are not jammed. They currently represent an important means of reaching listeners in the Soviet Union and the People's Republic of China.

The English broadcast schedule has a flexibility which provides a unique crisis capability. Since VOA is on the air in English to one or more parts of the world almost around-the-clock, it is relatively easy to maintain a 24-hour service to any area, if events warrant. Those who do not know English will hear about important events from those who do.

In addition, the Voice of America broadcasts in what it calls "special English" utilizes a basic vocabulary and is spoken by the announcers at a much slower pace than "regular" English. The approximately 2,000-word vocabulary of special English makes it much easier for the foreign listener to follow and to learn the language.

VOA correspondent Sean Kelly reported that North Vietnamese officers with whom he has talked said they listen to VOA special English newscasts. It helps them learn the language. An Indonesian member of the International Control Commission in Vietnam requested a number of special English word books—which the Voice publishes and distributes—to help with the Commission's linguistic problems.

Each language used by the Voice of America is important.

In January of this year, an English-teaching program was begun for China, with listeners invited to request a free accompanying text from a Hong Kong book firm. By mid-April, 105 requests for the text had been received from the mainland. The VOA's Chinese branch has, in addition, received eight letters in Washington with comments on the program. English 900—as viewed from Canton, China, on August 3 of this year:

I believe English 900 you broadcast on air is so popular that so many people here would like to have some copies and they are hard to get. I think the reasons are partly, people wouldn't dare to write to your office directly, partly, people may not get it even if they write. It results that many people here listen to your English 900 program with no textbook to follow with. . . .

Suggestions were offered by the listener that the announcer read more slowly—as in special English—and that the Chinese translation of English words or

phrases be used first. The letter concluded:

I hope that you understand the situation, and help us in learning English. Thank you.

In addition to its direct broadcasts, VOA also offers so-called feeds to radio stations in many parts of the world.

For example, the daily Spanish-language "feed" to Latin America carries about 120 reports every week to some 1,175 radio stations in Central and South America. And altogether about 4,000 local stations around the world carry such reports sent by "feed" from VOA in Washington.

The Voice of America maintains a daily presence and availability, although in hours broadcast. VOA is not first among international broadcasters. Compared to VOA's 858 hours weekly, the U.S.S.R. broadcasts a total of 1,886; the People's Republic of China 1,270; and Egypt 1,076.

Let us now look at the technical capabilities of the Voice of America and the broadcast capability of some of the other official radios in the world. The Soviet Union and China do not have overseas transmitters as VOA does, because geographically they constitute the largest land mass in the world and thus have easier transmission access to most countries.

Access was a major problem for VOA's engineering staff. It had to overcome the vast distances between the United States and other major areas of the world with a signal strong enough to be heard competitively in those areas at peak listening times. This meant setting up overseas relay stations located where maximum advantage of radio propagation conditions could be taken to overcome the problems of direct shortwave broadcasting from the United States. The relay stations receive the broadcasts direct from the United States and rebroadcast them with increased signal strength. These stations are integrated into a single system so they can receive programs direct from the U.S. or from other relay stations. At the present time, the following stations are in the relay system:

Tangier, Morocco—designed as a main port of entry to Europe, north Africa, and the Middle East.

Munich, Germany—close enough to East Europe to use long and medium wave, as well as shortwave.

Kavala, Greece—consisting of ten 250 kilowatt transmitters and diplexed curtain antennas for coverage of East Europe, central U.S.S.R., the Middle East, South Asia and north Africa. Also, improved coverage of the Balkans and the southern Ukraine has come about with the recent establishment of the Kavala site.

Rhodes, Greece—to cover nearby Mediterranean areas.

Philippines—the relay facilities here comprise two transmitter sites located at Poro and Tinang and a receiver site located at Baguio. Associated antennas are used to provide coverage over an area extending from Korea to Indonesia, including all of China, Southeast Asia and the Soviet East Asia. The megawatt medium-wave transmitter is beamed to China, Southeast Asia, and Indonesia.

Okinawa—North and central Asia is reached from the relay station on this island.

Colombo, Sri Lanka—this facility, operated by Radio Sri Lanka, consists of three 35-kilowatt shortwave transmitters and their signal covers India and Pakistan.

Wooferton, England—six 250-kilowatt shortwave transmitters here, operated by the BBC, beam programs to Europe, Africa, and the Middle East.

Monrovia, Liberia—six 250-kilowatt and two 50-kilowatt shortwave transmitters provide signal coverage of the entire African Continent.

Bangkok, Thailand—this station's 1-million-watt medium-wave transmitter provides coverage of Bangladesh, Southeast Asia, Northeastern India, Burma, and Western Indonesia.

Hue, South Vietnam—VOA broadcasts in the Vietnamese language are beamed to North Vietnam over a 50-kilowatt medium-wave transmitter.

To link the Washington studios with these relay stations, a network of domestic facilities consisting of 40 high-power shortwave transmitters has been created in the continental United States. These facilities, using high-gain directional antenna systems, relay programs to the overseas bases and at the same time provide direct coverage to overseas areas. The domestic network consists of the Edward R. Murrow Transmitting Station at Greenville, N.C., which beams programs to Europe, Africa, and Latin America; Bethany, Ohio, which is also beamed to Europe, Africa and Latin America; and Delano and Dixon, Calif., both of which beam to north and east Asia, Oceania, and Latin America. In addition, a 50-kilowatt medium-wave transmitter located at Marathon, Fla., beams Spanish-language programs to Cuba and the surrounding area.

The Voice of America has earned its credibility by doing its reporting job in the highest tradition of responsible American journalism and broadcasting.

When the Voice of America speaks, it speaks for all of us. We have no other means to communicate America's story so effectively to so many of the world's people. This is shown dramatically in the trip report of Mrs. Pat Gates, and Mr. Phil Irwin on their outstanding tour of Africa and South and East Asia where they were received with such enthusiasm. As the hosts of the VOA "Breakfast Show," they are as popular and well known abroad as Barbara Walters and Frank McGee are in this country. I have read the report carefully, and I want to commend Mrs. Gates, Mr. Irwin, and Mr. William Reynolds, chief of the "Breakfast Show," both on the success of the tour and on the success of the program.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows:

The Senate will convene at the hour of 9 o'clock a.m.

After the two leaders or their designees have been recognized under the standing order, the Senate will resume the consideration of the military procurement bill. The pending question at that time will be on agreeing to the AWACS amendment offered by the Senator from Missouri (Mr. EAGLETON), which carries a time limitation of 2 hours.

Upon the disposition of the AWACS amendment, Mr. EAGLETON will call up the NAIR amendment, on which there is a time limitation of 2 hours.

On the disposition of the second Eagleton amendment, the amendment by Mr. GOLDWATER dealing with the M–16 rifle will be called up. There is a time limitation thereon.

On the disposition of the Goldwater amendment, Mr. PROXMIRE will call up his amendment No. 513, which would reduce the number of admirals and generals, with a time limitation thereon.

Yea-and-nay votes are expected on each of these amendments. Amendments may be offered to each of the foregoing amendments, with, of course, the possibility of yea-and-nay votes occurring thereon.

Moreover, the foregoing amendments do not necessarily constitute all the amendments that will be called up on tomorrow. The leadership is eager to call up and dispose of as many amendments as possible, so that the decks will be clear for the work which is scheduled for next week.

ADJOURNMENT TO 9 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 9 a.m. tomorrow.

The motion was agreed to; and at 5:52 p.m. the Senate adjourned until tomorrow, Saturday, September 22, 1973, at 9 a.m.

NOMINATION

Executive nomination received by the Senate September 21, 1973:

FEDERAL COMMUNICATIONS COMMISSION

James H. Quello, of Michigan, to be a member of the Federal Communications Commission for a term of 7 years from July 1, 1973, vice Nicholas Johnson, term expired.

CONFIRMATION

Executive nomination confirmed by the Senate September 21, 1973:

DEPARTMENT OF STATE

Henry A. Kissinger, of the District of Columbia, to be Secretary of State.

(The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)