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Congressional Record

PROCEEDINGS AND DEBATES OF THE 93d CONGRESS, FIRST SESSION

SENATE—*Tuesday, October 9, 1973*

The Senate met at 12 o'clock noon and was called to order by Hon. SAM NUNN, a Senator from the State of Georgia.

PRAYER

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

O Thou God of might and mercy, we thank Thee for this new day with its opportunities for courageous and noble service, and for this moment of prayer in the day's occupation. As we open our hearts to Thee may we know Thee as truly here as in the house of worship. May the sense of Thy presence be as pervasive in statecraft as in religion. Take our human and finite minds and illuminate them with the light of the divine and the eternal that we may have a wisdom beyond our own. In our daily lives may we validate the faith of our fathers. May the President, the Congress, the diplomats, and all our leaders be sustained by the radiant vision of the ultimate triumph of Thy kingdom.

To Thy name we ascribe all the praise. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 9, 1973.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. SAM NUNN, a Senator from the State of Georgia, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

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

MESSAGES FROM THE PRESIDENT—APPROVAL OF A BILL

Messages in writing from the President of the United States were communicated to the Senate by Mr. Heiting, one of his secretaries, and he announced that on October 4, 1973, the President had approved and signed the following act:

S. 1636. An act to amend the International Economic Policy Act of 1972 to change the membership of the Council on International Economic Policy, and for other purposes.

REPORT OF DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—MESSAGE FROM THE PRESIDENT

The ACTING PRESIDENT pro tempore (Mr. NUNN) laid before the Senate a message from the President of the United States, which, with the accompanying report, was referred to the Committee on Banking, Housing and Urban Affairs. The message is as follows:

To the Congress of the United States:

The 1972 Annual Report of the Department of Housing and Urban Development is herewith transmitted to you.

RICHARD M. NIXON.

THE WHITE HOUSE, *October 9, 1973.*

REPORT OF NATIONAL CAPITAL HOUSING AUTHORITY—MESSAGE FROM THE PRESIDENT

The ACTING PRESIDENT pro tempore (Mr. NUNN) laid before the Senate a message from the President of the United States, which, with the accompanying report, was referred to the Committee on the District of Columbia. The message is as follows:

To the Congress of the United States:

I am transmitting herewith the National Capital Housing Authority's fiscal year 1972 report which summarizes the major steps taken during that period to supply public housing for the citizens of the District of Columbia.

RICHARD NIXON.

THE WHITE HOUSE, *October 9, 1973.*

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore (Mr. NUNN) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on Labor and Public Welfare.

(For nominations received today, see the end of Senate proceedings.)

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, October 8, 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.

AMENDMENT OF CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 405, S. 2470.

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

The assistant legislative clerk read as follows:

S. 2470, to amend the Consolidated Farm and Rural Development Act.

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

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Agriculture and Forestry with amendments on page 1, line 3, after the word "section", strike out "309(a)" and insert "309A"; on page 2, line 7, after the word "to", strike out "five times the paid in capital" and insert "twenty times the net assets"; and, in line 12, after the word "made", strike out "by private financial agencies to borrowers in communities of less than fifty thousand population" and insert "for purposes for which loans can be made under this Act"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (g) of section 309A of the Consolidated Farm and Rural Development Act is amended by adding at the end thereof a new paragraph as follows:

"(9) to make loans to a Rural Loan Investment Company (RLIC) the proceeds of which shall be used to purchase loans or participations in loans guaranteed under this Act or guaranteed by an agency of the United States under any other Act if such loans were made for purposes for which loans could have been made under this Act to the borrowers. Loans under this paragraph shall be payable in not more than five years, and shall bear interest at the rate provided in subsection (d) of this section at the time the loan is made and such loans shall not exceed at any one time, to any one RLIC, an amount equal to twenty times the net assets of such RLIC. As used in this paragraph the terms 'Rural Loan Investment Company' and 'RLIC'

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means a private profit or nonprofit organization organized solely to purchase, service, sell, or otherwise deal in loans or participations in loans made for purposes for which loans can be made under this Act."

Mr. CURTIS. Mr. President, during the 92d Congress we adopted the Rural Development Act of 1972, which was designed to provide new capital for the development of rural America.

Subsequently, at oversight hearings held March 28, 1973, the Subcommittee on Rural Development was advised that if rural financial institutions are to provide ongoing funds for community development "a secondary market must be provided which would tap the major money centers."

The committee then approved appointment of a Secondary Market Study Group composed of 13 rural bank executives and 13 representatives of institutional lenders and large money center banks. The study group was asked to comment upon the feasibility and desirability of a privately financed and operated organization to provide a secondary market for loans guaranteed under the Rural Development Act and other programs which provide for Federal guarantees of loans made by private financial institutions in rural areas.

All of the rural bankers were very much in favor of a privately financed and operated secondary market vehicle although a number felt that some Government startup capital would be necessary.

The institutional lenders all noted that the success of a secondary market would depend primarily upon the interest rates available on the loans or loan participations being sold by rural lending institutions as compared to other available investment instruments. They generally agreed that it would be difficult to sell individual loans to investors. Therefore, it would be preferable to pool a number of loans and sell debentures backed by such a pool.

The committee subsequently directed the chairman to request the House Interstate and Foreign Commerce Committee to accept a provision of S. 470 to exempt from Securities and Exchange Commission regulation any security representing beneficial ownership in a pool of loans which are guaranteed by any Federal agency. The committee subsequently approved an amendment to S. 1388, Public Law 93-86, exempting from Securities and Exchange Commission regulation any security representing beneficial ownership in a pool of loans guaranteed or insured by Farmers Home Administration.

S. 2470 anticipates that any corporation, partnership, joint venture or other legal business entity desiring to participate would request certification from the Secretary of Agriculture as a Rural Loan Investment Co. Such designation would be automatic upon a determination that the applicant organization was organized solely to purchase, service, sell, or otherwise deal in loans or participations in loans made for the purposes for which loans could have been made under the Consolidated Farm and Rural Development Act.

As the RLIC made commitments to purchase guaranteed loans or loan participations from financial institutions, the Secretary would make advances to the RLIC using the loans or loan participations as collateral. The RLIC could use its own capital to purchase nonguaranteed loans or participations.

Loans to the RLIC would beat the then current rate being paid by the Treasury on marketable obligations of the United States having maturities comparable to the maturity of the loan to the RLIC.

The RLIC could either retain the loans and participations purchased or could pool and sell them to institutional investors and reinvest the proceeds in additional loans.

Mr. President, I hope the Congress will maintain its commitment to the citizens of the nonmetropolitan areas of the country and quickly adopt this legislation and that it will be implemented by the Executive more quickly than has the Rural Revelopment Act.

The amendments were agreed to.

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

MILITARY FORCES IN EUROPE AND THE PACIFIC

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD a recent article published in the Stars and Stripes which indicates that GI forces in Europe are increasing but that, at the same time, GI forces in the western Pacific and Southeast Asia have been decreasing.

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

GI FORCE IN EUROPE INCREASES

(By Marc Huet)

WASHINGTON.—American military strength in Europe is now about 319,000, or an increase of about 16,000 over the past year, while it continues to decline in the Pacific area, according to the latest statistics released Tuesday at the Pentagon.

A year ago the strength in Western Europe and related areas stood at 303,000.

In the Western Pacific it dropped from 160,000 a year ago to the mid-1973 figure of 146,000, and in Southeast Asia for the same period it went from 115,000 to 53,000 as a result of the end of the Vietnam war.

Increases in Europe were registered in West Germany, where the bulk of the overseas manpower is located, Italy; Greece; the United Kingdom; with the 6th Fleet in the Mediterranean, and on Guam, the only spot in the Pacific which had an increase.

Here is a breakdown of Army, Navy, Air Force and Marine Corps strength as of June 30, by country, with those of a year ago shown in parentheses:

Europe—Belgium 2,000 (same); Germany, 229,000 (215,000); Iceland 3,000 (same); United Kingdom, 21,000 (22,000); 6th Fleet, 28,000 (25,000) and elsewhere and undisclosed 1,000 (2,000).

Southeast Asia—Thailand, 42,000 (45,000); 7th Fleet, 11,000 (35,000); South Vietnam less than 250 (34,000).

Western Pacific—Japan 19,000 (21,000); Philippines, 16,000 (same); Ryukyu Islands, 38,000 (41,000); South Korea 42,000 (same); Taiwan 9,000 (8,000); Navy afloat, 22,000 (32,000); Guam, 16,000 (11,000).

There are also 2,000 American servicemen stationed in Bermuda, 2,000 in Canada, 3,000 in Cuba, 10,000 in the Panama Canal Zone, 7,000 in Puerto Rico, 18,000 afloat and 9,000 in other undisclosed places. These figures are relatively unchanged from last year. Additionally, the U.S. has less than 1,000 in Australia, Cyprus, Ethiopia, Greenland, Iran and on Midway Island and less than 250 in Antarctica, Bahamas, Brazil, Johnston Island, Leeward Islands, New Zealand, Norway and Saudi Arabia.

THE MIDDLE EAST CONFLICT

Mr. HUGH SCOTT. Mr. President, I am very glad that the Senate yesterday adopted the resolution which makes it clear that the Senate is anxious to support the President and the Secretary of State in the search for peaceful solutions to the tragic Middle East conflict.

It is obvious that my sentiments and the sentiments, I think, of the vast majority of Americans are with the beleaguered Israel forces, that Israel is the victim of unwarranted aggression on one of their high holy days, that the people of Israel are committed to a desperate and vital struggle for their survival, and that the history of their determination and of their abilities would indicate that, outnumbered as they are, the odds for success are with them.

I think it should be said that while our resolution was primarily a call for peace, it in no way would indicate a lack of intense interest and support for the brave, the gallant, and the lone democracy in that area.

I think what is important for all of us to remember at this time—at any time—is that the broadening of such a war would not relieve this disastrous situation but would vastly amplify it. Therefore, this is a time for restraint—for the most careful and considerate restraint—on the part of the great powers. So far as we have the knowledge, restraint is being shown by the Soviet Union, the People's Republic of China, Her Majesty's Government of Great Britain, and the Governments of France and West Germany. I think it most important that all those nations, as well as all the other nations in the United Nations, remember at all times the necessity for avoiding a broadening of the war, even though our sympathies lie clearly with one of the participants.

So I hope we will follow after the ways that lead to peace; that we will remember that a broader passage of arms can only, in the long run, intensify the tragedy of this conflict; and that, I think, we should not have.

Mr. JAVITS. Mr. President, I thank my colleague. I wish to associate myself with his sentiments, and should like to present to him another point on which I would value his opinion.

The policy of the United States, as now stated, is that the parties should repair to the positions they occupied on Saturday last. One never knows the fortunes of war. They might be of critical importance to the Arab States, many of whom like to pretend that the United States is very pro-Israel and very much against them.

Would not the Senator agree with me that the Arab States have a great deal at stake in the policy of the United

States; and with the tide of battle going against them, and the fact that American policy has now been clearly stated, that all parties should repair to the position of last Saturday, no matter who prevails, can be an extremely wise policy and stand by the United States?

Mr. HUGH SCOTT. Mr. President, I certainly do agree with the Senator from New York. We know that at the U.N. and from our contacts here in Washington that that is desirable. We have talked not only with representatives of the Government of Israel, but also with representatives of the Arab States. We have done our best to see that they come to understand the importance of a peaceful and normalizing solution. Therefore, to say that we are sympathetic and supportive of one point does not mean that we do not agree that others may see this matter in another light, but that it is really to the advantage of all that the present conflict should be terminated, and terminated on the basis of a return to the lines of last Saturday.

Mr. JAVITS. I thank my colleague. If I may present one other matter to him, I should like his opinion on it. It is a fact that the United Nations has, on the whole, been considered by many others to have taken a biased view against Israel, punishing it for all the actions it took on the territory of its neighbors. But it has not said a word to the Arab States about the actions they took in harboring terrorists and guerrillas, who have been harmful to the whole world—not just to the combatant parties—in the taking of human life.

I ask the Senator if he does not think we might hope to see that some degree of fairness will be restored to the United Nations itself so that nations will realize that it is not to their interest to encourage by their actions lawlessness in the world, terror in the world, that we may soon see an international agreement against terrorism, which has been impossible so far to obtain; also, that a number of the European countries which have not been sympathetic to a rather fair position in this struggle may take another "think" on it, especially as it is considerably complicated by the energy crisis, and join the United States in the position which our country has taken about seeking negotiations face to face as the only way in which to bring this matter to a conclusion.

Mr. HUGH SCOTT. I hope that will develop, and I agree with the distinguished Senator from New York.

The United Nations Charter establishes it as a peace-keeping force. Therefore, anything done in the United Nations which loses sight of the purpose of the Charter is deplorable. It is not a judicial body but, rather, a forum of opinion, and often, I am afraid, with a cast of bias. But, imperfect as it is, it has its usefulness; and I would hope that the United Nations would realize that impartiality of judgment will accomplish a great deal more than simply a tendency to gang up on a small country.

Mr. JAVITS. I thank the Senator very much.

INMATE FURLOUGHS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate reconsider the vote by which H.R. 7352 was passed yesterday, together with the third reading of the bill, for the purpose of allowing the distinguished Senator from Nebraska to make some remarks pertinent to his position on this matter. The bill was passed in the Senate yesterday, during the absence, unfortunately, of the distinguished Senator.

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

The assistant legislative clerk read as follows:

A bill (H.R. 7352) to amend section 4082(c) of title 18, United States Code, to extend the limits of confinement of Federal prisoners.

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

The Senate proceeded to reconsider the bill.

Mr. HRUSKA. Mr. President, I appreciate the majority leader's courtesy in affording this opportunity to comment very briefly upon the amendment to H.R. 7352 which was adopted yesterday, and then the entire bill as amended was passed. No information had been given that such amending action would be taken, so this Senator was not on notice that remarks on that amendment would be in order.

The bill, S. 1678, on the furlough of inmates of corrections institutions which I introduced was approved by the Committee on the Judiciary. For parliamentary reasons, however, the House bill H.R. 7352—which is identical in text with S. 1678—was actually approved by the committee and reported to the Senate. It was to that House numbered bill that the amendment was proposed by the majority leader, attaching the substance of the so-called victims of crime bill.

Mr. President, this is about the third time that the Senate will have acted upon the victims of crime bill, which is one of the special objects of concern of the majority leader, as we all know. It is also true, however, that the victims of crime bill has not received any consideration in the other body.

At the time the bill was before this body previously, three members of the Committee on the Judiciary objected to it and opposed its approval. They are the Senator from North Carolina (Mr. ERVIN), the Senator from South Carolina (Mr. THURMOND), and this Senator. It was not for the lack of sympathy for the victims of violent crime that we expressed our opposition. It was for other reasons, and those reasons are expressed in detail in the additional views of Senators ERVIN, THURMOND, and HRUSKA in the report on S. 300, filed on March 22, 1973.

I ask unanimous consent to have printed in the RECORD those additional views, which were signed and filed by the three Senators I have named. They are to be found in the report starting at page 23. By inclusion of these additional views, the record on the subject at hand will be more complete for legislative history as well as for other purposes.

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

ADDITIONAL VIEWS OF SENATORS HRUSKA, ERVIN, AND THURMOND ON S. 300

It is likely the height of naivete to expect that any argument would convince a majority of our colleagues to vote against a legislative proposal so fetchingly captioned the "Victims of Crime Act of 1973." Nonetheless, we welcome this opportunity to put forward the basis of our opposition to the subject bill.

It is not for any lack of sympathy for the victims of violent crime that we oppose enactment of S. 300 at the present time. Rather, it is because we believe that this legislation is largely inapposite to the real problems of victimization and could indeed be counterproductive with respect to the total operations of the nation's criminal justice systems.

Perhaps if consideration of this measure had been more deliberate, we would not find ourselves in this unenviable position. Although the genesis of the notion that the federal government ought to compensate *certain* victims of crime for *certain* financial losses can be traced to a bill introduced by former Senator Ralph W. Yarborough almost eight years ago,[1] only two brief days of hearings have been held in the Senate on the subject to date.[2]

S. 750, the subject in the 92nd Congress, passed the Senate by an overwhelming vote. At that time, only five other members of the Senate joined us in opposing the measure.[3] However, we continue in the belief that the arguments supporting our position are compelling.

BASIC THEORY

Why should government assume the cost of a program to assist those unfortunate enough to have become the victims of violent crime?

We are first told by the proponents of this program that precedent for such action dates back to the Code of Hammurabi (circa 2380 B.C.) and continues undisturbed through various legal systems which have developed during the course of the ensuing 4,000 years.[4] This is interesting, but hardly responsive to the question. Moreover, it should be noted that much of this precedent was based on a questionable premise that denied the existence of free will and called for social responsibility for all crime.[5]

It is elsewhere intimated that such a program is really one of restitution. Thus, through the establishment of a system of criminal fines, subrogation rights and an indemnity fund, the government would be merely acting as a financial clearing house, but the net effect of the program would be that "criminals" as a class would compensate "victims" as a class.[6] However, the Department of Justice reports that total criminal fines imposed by the Federal government in 1971 approximated only $8 million. Since even the proponents of S. 300 readily acknowledge that their program will cost approximately $30 million per year,[7] it is obvious that the net effect of this bill would be government assumption of the substantial portion of associated costs.

Arguments favoring government compensation to the innocent victims of violent crime must properly proceed along one of two defined approaches. First, one can urge that the state is responsible for the maintenance of order and, failing in that responsibility, must compensate the victims of lawlessness and disorder.[8] Alternatively, one can take the premise that criminal violence

Footnotes at end of article.

is endemic to society, and that the only tolerable way to sustain the resultant financial damage is to share it in common.[9] Compensation, therefore, must be viewed as either a matter of individual right or legislative grace.

The rationale that the state is primarily responsible for violent crimes inflicted upon its citizens has fortunately met with little acceptance even among proponents. Most advocates of victim compensation will therefore agree that primary responsibility for the damages inflicted by crime must ordinarily be assigned to the injuring criminal. One obvious reason behind this conclusion is the fact that if one concludes the State is responsible for losses associated with crime, logic would require that property damage also be included. This judgment, in turn, would raise the cost of such a program to many billions of dollars per year.[10]

Thus, we come to the realization that the underlying theory for this victim compensation program is the same as that which supports every other mode of public assistance—the responsibility to provide for the general welfare.

REFLECTION ON THEORY: RESERVATIONS

What class of individuals would be eligible for the public welfare dollars which would be distributed through these victim compensation programs?

Proponents of S. 300 take great pains to point out that this proposal does not employ a "means" test.[11] The approach of the bill in determining the economic class of persons eligible for compensation is to require a finding of "financial stress" which is defined as:

* * * * *

. . . the undue financial strain experienced by a victim or his surviving dependent or dependents as the result of pecuniary loss from an act, omission, or possession giving rise to a claim under this part, disregarding ownership of—

(A) a residence;

(B) normal household items and personal effects;

(C) an automobile;

(D) such tools as are necessary to maintain gainful employment; and

(E) all other liquid assets not in excess of one year's gross income or $10,000 in value, whichever is less.[12]

* * * * *

Thus, it is anticipated that the so-called average middle class American would be eligible for benefits under this program.[13]

"The upper middle class and the very wealthy of our nation generally would be ineligible for compensation as they would not be able to demonstrate a state of "financial stress" as the result of any violent crime committed against them. The very poor, on the other hand, would also be ineligible, since under the terms of the bill, the requisite "financial stress" must be the *result* of the crime giving rise to the claim.[14] This latter class of individuals would continue to receive any assistance for which they might be eligible through the modality of existing public assistance programs.

The notion of middle class welfare strikes us as an anomaly.

INSURABLE RISKS

Our misgivings with respect to the basic rationale of S. 300 are heightened by the fact that the losses which are covered by the bill are all insurable risks.

Section 450 (16) of S. 300 sets forth the so-called "pecuniary losses" which would be compensable under this legislation. Included are medical expenses, loss of earnings, child care expenses, burial costs and loss of support. All of these potential losses could, of course, be covered by private insurance coverage with life, medical and income protection policies.

It would be wise for the so-called average American citizens who would come within the purview of this proposal to consider whether they want to be taxed for the establishment of a program which would set up yet another Federal bureaucracy to provide coverage that is now available to them in the private sector. It is our belief that Government participation in this area is best kept to a minimum.

ADMINISTRATION

Statistics available from those states which currently have victim compensation programs in operation reveal that inordinate portions of their budgets are expended to cover administrative costs. For example, during the last fiscal year, the State of New York spent approximately 22 percent of its total budget on administrative expenses.[15] During the same period, the corresponding percentage figure for this purpose in Maryland was approximately 25 percent.[16]

In the Federal victim compensation program which would be established by Part A of S. 300, it is likely that the administrative costs would be even higher. Salaries would be far greater than those provided by the states,[17] and it can also be anticipated that a relatively larger staff would be employed.[18]

STATE PRIORITIES

At the present time, the program of the Law Enforcement Assistance Administration may be characterized as a block grant approach to federal assistance for states and units of general local government in the area of criminal justice.

To these Senators, the subject bill is regressive to the extent it moves toward the outdated notion of categorical grants. Moreover, this suggestion comes at a time when the President has just proposed another logical step towards a "New Federalism"—special revenue sharing in the area of law enforcement.

On March 14, Senator Hruska introduced S. 1234 at the request of the Administration.[19] The sum of this bill is a new mechanism placing crime control at the state and local levels of government where results can be best achieved and where it will be most responsive to the needs of the people. The subject bill flies in the face of this newly proposed direction for LEAA and, in this respect, is ill-advised.

FEDERAL VICTIMS

S. 300 would operate on two levels.

Part A would establish a Federal Compensation Program to provide compensation to victims of crime when the act, omission, or possession giving rise to the claim for compensation occurred—

* * * * *

(1) within the "special maritime and territorial jurisdiction of the United States" within the meaning of section 7 of title 18 of the United States Code;

(2) within the District of Columbia; or

(3) within "Indian country" within the meaning of section 1151 of title 18 of the United States Code.[20]

* * * * *

Part B of the bill would function on a second level by providing LEAA funds for similar programs on a State level.[21]

Of the nine States that currently have victim compensation programs in operation, four require as a condition of eligibility, that the offense giving rise to a claim be a crime under State law. Generally, the remaining five States require only that the situs of the crime giving rise to the claim be within the geographic limitations of the jurisdiction.[22]

Under this approach, one can recognize the imminent possibility that in at least four States, a citizen could be injured while assisting a Federal officer in the performance of his law enforcement duties and yet not be eligible for any Federal assistance through the modality of either part A or part B.[23] More importantly, if S. 300 were enacted it would not ensure the availability of compensation to the victims of *Federal* crimes in the future since this would depend upon whether all of the States enacted similar programs.

It would seem to us more appropriate for the Senate to first consider the advisability of providing compensation to the victims of crime which falls within the jurisdictional reach and responsibility of the Federal Government.

COSTS OF COMPENSATION

The proponents of S. 300 urge that the total cost of this program would approximate only $30 million per annum at a full operational level.[24] I believe this figure is totally unrealistic in view of one extremely significant feature in the bill.

Any compensation due to a victim of crime under this plan would be reduced by the proceeds of insurance which are recovered or recoverable by the victim.[25] This provision all but invites insurance companies to amend their existing life, health and income protection policies so as to disclaim coverage in instances where protection would be afforded by S. 300. This course of action would then permit them to reduce premiums and presumably, attract more business.

The same analysis which led to the $30 million total cost figure referred to above, also indicated that the overwhelming majority (perhaps 80%) of our population is currently covered by health insurance. Should insurers amend their policies around S. 300, the total cost of the bill would increase by perhaps as much as 500%, thus requiring as much as $150 million per year in Federal outlays.

Furthermore, we do not believe it would be advisable to attempt to amend S. 300 to preclude this possibility. Such action would have the net effect of punishing those responsible individuals who have attempted to protect themselves and their families from financial disaster by purchasing insurance.

CONCLUSION

For the above-stated reason, we are compelled to vote against S. 300, and urge our colleagues to do likewise.

ROMAN L. HRUSKA.
SAM J. ERVIN, Jr.
STROM THURMOND.

FOOTNOTES

[1] S. 2155, the "Criminal Injuries Compensation Act", July 17, 1965. 89th Cong. 1st Sess., 111 Cong. Rec. 13997 (1965). Similar bills were also introduced by Senator Yarborough in the 90th and 91st Congresses. S. 646. 90th Cong., 1st Sess. (1967), 113 Cong. Rec. 1491 (1967); S. 9, 91st Cong., 1st Sess. (1969), 115 Cong. Rec. 768 (1969).

[2] See "Victims of Crime", *Hearings* before the Subcommittee on Criminal Laws and Procedures, Committee on the Judiciary. U.S. Senate (92d Cong., 1st Sess. (1972)). Hereinafter cited as *Hearings*.

[3] The vote on final passage of S. 750 was 60–8. 118 Cong. Rec. S. 15099 (daily edition, September 18, 1972). See also the Report of the Senate Committee on the Judiciary on S. 750 (S. Rept. No. 92–1104, 92d Cong. 2d Sess. (1972), and floor debate on the measure at *Congressional Record*, vol. 118, pt. III, p. 30993–31108.

[4] Secs. 22 to 24 of the Code of Hammurabi referred to in this Report, *supra*, p. 2. See also Childres, "Compensation for Criminally Inflicted Personal Injury," 39 N.Y.U. L. Rev. 444 (1964); Wolfgang, "Victim Compensation in Crimes of Personal Violence," 50 Minn L. Rev. 223 (1965); and additional articles gathered at hearings, p. 535.

[5] Italian positivists such as Farofalo and Ferri had a great influence. Mexico, for example, used their concepts as precedent for Article 2, of the Mexican Code which was enacted in 1929 and established a system of reparations. Childres, *supra* at 449–51.

[6] See section 457 and 458 of part A and section 104 of S. 300.

[7] See hearings, p. 534; and this Report, *supra*, p. 10.
[8] See statement of Senator Walter F. Mondale, *Hearings*, pp. 487–88; and Goldberg, "Equality and Government Action," 39 N.Y.U. L. Rev. 205, 224 (1964).
[9] See statement of Governor Marvin Mandel, *Hearings*, pp. 133–140.
[10] See Report of *The Challenge of Crime in a Free Society* (1967).
[11] See this Report, *supra*, p. 5.
[12] S. 300, Sec. 450(8).
[13] See this Report, *supra*, p. 5.
[14] S. 300, Sec. 454(a). See similar provision in New York's program, *Hearings*, pp. 627 and 644.
[15] Hearings, p. 728.
[16] Hearings, p. 731.
[17] S. 306, sec. 103.
[18] S. 300, sec. 452.
[19] S. 1234, introduced Mar. 14, 1973. See 119 Con. Rec. p. 7714.
[20] S. 300, sec. 456(a).
[21] S. 300, secs. 105–107.
[22] See Federal Crime Compensation Statute: Major Features, Cong. Rec., vol. 118, pt. 24, pp. 30998–31001.
[23] This report at p. 21, *supra*, suggests that such a possibility be eliminated by regulation.
[24] Hearings, pp. 719–48.
[25] S. 300 Secs. 450(15)(c) and (16) and 453 (b).

Mr. HRUSKA. In this way, without repetition at this time of those views, the grounds for opposition to the bill and the grounds for opposing its passage will be found in the RECORD at a proper place.

I again express my appreciation to the majority leader for his courtesy in affording this opportunity for this discussion and the inclusion of additional relevant material.

The ACTING PRESIDENT pro tempore. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

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.

ORDER OF BUSINESS

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

Mr. MANSFIELD. Mr. President, will the Senator yield me 3 minutes, which I will return to him at the conclusion of his remarks, so that I may yield to the distinguished Senator from North Dakota?

Mr. ALLEN. I am happy to yield to the distinguished majority leader.

Mr. MANSFIELD. I yield to the distinguished Senator from North Dakota.

SURFACE MINING RECLAMATION ACT OF 1973

Mr. BURDICK. Mr. President, yesterday, October 8, the Senate began consideration of a bill which is of monumental importance to the State of North Dakota, the Surface Mining Reclamation Act of 1973.

One of the subjects debated yesterday was an amendment offered by the distinguished Majority Leader, Senator MANSFIELD, which would withdraw from surface and open pit mining operations all federally-owned coal deposits where the surface rights were privately owned. Unfortunately, I was returning to Washington from North Dakota and was detained in Chicago's O'Hare Airport by weather and mechanical failure during debate on this amendment. Had it been possible for me to be on the floor in time to vote on this amendment, I would have voted "yea."

Mr. MANSFIELD. Mr. President, for the RECORD, I want to say that I received a telephone call from the distinguished Senator while he was ground-bound in Chicago. I had intended to say something as to his position on this matter on yesterday. I forgot to do so. I am glad the distinguished Senator is here in person to state his position, and I want the RECORD to show what he would have done had he been here.

MESSAGE FROM THE HOUSE— ENROLLED BILLS SIGNED

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills:

S. 278. An act for the relief of Manuela Benito Martin;

S. 795. An act to amend the National Foundation on the Arts and the Humanities Act of 1965, and for other purposes;

S. 1016. An act to provide for the use or distribution of funds appropriated in satisfaction of certain judgments of the Indian Claims Commission and the Court of Claims, and for other purposes;

S. 1141. An act to provide a new coinage design and date emblematic of the Bicentennial of the American Revolution for dollars, half dollars, and quarter dollars, to authorize the issuance of special silver coins commemorating the Bicentennial of the American Revolution, and for other purposes;

H.R. 1315. An act for the relief of Jesse McCarver, Georgia Villa McCarver, Kathy McCarver, and Edith McCarver;

H.R. 1322. An act for the relief of Jay Alexis Caligdong Siaotong;

H.R. 1366. An act for the relief of Juan Marcos Cordova-Campos;

H.R. 1377. An act for the relief of Michael Joseph Wendt;

H.R. 1378. An act for the relief of James E. Bashline;

H.R. 1462. An act for the relief of John R. Poe;

H.R. 1716. An act for the relief of Jean Albertha Service Gordon;

H.R. 1965. An act for the relief of Theodore Barr;

H.R. 2212. An act for the relief of Mrs. Nguyen Thi Le Fintland and Susan Fintland;

H.R. 2215. An act for the relief of Mrs. Purita Paningbatan Bohannon;

H.R. 4507. An act to provide for the striking of medals in commemoration of Jim Thorpe;

H.R. 6628. An act 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;

H.R. 7699. An act to provide for the filling of vacancies in the Legislature of the Virgin Islands; and

H.R. 7976. An act to amend the Act of August 31. 1965, commemorating certain historical events in the State of Kansas.

The above bills were subsequently signed by the Acting President pro tempore (Mr. NUNN).

SENATE JOINT RESOLUTION 161— A PROPOSED CONSTITUTIONAL AMENDMENT RELATIVE TO THE ASSIGNMENT OF STUDENTS TO PUBLIC SCHOOLS

Mr. ALLEN. Mr. President, last year, during the second half of the 92d Congress, the House of Representatives passed a bill which had as its purpose limiting sharply the power of the Federal district courts to order massed forced busing of schoolchildren. That bill came to the Senate and was considered in the Senate. A majority of the Members of the Senate favored the passage of that bill.

On three separate occasions, an effort was made to cut off the debate that took place with respect to the bill—a filibuster, if you please, mounted by those who opposed the enactment of the bill. While the number favoring the ending of debate increased with each vote taken in the Senate, the necessary two-thirds of the Senators present did not vote in favor of shutting off debate, and the bill was allowed to die.

At the start of this first session of the 93d Congress a number of similar bills were introduced in the Senate, a number of proposed constitutional amendments that had as their objective the ending of forced mass busing of schoolchildren. Those bills have languished in the committees to which they were referred and not one single bill, even though there are more than a dozen pending in the various committees of the Senate, has seen the light of day to the point of being referred back to the Senate for further consideration.

Mr. President, the rules of the Senate are very sound, they are reasonable, they are fair, they are just, and under such circumstances the rules do permit a bill to be introduced and to reach the calendar without being referred to a committee, so that the full Senate then would have the power to decide whether or not it wishes to take up the bill and if it took it up, whether it saw fit to pass the bill.

Mr. President, at the conclusion of my remarks I do plan to offer a Senate joint resolution, submitting a constitutional amendment that would have as its effect the ending of the practice of mass forced busing of schoolchildren ordered by the Federal courts for the purpose of changing the racial balance in our public schools.

Mr. President, I am going to ask unanimous consent that the Senate give immediate consideration to the joint resolution, and I understand that the distinguished Senator from New York (Mr. JAVITS) will object to the immediate consideration. If he does, I will then ask for a first reading and unanimous consent for a second reading. If objection is made to the second reading, the bill will come up on the next legislative day and at that time it will go to second reading, and if objection is made to going further with the bill, it will go on the calendar.

Mr. President, the proposed amendment is very simple. It provides that:

No public school student shall, because of

his race, creed, or color be assigned to or required to attend a particular school.

This language is designed to protect public school students in every area of the United States from arbitrary assignment to public schools on the basis of race, creed, or color—a fundamental right enjoyed in every civilized nation except the United States.

It is designed to protect parents and children in every region of the Nation from the imposition of massive busing and cross-busing schemes imposed by Federal court judges.

It is designed to prevent the uprooting and transportation of schoolchildren for the purpose of meeting court-imposed racial ratios in public schools.

It is designed to prevent the denial to children of their traditional right to attend neighborhood schools.

It is designed to prevent arbitrary and capricious abuses of power by U.S. district court judges while acting in the role that they have assumed of judicial school boards.

It is designed to put an end to floating and constantly changing school attendance zones established by judicial decrees which result in many children attending eight or nine separate schools in the course of a high school career.

It is designed to protect the health, safety, and welfare of children from judicial decrees which, in the name of equity, subordinate these considerations to arbitrary racial ratio standards.

It is designed to return to the maximum extent possible the control of public schools to the States and communities in which they are located.

In sum and substance, it is designed to get the Federal courts out of the nonjudicial business of supervising the operation, management, and control of local public schools.

Mr. President, the general public is not familiar with the judicial sophistry relied on by Federal court judges to impose their theories upon the people. I think it well for all of us to examine the tortured line of reasoning which has brought us to this sad state of affairs.

After the 1954 Brown decision, classification of students by race for the purpose of assignment of students to public schools became unconstitutional. Then, by judicial decree, such classifications and assignments gradually became not only constitutional but an affirmative duty of school boards because, it was said, previous classifications and assignments by race had resulted in dual school systems.

Thus, the prohibition of the 14th amendment that no State shall deny to any person within its jurisdiction the equal protection of the laws, was converted into a command that white schoolchildren within the jurisdiction of U.S. District Courts be deprived of equal protection of the laws by being denied the right to attend neighborhood and community schools and by being forceably uprooted and transported to distant schools for the purpose of meeting and maintaining racial quotas in the schools.

We insist that it is a perverse and dangerous treatment of the fundamental law of the Constitution to give retroactive application to an interpretation of the "equal protection" clause of the Constitution to correct past social or economic conditions. It is education today—tomorrow it could be income, housing or any objective conceived to be within the Socialist concept of equality. Neither can the means employed by the Court in school cases be justified by necessity. Other means were and remain available to accomplish the objective of the U.S. Supreme Court which, as stated by Chief Justice Burger, is:

To see that school authorities excluded no pupil of a racial minority from any school, directly or indirectly, on account of race.

Mr. President, it is an absurdity, in my judgment, to contend that racial ratios in schools and massive busing and cross-busing are essential to achieve the stated objective. However, instead of keeping the objective in mind, the U.S. Supreme Court apparently was sold a pot full of sociological hogwash to the effect that "equal protection of the laws" requires the establishment of racial ratios for all schools and school assignments to reflect, as nearly as possible, the racial composition in the community as a whole.

Mr. President, one can readily see the problem of the U.S. Supreme Court if it tried to maintain that the Constitution requires affirmative action to implement a sociological dogma because, as Chief Justice Burger expressed it:

Absent a constitutional violation there would be no basis for judicially ordered assignment of students on a racial basis.

* * * * *

The task is to correct . . . the condition which offends the Constitution.

Accordingly, the Supreme Court hit upon the idea that the condition to be corrected was "dual" school systems. The trouble is that the term was never defined, nor have local school officials ever been informed as to what is ultimately required to dismantle a dual school system and, thus, what is required to rectify the constitutional violation. Nevertheless, the dual school system has frequently been adverted to in Court opinions. For example, in the Swann opinion, Chief Justice Burger stated:

The target of the cases from Brown I to the present was the dual school system.

* * * * *

The remedy commanded was to dismantle dual school systems.

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

ROUTINE MORNING BUSINESS

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

Mr. JAVITS. Mr. President, may I claim my time and yield to the Senator so he may complete his speech?

The ACTING PRESIDENT pro tempore. Under the morning hour, the Senator from Alabama is recognized for 3 minutes.

SENATE JOINT RESOLUTION 161—A PROPOSED CONSTITUTIONAL AMENDMENT RELATIVE TO THE ASSIGNMENT OF STUDENTS TO PUBLIC SCHOOLS

Mr. ALLEN. Mr. President, I thank the Senator from New York, who has been very kind and cooperative in this matter. I might state that before planning to introduce the joint resolution I conferred with the majority leader to alert him to the fact that I was going to ask unanimous consent for consideration of the joint resolution, so he could advise those who are opposed to this effort to be on hand. I also advised the distinguished Senator from New York (Mr. JAVITS).

Mr. President, it has been under color of dismantling dual school systems that the Court has resorted to reducing children to abstract digits and to be hauled about the countryside to achieve racial balance in the schools as Federal court judges may consider necessary from year to year to dismantle "dual" school systems.

In short, the constitutional prohibition against denial of equal protection of the laws and the judicial objective of seeing that no pupil of a racial minority be excluded from attending a public school on the basis of his race, has been converted into a judicial demand that all schools achieve and maintain a particular racial ratio in the schools of a system, year after year after year. Deviations from the racial ratio is always treated as evidence that a dual school system still exists and is supposed to justify whatever steps a U.S. district court judge may think necessary to overcome such racial imbalance in the schools.

Mr. President, the Court has sought to avoid defending the proposition that the Constitution requires the assignment and busing of children to schools as may be dictated by arbitrary racial ratios. The Court has said:

The constitutional command to desegregate schools does not mean that every school in every community must always reflect the racial composition of the school system as a whole.

But then the Court went on to say that deviations from the norm or "racial balance" constituted a starting point in the process of shaping a remedy, rather than an inflexible requirement. Thus, the starting point for assigning and busing children to overcome the racial imbalance in schools.

Mr. President, it is important for all Senators to understand that the U.S. Supreme Court is poised to jump on school systems in all States. The maginot line represented by the artificial de jure-de facto distinctions between types of racial segregation in schools has been breached. Every school system in this Nation will become subject to racial ratio decrees and assignments and transportation of children by race to meet those ratios unless we get behind a constitutional amendment to protect our people from implementation of sociological dogmas imposed upon us by the U.S. Supreme Court.

Mr. President, in order to assure Senators that this proposed amendment would not have the dire consequences which some will predict, let us review the record.

Today, almost 20 years after the Brown decision, there are no dual school systems in the South. In fact, very, very few racially identifiable schools exist anywhere in the South. The preponderance of racially identifiable schools are located not in the South, but in areas outside of the South. No one today can seriously contend that any State in the United States or any school board in the United States deliberately classifies and assigns students to segregate school children by race. The only agency of government in the United States which classifies and assigns students by race is the Federal judiciary.

In doing so they have abandoned their original premises—abandoned law for sociological theories—abandoned traditional principles of equity in favor of absolutes—and abandoned compassion for power—in the process they have done incalculable harm to the institution of the Federal judiciary and to the institution of public school education.

These judges seem to have forgotten that they are exercising equity powers characterized by flexibility to adjust decrees to circumstances existing in separate schools and school systems. Instead, they subordinate considerations of local circumstances, sound educational practices, the safety and welfare of the children, and public support of public school education, to inflexible arbitrary racial ratios.

Mr. President, it is no exaggeration to say that this abominable process has produced the precise opposite effect originally intended—it is producing resegregation of schools and a collapse of public support for our schools on the part of whites and blacks alike by reason of needless hardships imposed by judicial assignments which require massive busing and cross-busing to maintain an imposed racial ratio in the schools.

Mr. President, I shall have more to say on this subject at a later date. In the meantime, I urge Senators to give careful consideration to the urgent necessity to relieve the Federal courts from their ill-conceived, sociological role in public school education.

Mr. President, I introduced a joint resolution and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The joint resolution will be read by title.

The assistant legislative clerk read the joint resolution (S.J. Res. 161) by title, as follows:

A joint resolution proposing an amendment to the Constitution of the United States relative to the assignment of students to public schools.

The ACTING PRESIDENT pro tempore. Is there objection to the request of the Senator from Alabama for its immediate consideration?

Mr. JAVITS. Mr. President, I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. ALLEN. Mr. President, I ask unanimous consent to have a second reading of the joint resolution.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. JAVITS. Mr. President, I object.

The ACTING PRESIDENT pro tempore. Objection is heard, and the joint resolution will go over to the next legislative day for its second reading.

Mr. ALLEN. Mr. President, a parliamentary inquiry. If objection is made to further consideration of the joint resolution on the next legislative day, will it go to the calendar?

The ACTING PRESIDENT pro tempore. Yes; that is, after it is read the second time.

Mr. ALLEN. I thank the distinguished Presiding Officer.

The ACTING PRESIDENT pro tempore. Is there further morning business?

Mr. JAVITS. Mr. President, does the Senator from Pennsylvania desire to be recognized in the morning hour? I will be glad to yield.

Mr. HUGH SCOTT. No.

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

Mr. JAVITS. I yield.

Mr. MANSFIELD. Mr. President, are we in the morning hour?

The ACTING PRESIDENT pro tempore. The Senate is conducting morning business under the previous order.

Mr. MANSFIELD. We are in the morning hour?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. JAVITS. Mr. President, I wish to make clear the reasons for my objection to the request of the Senator from Alabama.

I believe that the constitutional amendment route is entirely open to any Member of the Senate, on busing or anything else. That is the genius of our country. I have often argued to wild young radicals that if they persuade enough people, they can change the constitutional structure of this country. There is nothing to stop them, provided they can persuade enough people. So I have no objection to the route being pursued by the Senator, but I believe that a matter so portentous as this should go to a committee for consideration, so I shall, at the appropriate time, under the rules of the Senate, seek to have this proposed constitutional amendment sent to the Judiciary Committee, where it normally goes for consideration, unless the Senate wishes to make disposition of it to another committee or something like that.

In essence, this proposal also poses a very serious problem under the Constitution, because efforts have been made to eliminate busing—I am leaving all the handles on the word—for school desegregation purposes by law.

The right to have a nonsegregated school education in the public schools of America is a constitutional right. It is not a right conferred by law, but by the Constitution, and the courts, therefore, under the Constitution, as independent agents, have the right to determine how that shall be realized, and they have determined that busing is one way in which it can and should be realized.

Therefore, as I agree with the courts in that, I think what the Senate has done—and I would like to repeat that, because it has been so sound to me—has been the soundest way to resolve the controversy. The Senate has had its own control on financing, on how Federal money will be used for that purpose; therefore, in using that method, the Senate, in the very bill, the higher education bill, which contains the current effort to deal with the busing problem, has determined, in its version, that where busing was essential for desegregation of public schools at a given place, where it did not impinge upon the health of the student and where it did not materially and adversely affect the educational opportunity of the student, which included both the school whence he came and the school to which he went, then it would allow all Federal money to be used for busing. I wish to affirm that that seems to be a fair, reasonable, and intelligent course, proceeding in a proper way, because it concerns the proper use of Federal money.

The ACTING PRESIDENT pro tempore. The 3 minutes of the Senator have expired.

Mr. MANSFIELD. Mr. President, I yield 1 minute to the Senator from New York.

Mr. STAFFORD. Mr. President, I ask unanimous consent that I may yield 1 minute of my time to the Senator from New York.

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

Mr. JAVITS. I thank the Senator.

Just to finish the thought, I hope very much we will, in the way in which American law has a way of developing—I myself sponsored laws which took many years, like 16 years for the National Arts Endowment, to become law—pursue our own constitutional authority to produce a fair result to provide for an oppressed major minority in our country, which in any other country would be fantastic—and they are among the most patriotic of Americans—if we let the system work for them, and not let the system, as they feel deeply, work against them.

Mr. ALLEN. Mr. President, I call attention to the fact that the amendment proposed merely states that no public school student shall, because of his race, creed, or color, be assigned or required to attend a particular school. This amendment does not, in and of itself, and in exact words, say that no forced mass busing can be used, but it does hit at the assignment by race, and if there is to be no assignment by race, there will then be no need of busing.

I call further attention to the fact that this statement, which is sought to be written into the Constitution, is the very law of the Brown case in 1954, which stated that a State cannot make assignments by race. The Supreme Court changed course 180 degrees and has required that some States, certainly in areas such as Alabama and the South where we have so-called de jure segregation, must take affirmative steps to establish certain racial ratios, and that

in carrying out that process, busing is a permissible tool.

If we merely had the law of the Brown case, there would be no need for a constitutional amendment. It is to get the Supreme Court back on course that this amendment is sought to be introduced into the Senate and submitted to the several States.

I yield back the remainder of my time.

ORDER FOR TRANSMISSION TO SECRETARY OF THE SENATE OF THE TRANSCRIPT AND SHORTHAND NOTES OF CLOSED SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the transcript of the proceedings of the closed session of the Senate on September 25, 1973, has been edited and revised and resealed by the chairman of the Armed Services Committee, the transcript and the shorthand notes be transmitted to the Secretary of the Senate for keeping in the vault in his office with other such transcripts and notes.

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

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, October 9, 1973, he presented to the President of the United States the following enrolled bills:

S. 278. An act for the relief of Manuels Bonite Martin;

S. 795. An act to amend the National Foundation on the Arts and the Humanities Act of 1965, and for other purposes;

S. 1016. An act to provide for the use or distribution of funds appropriated in satisfaction of certain judgments of the Indian Claims Commission and the Court of Claims, and for other purposes; and

S. 1141. An act to provide a new coinage design and date emblematic of the Bicentennial of the American Revolution for dollars, half dollars, and quarter dollars, to authorize the issuance of special silver coins commemorating the Bicentennial of the American Resolution, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. NUNN, from the Committee on Armed Services, without amendment:

S. 2493. A bill to authorize the disposal of silicon carbide from the national stockpile and the supplemental stockpile (Rept. No. 93-451).

By Mr. RANDOLPH, from the Committee on Public Works, without amendment:

S. 2463. A bill to change the name of the Beaver Dam in the State of Arkansas to the James W. Trimble Dam (Rept. No. 93-453); and

S. 2486. A bill to provide that the project referred to as the Trotters Shoals Dam and Lake on the Savannah River, Georgia and South Carolina, shall hereafter be known and designated as the "Richard B. Russell Dam and Lake" (Rept. No. 93-454).

By Mr. SYMINGTON, from the Committee on Armed Services, without amendment:

S. 2498. A bill to authorize the disposal of zinc from the national stockpile and the supplemental stockpile (Rept. No. 93-352).

By Mr. McCLELLAN, from the Committee on Appropriations, without amendment:

H.J. Res. 748. Joint resolution making an appropriation for special payments to international financial institutions for the fiscal year 1974, and for other purposes (Rept. No. 93-455).

EXECUTIVE REPORTS OF COMMITTEES

Mr. MAGNUSON. Mr. President, as in executive session, I report favorably sundry nominations in the Coast Guard and National Oceanic and Atmospheric Administration which have previously appeared in the CONGRESSIONAL RECORD and, to save the expense of printing them on the Executive Calendar, I ask unanimous consent that they lie on the Secretary's desk for the information of Senators.

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

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

David M. Donaldson, and sundry officers, for promotion in the Coast Guard; and

Joseph A. Sowers, and sundry officers, for promotion in the National Oceanic and Atmospheric Administration.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, with the exception of S.J. Res. 161, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. DOMINICK:

S. 2551. A bill to authorize the disposal of molybdenum from the national stockpile and for other purposes. Referred to the Committee on Armed Services.

By Mr. KENNEDY (for himself, Mr. CRANSTON, and Mr. MONTOYA):

S. 2552. A bill to improve bilingual and bicultural educational opportunities for children of limited English-speaking ability. Referred to the Committee on Labor and Public Welfare.

By Mr. CRANSTON (for himself, Mr. KENNEDY, and Mr. MONTOYA):

S. 2553. A bill to amend title VII of the Elementary and Secondary Education Act of 1965 to extend, improve, and expand programs of bilingual education, teacher training, and child development. Referred to the Committee on Labor and Public Welfare.

By Mr. HUMPHREY:

S. 2554. A bill for the relief of Hanna Kahsai and Herouy Berhane. Referred to the Committee on the Judiciary.

By Mr. ALLEN:

S.J. Res. 161. A joint resolution proposing an amendment to the Constitution of the United States relative to the assignment of students to public schools. Read the first time.

By Mr. WILLIAMS:

S.J. Res. 162. A joint resolution to authorize the President to proclaim the last Friday in April 1974, as "National Arbor Day." Referred to the Committee on the Judiciary.

By Mr. HUMPHREY (for himself and Mr. DOLE):

S.J. Res. 163. Joint resolution authorizing the President to proclaim the last full week in March of each year "National Agriculture Week." Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KENNEDY (for himself, Mr. CRANSTON, and Mr. MONTOYA):

S. 2552. A bill to improve bilingual and bicultural educational opportunities for children of limited English-speaking ability. Referred to the Committee on Labor and Public Welfare.

BILINGUAL EDUCATION REFORM ACT OF 1973

Mr. KENNEDY. Mr. President, I am introducing today legislation to reform and expand bilingual education opportunities for American schoolchildren.

The Bilingual Education Reform Act of 1973, which is cosponsored by the distinguished Senator from California (Mr. CRANSTON) and the distinguished Senator from New Mexico (Mr. MONTOYA), challenges the downgrading of bilingual education programs contained within the past budget proposals of the administration. At the same time, I am pleased to cosponsor a complementary measure in the field of bilingual education being introduced today by the Senator from California (Mr. CRANSTON).

While there are different points of emphasis in the two bills, they together represent a major initiative to place a new Federal priority on bilingual education. We expect early hearings on our proposals and intend to work for early Senate approval.

The 5-year authorization for an expanded bilingual education program of the Bilingual Education Reform Act of 1973 will insure that school districts, teacher training programs, and parents will be able to plan bilingual education programs with the knowledge that Federal support is not an on-again, off-again proposition. We have an obligation to make good on the promise of equal education to all schoolchildren and the bilingual education program is a vital element in achieving that goal.

The bill authorizes $135 million for fiscal year 1974, $150 million for fiscal year 1975, $175 million for fiscal year 1976, $200 million for fiscal year 1977, and $250 million for fiscal year 1978.

Presidential vetoes of appropriations bills containing increases in bilingual education have stunted the program's development in the past.

The Bilingual Education Act of 1967 was designed as the first step in assuring equal educational opportunity to children from bilingual backgrounds, Mexican-American children, Puerto Rican children, Cuban children, Portuguese children, Asian children, and Indian children. Unfortunately the Federal funds to back up that commitment have not been forthcoming. The promise made to these children has not been kept.

For the 5 million schoolchildren whom the Office of Education has estimated have come to school with English-speaking deficiencies, the Federal bilingual education program has been of limited value.

The degree of our failure can be read in the reports of the U.S. Commission on Civil Rights. They found that less than

3 percent of the Mexican-American student population was reached by bilingual education programs. In three States, Arizona, Colorado, and New Mexico, bilingual programs were reaching less than 1 percent of the Chicano student population. While California had more bilingual programs than any other State, it still was reaching less than 2 percent of its Mexican-American students. Similar reports have shown Puerto Rican and other limited-English-speaking children similarly neglected.

For fiscal year 1973, the Office of Education's 217 bilingual education programs serve only 147,000 children. While the Federal effort has stimulated some 11 States to adopt bilingual programs of their own, the vast majority of the States are doing very little in this area. I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks a report on State legislation on bilingual education prepared by the National Advisory Council on the Education of Disadvantaged Children.

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

(See exhibit 1.)

Mr. KENNEDY. Mr. President, I am pleased that my own State of Massachusetts has been a leader in the Nation in the effort to fulfill its responsibilities in the field of bilingual education. The State's bilingual education law serves as a model; but even in Massachusetts much remains to be done as only a small percentage of children participate in full bilingual programs.

Nationwide, in the area of preschool education, less than 5 percent of the total number of Spanish-speaking children between 3 and 5 years of age are enrolled and even these 40,000 youngsters are not receiving full bilingual programs in most instances.

When one looks at vocational education, the lack of sensitivity to the needs of bilingual young people is mirrored in the almost total failure of the national or State vocational education programs to incorporate bilingual methods or curriculum.

Part of the failure to provide educational services to these children relates to our failure to produce a cadre of experienced and qualified bilingual professionals and paraprofessionals to staff these programs or bilingual educators to produce adequate curricula. The Office of Education has found in a study of 76 of its own programs that some or all of the teachers involved were not adequately prepared to teach in bilingual programs. The U.S. Commission on Civil Rights also estimated the percentage of teachers in Texas involved in bilingual education programs or participating in inservice training for bilingual education to be only 1.2 percent of the total. The other four Southwestern States showed one-half of 1 percent or less of the teachers involved in such bilingual programs.

Despite the authority of the Bilingual Education Act for teacher training and professional development, virtually no title VII funds have been spent for this purpose. This bill presents a strong emphasis on teacher training.

These statistics tell only part of the story. They do not measure the degree of harm done to a child who is forced to sit in classes and listen to teachers he cannot understand or complete assignments from books he cannot read.

The gravity of this situation is perhaps exemplified by the mere fact that in 1970, the Office for Civil Rights of the Department of Health, Education, and Welfare felt compelled to issue a memorandum to school districts declaring that:

School districts must not assign national origin-minority group students to classes for the mentally retarded on the basis of criteria which essentially measure or evaluate English language skills.

The mere fact that the Department of HEW felt it necessary to issue that memorandum—which I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks—demonstrates the depth of the failure of our educational system for children of limited English-speaking ability.

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

(See exhibit 2.)

Mr. KENNEDY. Mr. President, for all of these reasons, there is a clear and present need to reexamine the adequacy of the education system's response to the needs of bilingual children at all levels, Federal, State, and local.

It is our hope that these bills will initiate that response on the Federal level.

I want to emphasize that the Bilingual Education Reform Act is the result of substantial input and research from the bilingual education community. It incorporates many of their suggestions and recommendations. I particularly would like to recognize the assistance provided by La Raza Association of Spanish Surnamed Americans, who helped bring together persons with substantial expertise in the field of bilingual education to comment on earlier drafts of this legislation.

We anticipate that they and many other educators, parents, and community groups of all ethnic backgrounds will have an opportunity to comment on this legislation during the hearing process.

The bill does the following:

First, it extends the bilingual education act for 5 years with increased authorizations.

Second, it responds to the clear need for creating adequate numbers of trained and competent bilingual educators. It earmarks 35 percent of all appropriations in excess of $35 million for bilingual teacher training programs at junior colleges, community colleges and universities, short-term training institutes for inservice training of teachers and paraprofessionals, and a fellowship program for individuals seeking advanced training in bilingual education.

Third, it provides a special emphasis on junior colleges and community colleges where the vast majority of Spanish-speaking college students are enrolled. Some 70 percent of the Spanish-speaking population enrolled in institutions of higher learning are attending junior and community colleges.

Fourth, the bill enunciates a clear demand for full bilingual programs in which children are taught in the language they learn best in and in which the goal is for all children in the program to achieve bilingual capability. A 6-month study by the General Accounting Office I requested found a wide disparity between the degree of bilingualism present in the current programs. In at least one project, students who were found to learn best in Spanish received only 28 percent of their instruction in academic subjects in Spanish. The vast majority of their classroom time was spent sitting in classes where the subjects were taught in English. This bill will remedy that situation.

Fifth, the bill upgrades the administrative structure for the bilingual education program within the Office of Education by establishing a Bureau of Bilingual Education with the director having the title of deputy commissioner of education.

Sixth, the bill amends the Vocational Education Act to include a requirement for the development of bilingual education vocational programs where the need exists. The bill contains a $40 million authorization for the establishment of this program in each of the next 2 fiscal years.

Seventh, the bill also amends the Adult Education Act and the Library Services and Construction Act to require that bilingual programs are provided where the need exists.

Eighth, the bill provides for the National Institute of Education to earmark 10 percent of its funds for research and experimentation in bilingual education. It also requires that NIE establish a national clearinghouse for the collection, analysis, and dissemination of information concerning bilingual education.

Finally, the bill establishes a 15-member National Advisory Council on Bilingual Education with strong representation from the bilingual community. The Council will have the responsibility to review and evaluate the bilingual education program.

It is our hope that these reforms in the Bilingual Education Act will begin to fulfill the promise of guaranteeing that language and culture no longer will be barriers to full educational opportunities in America, but will become positive values that the educational system protects and supports.

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

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

S. 2552

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 "Bilingual Education Reform Act of 1973".

AMENDMENTS TO TITLE VII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 2. (a)(1) Section 702 of the Elementary and Secondary Education Act of 1965 is amended by striking out that part of the first sentence thereof which precedes "de-

clares" and inserting in lieu thereof the following:

"Recognizing—

"(1) that there are large numbers of children of limited English-speaking ability;

"(2) that many of such children have a cultural heritage which differs from that of English-speaking persons;

"(3) that the use of a child's language and cultural heritage is the means by which a child learns; and

"(4) that, therefore, large numbers of children of limited English-speaking ability have special educational needs which can be met by the use of bilingual educational methods and techniques; and

"(5) that, in addition, all children benefit through the fullest utilization of multiple language and cultural resources,

Congress hereby declares".

(2)(A) Section 703(a) of such Act is amended by striking out "and" where it appears after "1972," and by inserting before the period at the end thereof a comma and the following: "$135,000,000 for the fiscal year ending June 30, 1974, $150,000,000 for the fiscal year ending June 30, 1975, $175,000,000 for the fiscal year ending June 30, 1976, $200,000,000 for the fiscal year ending June 30, 1977, and $250,000,000 for the fiscal year ending June 30, 1978".

(B) Such section 703(a) is further amended by inserting "(1)" after "(a)" and by adding at the end thereof the following new paragraph:

"(2) In any fiscal year beginning after June 30, 1973, in which the sums appropriated pursuant to paragraph (1) exceed $35,000,000, not less than 35 per centum shall be used for the purposes of section 704(b).".

(3) Section 704 of such Act is amended—

(A) by redesignating clauses (a), (b), and (c), and all references thereto, as clauses (1), (2), and (3), respectively;

(B) by inserting "(a)" immediately after the section designation;

(C) by striking out "through such activities as" and inserting in lieu thereof "through bilingual education programs and related activities, conducted in conjunction with bilingual education programs, as";

(D) by striking out division (1) in clause (3) (as redesignated by this paragraph);

(E) by redesignating divisions (2), (3), (4), (5), (6), (7), and (8) of such clause (3), and all references thereto, as clauses (i), (ii), (iii), (iv), (v), (vi), and (vii), respectively; and

(F) by adding at the end of such section the following new subsection:

"(b)(1)(A) For the purposes of this section, the term 'bilingual education program' means a full-time program of instruction for children of limited English-speaking ability and for English-speaking children, who desire to participate in such program, in which—

"(i) there is instruction, given both in the native language of the child of limited English-speaking ability and in English, in all courses or subjects of study which are required of a child in preschool, elementary school, or secondary school, as the case may be, by or pursuant to, the law of the State;

"(ii) both the native language of the children of limited English-speaking ability and English are studied, including speaking, reading, and writing;

"(iii) there is study of the history and culture of the nation, territory, or geographical area with which the native language of the children of limited English-speaking ability is associated and of the history and culture of the United States; and

"(iv) the requirements of subparagraph (B) and those established pursuant to division (iv) of such subparagraph are met.

"(B)(i) In all courses or subjects of study in which the speaking and understanding of the English language is not essential to an understanding of the subject matter, such as art, music, and physical education, a bilingual education program shall make provision for the participation of children of limited English-speaking ability in regular classes, and in such courses or subjects of study special attention shall be given to the language and cultural heritage of the children of limited English-speaking ability participating therein.

"(ii) A bilingual education program shall make provision for the voluntary enrollment, on a regular full-time basis, of children whose language is English, in order that they may learn the language and cultural heritage of the children of limited English-speaking ability for whom the particular program of bilingual education is designed. In no case may the number of English-speaking children constitute more than 50 per centum of the total number of children participating in a particular bilingual education program.

"(iii) Children enrolled in a bilingual education program shall, if graded classes are used, be placed, to the extent practicable, in classes with children of approximately the same age and level of educational attainment. If children of significantly varying ages or levels of educational attainment are placed in the same class, the bilingual education program shall make special provision to insure that each child is provided with instruction which is appropriate for his level of educational attainment.

"(iv) The Commissioner shall, by regulation, establish, with respect to bilingual education programs, minimum requirements regarding pupil/teacher ratios, teacher qualifications and certification, and other factors affecting the quality of instruction offered in such programs.

"(C) For the purposes of this paragraph, the term 'native language', when used with reference to children of limited English-speaking ability, means the language normally used by such children, or the parents of such children, or in the environments in which such children are reared.

"(2)(A) In carrying out the provisions of clause (2) of subsection (a), the Commissioner shall, through arrangements with institutions of higher education including junior colleges and community colleges and with local educational agencies—

"(i) make grants for the establishment, operation, and improvement of training programs for persons preparing to participate in or for persons participating in bilingual education programs;

"(ii) make provisions for the operation of short-term training institutes designed to upgrade the skills of persons participating in bilingual education programs;

"(iii) award fellowships for study leading to an advanced degree for persons planning to pursue a career in bilingual education programs.

"(B) In carrying out the provisions of clause (2) of subsection (a) and clause (iii) of subparagraph (A) of this paragraph, the Commissioner shall, through arrangements with local educational agencies having applications approved to carry out activities described in clause (1) of subsection (a), award not less than 200 fellowships and not more than 500 fellowships during any fiscal year to persons preparing to participate in bilingual education programs carried out by such agencies and described in such applications.

"(C) The Commissioner shall include in the terms of any arrangement described in clauses (i), (ii), and (iii) of subparagraph (A) of this paragraph provisions for the payment, to persons participating in training programs so described, of such stipends (including allowances for subsistence and other expenses for such persons and their dependents) as he may determine, which shall be consistent with prevailing practices under comparable federally supported programs.".

(4) Sections 703 through 707 of such Act, and all references thereto, are redesignated as sections 711 through 715, respectively, and title VII of such Act is amended by inserting, after section 702, the following:

"Part A—Financial Assistance for Bilin

"Part A—Financial Assistance for Bilingual Education Programs"

(5) Such title VII is amended by striking out "this title" wherever it appears in sections 711 through 715 (as redesignated by paragraph (4)) and inserting in lieu thereof "this part".

(6) Such title VII is further amended by striking out section 708 and inserting in lieu thereof the following:

"Part B—Administration

"Bureau of Bilingual Education

"Sec. 721. (a) There shall be, within the Office of Education, a Bureau of Bilingual Education (hereafter in this part referred to as the 'Bureau') through which the Commissioner shall carry out his functions relating to bilingual and bicultural education.

"(b)(1) The Bureau shall be headed by a Director of Bilingual Education, who shall be accorded the rank of a deputy commissioner of education and who shall be placed in, and compensated at the rate specified for, grade 18 of the General Schedule set forth in section 5332 of title 5, United States Code.

"(2) There shall be two additional positions in the Bureau which shall be placed in grade 17 of the General Schedule set forth in section 5332 of such title 5, one of whom shall be designated by the Director of the Bureau to be Deputy Director of the Bureau, who shall act for the Director in the Director's absence or disability.

"(c) The Commissioner shall delegate all of his responsibilities for any program of bilingual or bicultural education to the Director of the Bureau.

"(d) Not later than November 1 of each year the Director of the Bureau shall submit, through the Commissioner, to the Congress a report on the activities of the Bureau, including—

"(1) a review and elevation of the activities carried out by the Bureau during the preceding fiscal year;

"(2) the status of the programs and projects administered by the Bureau during the then current fiscal year; and

"(3) an estimate of the costs of programs and projects administered by the Bureau during the succeeding fiscal year;

"(4) a description of the personnel and information available at the regional offices dealing with bilingual programs within that region.

"Research and Experimental Projects

"Sec. 722. (a)(1) Notwithstanding the second sentence of section 405(b)(1) of the General Education Provisions Act, the Commissioner and the Director of the National Institute of Education are authorized jointly to enter into contracts with public agencies, institutions, and organizations in order to conduct research and experimental projects in the field of bilingual and bicultural education. No contract shall be entered into under this section that is not in accordance with regulations established by the Assistant Secretary of Health, Education, and Welfare for Education which have been agreed to by the Commissioner and the Director of the National Institute of Education.

"(2) Research and experimental projects conducted pursuant to contracts entered into under this section may include, but are not limited to—

"(A) the development of bilingual and bicultural curriculum for preschool, and elementary and secondary education programs;

"(B) the development and distribution of instructional materials and equipment suitable for use in bilingual programs;

"(C) the establishment of a center for bilingual education designed to serve as a national clearinghouse for the collection,

analysis, and dissemination of information concerning bilingual education; and

"(D) the analysis of existing testing methods used in monolingual and bilingual programs and the development of improved testing methods to be used in such programs.

"(b) Not to exceed 10 percent of the funds appropriated in any fiscal year for the use of the National Institute of Education, but in no event less than $10,000,000, shall be available to carry out the provisions of this section.

"NATIONAL ADVISORY COUNCIL

"Sec. 723. (a) There shall be a National Advisory Council on Bilingual Education (hereafter in this section referred to as the 'National Council') consisting of 15 members appointed within ninety days after the date of enactment of the Bilingual Education Amendments of 1973, by the President, without regard to the provisions of title 5, United States Code, governing appointment in the competitive service. Members of the National Council shall be appointed as follows—

"(1) eight members from among individuals who are experienced in the educational problems of children with limited English-speaking ability;

"(2) two members from among individuals who are full-time elementary and secondary teachers who are experienced in extensive bilingual training;

"(3) three members from among individuals who are experienced in the training of bilingual teachers;

"(4) two members from among individuals who are experienced in the area of elementary and secondary education.

Members shall be appointed for terms of 3 years, except that (A) in the case of initial members appointed by the President, 5 shall be appointed for a term of 5 years each, 5 shall be appointed for a term of 2 years each, and 5 shall be appointed for a term of 3 years each; and (B) any appointment to fill a vacancy shall be made only for the unexpired portion of the term for which his predecessor was appointed.

"(b) The National Council shall meet at least four times in each year.

"(c) The National Council shall review and evaluate the administration and operation of this title, including its effectiveness in improving the educational attainment of children with limited English-speaking ability, including the effectiveness of programs under this title to meet their occupational and career needs, and make recommendations for the improvement of this title and its administration and operation.

"(d) The National Council shall make reports of its activities, findings, and recommendations (including recommendations for changes in the provisions of this title) as it may deem appropriate, and shall make an annual report to the President and the Congress not later than March 31 of each calendar year."

(b) The amendments made by subsection (a) shall be effective with respect to appropriations made after the date of enactment of this Act.

AMENDMENTS TO VOCATIONAL EDUCATION ACT OF 1964

Sec,. 3. (a) (1) Section 102 of such Act is amended by redesignating subsection (c), and all references thereto, as subsection (d), and by adding after subsection (b) thereof the following new subsection:

"(c) There are also authorized to be appropriated $40,000,000 each for the fiscal years ending June 30, 1975, and June 30, 1976, for the purpose of section 122 (a) (4) (C). Nothing in this subsection shall be construed to affect the availability for such purpose, of appropriations made pursuant to subsection (a)."

(2) Clause (D) of section 104 (a) (1) of the Vocational Education Act of 1964 is amended by inserting before the comma at the end thereof the following: "and of persons who have limited English-speaking ability".

(3) Clause (A) (vii) of section 104 (b) (1) of such Act is amended by inserting before the comma at the end thereof the following: "(including students of limited English-speaking ability)".

(4) (A) Clause (4) of section 122 (a) of such Act is amended by adding at the end thereof the following:

"(C) vocational education for students of limited English-speaking ability;".

(B) Section 122(c) of such Act is amended, in paragraph (3), by inserting "(A)" after "(3)" and by adding at the end thereof the following new subparagraph:

"(B) At least 10 per centum of each State's allotment of funds appropriated under section 102(a) for any fiscal year beginning after June 30, 1974, shall be used only for the purpose set forth in paragraph (4) (C) of subsection (a)."

(5) Section 123(a) of such Act is amended by redesignating clauses (17) and (18) thereof, and all references thereto, as clauses (18) and (19), respectively, and by inserting after clause (16) thereof the following new clause:

"(17) provides that grants made from sums appropriated under section 102(c) shall be allocated within the State among local educational agencies serving areas with high concentrations of persons with limited English-speaking ability;".

(b) The amendments made by subsection (a) shall be effective on and after July 1, 1974.

AMENDMENT TO THE LIBRARY SERVICES AND CONSTRUCTION ACT

SEC. 4. (a) Clause (4) of section 6(b) of the Library Services and Construction Act is amended by inserting before the period at the end thereof a comma and the following: "and to programs and projects which serve areas with high concentrations of persons with limited English-speaking ability".

(b) The amendment made by subsection (a) shall be effective on and after June 30, 1974.

AMENDMENTS TO THE ADULT EDUCATION ACT

SEC. 5a. (a) (1) Section 306(a) of the Adult Education Act is amended by striking out the word "and" at the end of clause (8) of such section, by redesignating clause (9), and all references thereto, as clause (10), and by adding after clause (8) the following new clause:

"(9) provide that special emphasis be given to the needs of limited English-speaking persons through the creation of bilingual adult education programs; and".

(2) Section 309(b)(1) of such Act is amended by inserting a comma and the words "including bilingual methods" immediately after the word "methods".

(3) Section 310(b) of such Act is amended by inserting a comma and the words "bilingual education" after the words "adult education".

(b) The amendments made by subsection (a) shall be effective on and after June 30, 1974.

EXHIBIT 1

In an effort to reverse the denial of equal educational opportunity to the non-English speaking population in the nation's schools, the staff of the NACEDC probed the possibilities for alternative funding of bilingual-bicultural education programs. If, for example, the States are funding programs similar to those funded by dollars from Title VII and some title I programs, then the Federal funds would have served as an impetus to get these programs into action at the State and local level. Their deletion at this time from Federal funding would thus not have the result of depriving children who are in need of, and entitled to, such educational programs. If, however, the States and localities have not taken steps to assume financing such programs, the pullout of Federal funds with no foreseeable replacement by the localities would severely limit the achievement of equal educational opportunity for all. There are approximately 5 million* children in the United States out of 51.5 million enrolled in public and non-public schools, who come to school unequipped to receive classes in English due to the fact that their native tongue is not English.

With this goal in mind, the staff has conducted a telephone survey to establish the policy of each State with regard to bilingual-bicultural education for the children in that State who have some language and culture other than English as their basis for communication.

For the most part this information was obtained by telephone from the Office of the Title I Coordinator in each State, or from the knowledgeable persons in the State Offices of Education. The following is a State-by-State description of State treatment of the questions of bilingual-bicultural education in the schools.

Alabama has no legislation or funding for bilingual-bicultural education outside of Title VII.

Alaska just passed legislation in 1972 (The Alaska State Operative School System Act) which appropriated $200,000 for bilingual-bicultural education in the 1972–73 school year. It is to be for any school that has 15 or more bilingual children. There are few guidelines in the law itself, and the State realizes that this is just a beginning, but they are concerned about bilingual-bicultural education and this funding for the 1972–73 school year is a start.

Arizona has no State monies or legislation for the provision of bilingual-bicultural education other than those provided under Title VII of the ESEA of 1965.

Arkansas has no State legislation or funding for the provision of bilingual-bicultural education other than those provided under Title VII of the ESEA of 1965.

California just passed the Bilingual Education Act of 1972 (December, 1972) and have appropriated $5 million for it.

Colorado does not, at present, have legislation for bilingual-bicultural education outside of that supported by the Federal government, but they are introducing a bill in this Congress (between February and March) which includes a statement of the great necessity for passage of such a law. As the bill presently stands it calls for a K–4 program for mandatory establishment of bilingual-bicultural education programs in schools where there are a minimum of 100 students of limited English speaking ability, or 25% of grade levels K–4. It calls for $5 million to be appropriated for the first year, $7.5 million for the second and third years, and $10 million for the fourth and succeeding years. The State, if the Bill is passed, would reimburse local schools for any expenditure above average per pupil expenditure for the State.

Connecticut has two laws giving sanctions which are permissive for bilingual-bicultural education. One authorizes receipt of Title VII funds, and another allows for circumvention of certification for native Spanish teachers. The State does not, however, have any specific bilingual-bicultural legislation or appropriations. The State Act for Disadvantaged Children has an appropriation of $7 million, and some of these funds can be and are used for bilingual-bicultural education is that it is a child's right under the Constitution to a competent teacher to teach him whatever language he speaks. No specific separate funding is set aside for this, but Connecticut does have the resources under general education funds. They pay for competent teachers to teach a child, whatever his learning needs may be.

Delaware has no specific law providing for bilingual-bicultural education. The only

funds in the State for this purpose at present come through Federal Funds (Title VII and Title I) and are mostly unsed for migrant programs within the State. There is a law on the books, originated circa 1920, which required that classes must be taught in the English medium, but this law is not presently enforced and teachers may teach in another language if they wish to. At one time the State had its own migrant programs funded by philanthropic donations, etc., but at the present time the primary source of funds for these programs is the Federal Government.

The District of Columbia has no specific legislation for the provision of bilingual-bicultural education, but there is a move on for such education at the local level. The District School system has a Director for Bilingual Education for the D. C. Schools, and there is a direct lobbying effort with the Board of Education for the rights and needs of the Spanish speaking in the district. Whether this will lead to positions and action by the House District Committee or not remains to be seen. The District does partake of Title VII funding, but even without these Federal dollars the District pays for 16 bilingual-bicultural teachers in bilingual programs. They have, also, just hired a full-time person to start coordinating the thrust for bilingual education at the secondary level.

Florida has no specific State Legislation for bilingual-bicultural education, although some monies out of the General Education Fund are used for this purpose if the localities so decide. The successful experiments in Dade County are carried on mainly from Federal Funds (Title VII, ESEA) and from funds from the Dade County School District (Dade County, according to Mr. Stapleton in the Florida State Education Agency, is the biggest and richest county in Florida and it spends a good bit of local funds for these programs. However this has recently come under criticism as a result of the Serrano vs. Priest case in California.)

Georgia has no legislation aimed toward bilingual-bicultural education nor are there any appropriations for this purpose.

Idaho has no specific law relating to bilingual-bicultural education, nor does it fund it. Any school district may have a special program levy for migrant children if they so desire. The education law is permissive, but not mandatory, and it does not specifically use the term bilingual-bicultural.

Illinois does have legislation providing for bilingual-bicultural education (House Bills 1074 and 1078). For fiscal 1972 there was an appropriation of $950,000, and for 1973 $2,300,000 has been budgeted and approved. This 1973 money, however, does not come under any law, but is an in-line cost item on the Superintendent's budget. This is not a Bill in the Legislature, but the budget must be approved by the Illinois State Legislature (and it was approved for 1973). $4.5 million is being proposed for this purpose in 1974 (also as a line item on the Superintendent's budget, and not as a bill.) At present Illinois is funding 20 bilingual centers in Chicago and 23 in down-State Illinois. The State also receives approximately $535,000 from Title VII.

Indiana has no State money going into bilingual-bicultural education, only Federal money. There is no legislation or funding for this purpose.

Iowa has no legislation or funding specifically for bilingual-bicultural education, nor is there any such legislation pending in the Legislature. They do, however, add $35,000 of State funds annually to the State appropriations for special education for the specific purpose of Migrant Education.

Kansas has no State legislation or appropriations for the provision of bilingual-bicultural education in the State. There is a part of another education law that would be permissive for programs such as bilingual-bicultural, but there are no earmarked funds for this purpose. According to Mr. Serrano, at the State Office of Education, Kansas isn't even included under Title VII appropriations, because the percentage of children that have a native language other than English in the State is much lower than the percentage required for eligibility under Title VII. The State does, however, have some bilingual-bicultural staffing under the Title I Migrant Provision.

Kentucky has no law and no provision for State funding that would address itself specifically to bilingual-bicultural education. There appears to be no restrictive legislation, but at present there are not classes being taught in any language other than English. Bicultural education (African history, etc.) is left up to the discretion of the localities. Funds for such projects would come from General Education Funds.

Louisiana does have extensive legislation for bilingual-bicultural education (in French) stating that French can be taught and used as a medium of instruction in the elementary schools. In 20 of 64 counties in Louisiana, French is taught an hour a day with "teaching assistants" from France (these persons are supplemental to existing teachers). Act No. 408, House Bill No. 437 is basically an act to further, preserve, and utilize the French language and culture of Louisiana. Approved July 20, 1968. At first the law had no appropriations, but in 1972 $250,000 was allocated by the legislature with matching funds from the State Education Agency.

(Note, in staff conversation with member of State Education Office there was little mention made of the Spanish speaking population in Louisiana—their legislation is specifically for the French language and the State funding for bilingual-bicultural Spanish education appears to be minimal.) However, Mr. Diaz was worried about ESA funding which replaces ESAP (which expires February, 1973). According to him ESA has a 4% holdout for Foreign language instruction but the Dallas regional office had told him (and other Louisiana education officials) that this money is limited to those groups who have been legally defined as minority groups—and therefore French is not entitled to those funds.)

Maine has had a statute on the books for a few years which is a step in the direction of bilingual-bicultural education. It states that the Commissioner of Education is empowered to work with HEW for concentration of bilingual-bicultural funds (in Maine French is the most frequent second language.) The statute allows bilingual education techniques in preschool through the second grade to enhance learning and earning potential. A recent amendment to this statute has removed the second grade limitation for teaching in the native language. At the secondary level they are trying to get it included in the legislation that highschool courses may also be taught in a foreign language. The present law, however, only allows teaching in a foreign language up through the second grade, and the funds for such programs come out of General Education funds. This permissive legislation was passed about six years ago. In addition the State has considerable Title VII for French education in the Senate.

Maryland does not have any laws for the provisions of bilingual-bicultural education in the State, nor does it have any funds for this purpose. There isn't any law restricting instruction to the English medium, however.

Massachusetts does have bilingual-bicultural legislation (Transitional Bilingual Education Act, Chapter 71A, November, 1971). Among its provisions are: 1. A State Bureau established to administer Program. 2. Local level agency and district with 20 or more in one language classification other than English who cannot perform work in English will be treated in a bilingual-bicultural setting. 3. They define specifically treatment and curriculum for bilingual-bicultural. 4. Act calls for a biennial census. 5. Funding—over and above per capita cost. Floor $250—ceiling $500. 6. Funds come from General Aid to Education. The first year was funded for $1.5 million, second and third years for $2.5 million, and fourth year $4 million. The legislation doesn't require specific allocations because the money is already in the general education funds, only funds for administration are required to be passed by Congress. 7. Parent Involvement is required, and there is a whole new section on certification pertaining to bilingual-bicultural teachers.

Michigan. Last year the Michigan Legislature approved $88,000 to be used out of the State Education Budget for bilingual-bicultural programs. There is no specific bill, just an authorization to the Office of Education to use these $88,000 out of their general funds for bilingual-bicultural education.

Minnesota has no specific law for bilingual-bicultural education although their general education laws are permissive. The last legislature passed a law for bilingual-bicultural teacher training (funded for close to $1 million). The State does have a scholarship program for Indian children, but this is at the post-secondary level.

Mississippi has no law pertaining to bilingual-bicultural education. According to Mrs. Ruth Hubbell in the Office of Governor Bill Waller, "it will probably be far in the future before any such funding will come about." According to Mrs. Hubbell the only foreign language group in Mississippi is the Choctaw Indians, and they are funded under the Bureau of Indian Affairs.

Missouri has no laws providing for bilingual-bicultural education. In the words of Mr. Lloyd Boyd, Asst. Director, Title I, "The State has very few people who do not speak English."

Montana has no legislation in the field of bilingual-bicultural education, although the State Constitution says that Montana is responsible for education of all its citizens. There are bilingual programs conducted but only those which are federally funded. Even here, however, basic courses are taught in English with a Spanish speaker in attendance where necessary.

Nebraska has no provisions at all for bilingual-bicultural education. As a matter of fact, there is still a standing law that no language other than English may be used as the medium of instruction. This law is not enforced, however. Many Title I Migrant programs use Spanish as the medium of instruction.

Nevada has no laws providing for bilingual-bicultural education in effect. There used to be an old law specifying that only English can be used as the medium of instruction in Nevada schools, but that was amended last January to permit such instruction where necessary. There is no other State bilingual-bicultural legislation, however.

New Hampshire has no law specifically making provision for bilingual-bicultural education in the State. Outside of one Title VII project only parochial schools have such programs in French. Up until a short time ago there was a State law that required that English be the only medium of instruction in New Hampshire. This law has now been amended to allow bilingual-bicultural education, but there is no funding earmarked for this purpose. The law allows for experimental programs in bilingual education if the program is approved and sanctioned by the State Board of Education.

New Jersey does not at present have any law specifically providing for bilingual-bicultural education. Some local districts have used Model Cities Funds, some localities like Newark have huge, bilingual programs sponsored out of local funds. As far as legislation is concerned it is obviously permissive, but nothing specific or with appropriations at the State level. There is a group called the Puerto Rican National Defense and Education Fund, (based in New York City) which

is pushing for legislation for bilingual-bicultural education which would require it where there is a concentration of children having a language other than English. Their major thrust is through court cases.

New Mexico already has two laws on the books which are permissive for bilingual-bicultural education. House Bill 270 (1970) and Senate Bill 155 (1971). House Bill 270 provides no monies, but is permissive to allow localities to spend education funds as they so desire. Senate Bill 155 authorized bilingual programs for children whose native language is not English. Teachers must have elementary education certificates with a specialization in bilingual-bicultural education. This has $100,000 funding, and this they have nine programs. Both of these bills are permanent statutes. In 1972 there was no money appropriated for Senate Bill 155, but some money for special programs of which $296,000 was spent for bilingual-bicultural programs. Senate Bill 155 could be funded again. Additional legislation is being proposed by Mr. Matt Chacon. NACEDC Staff spoke to Mr. Enrique Pasqual, Director of Bilingual-Bicultural Education in New Mexico, who reports that Mr. Chacon has taken the Massachusetts law verbatim and presented it to the New Mexico Legislature for this new session. (Mr. Pasqual says that after a State survey recently taken, it was found that there are 40.7% Spanish surnamed children in New Mexico, 7.2% Indian children [speaking 8 different Indian languages], and 3% Negro. This comes to a total of 51% minority groups, and 49% white Americans. Mr. Pasqual suggests that the approach in New Mexico should be different, and that bilingual education should be presented in New Mexico schools for *all* children, not just minority classes. 20% of the teachers are Spanish-surnamed, and most of these are bilingual-bicultural. The State needs to take advantage of this good fortune. Mr. Chacon's bill is providing bilingual education only for the "minority" groups. Mr. Pasqual feels it is "much too cumbersome, and tends toward resegregation. It is segregationist in nature, and I am afraid of that."

New York has a law permitting bilingual education for three years. It is now being extended to five, but there are no allocations of funds. Permissive legislation exists. Article 44 of the Laws of New York State are now being amended to give some State Aid (approximately $4 million—which they hope will increase to around $10 million over the next five years). This law has been introduced in the New York Legislature, is in Committee, and according to Mr. Perez, Supervisor of Bilingual Education for the State, has a good chance to be made into law. However, it is not law yet, and even if it does, considering the number of non-English speaking persons in New York Mr. Perez says the allocation is minimal. The State assumes more will be allocated at the local level. The State is also hoping for some changes in the certification requirements, but Mr. Perez did not elaborate on this.

North Carolina has no law providing for bilingual-bicultural education at the State level, nor does it have funding for such a purpose. North Carolina does not even receive Title VII funds because they do not have a concentration of non-English speaking children.

North Dakota has no State law providing for bilingual-bicultural education, although there are a few, very limited Indian programs funded by the State (most of these programs are experimental and developmental.)

Oklahoma has no specific legislation dealing with the provision of bilingual-bicultural education to students in the State. There have been some localities which have done work in the field and have funded bilingual-bicultural education programs. The work of the Federal programs have to an extent influenced the programs taken over by localities. There is no legislation on the books which limits the medium of instruction to English. In summary, there is no specific law providing for bilingual-bicultural education and no funding for that purpose. The law is not restrictive as far as dictating the medium of instruction, but outside of Federal programs, localities have to initiate and fund such programs themselves—there is no State aid.

Ohio has no bilingual-bicultural State law at present, but there is a proposal for such a law in the mill (i.e. a legislative Committee has a draft proposal in very rough form—and it might not even be introduced). NACEDC staff spoke with a Mr. Horn in the State Education Office who sounded very skeptical about the bill's chances for introduction. He said the proposal was being made by two Mexican-American groups, and is based substantially on the Massachusetts law, which in Mr. Horn's words "won't work in Ohio." He didn't comment further.

Oregon in the past Legislature passed a Bill allowing that English as a second language could be taught in any Oregon School. They presently have only one tri-lingual program, a Woodburn School in which classes are taught in Spanish, English and Russian. There are, however, no State appropriations to fund this law and even the Woodburn Program must seek Federal funds.

Pennsylvania has some directives applicable to bilingual programs which have been sent out to the school districts from the office of the State School Administrator. The School Administrator's Memorandum 515, Guidelines for Educational Programs for Children Whose Dominant Language Is Not English, is a very detailed, full statement of what a bilingual child's rights are in Pennsylvania, and how he should be treated to insure him equal opportunity to perform at his maximum level in school. The guidelines make it mandatory to have bilingual programs, using State and local funds for the primary thrust in districts where there is a concentration of students whose native language is not English, and these funds are to be supplemented by other sources, mainly Federal. All districts have to file a bilingual education compliance report forms. (NACEDC staff has a copy of The Guidelines and it makes interesting, informative reading for anyone who is interested.)

Rhode Island, in its general State aid formula provides for payment of one-third of the expense of any bilingual education program that is set up and carried out by a local education agency. Other than this, there is no legislation on the subject other than permissive legislation within the general education laws. There is, however, a move on in the present session of the General Assembly to pass legislation very similar to that which is presently law in Massachusetts.

South Carolina has no State laws or funding for bilingual-bicultural programs.

South Dakota has no legislation or appropriations which provide for bilingual-bicultural education within the State. There is, however, no restrictive legislation and the State does finance programs under Title VII when their programs are approved.

Tennessee does not have any legislation for the provision of bilingual-bicultural education. They do not participate in Title VII. There is no law preventing enactment of bilingual-bicultural education if the localities so choose.

Texas legislation to date only allows bilingual-bicultural education as an option for the schools. There are no appropriated funds. New legislation is to come before the State Congress this year and is to include teacher training, textbooks, etc. The proponents of this legislation hope to have about $2 million allocated for this purpose the first year and larger amounts for the years to follow. Such a law was passed by both houses two years ago, but it ran into trouble with the "Dirty Thirty" and some bank scandal in Dallas. Dr. Gomez, to whom NACEDC staff spoke, is hopeful the law will be enacted this year.

Utah has no legislation or funding for bilingual-bicultural education at the State level.

Vermont has no legislation or appropriations for bilingual-bicultural education, but there isn't any law keeping localities from having such classes if they choose to do so.

Virginia has enacted standards of quality, but whether or not there are funds available to meet these standards is something else. The law is specific on special education, but there is no specific law or funding for bilingual-bicultural education.

Washington has no legislation for bilingual-bicultural education. There is a Chicano group which is presently lobbying for such legislation, but only time will tell if they are successful. In 1967 the education legislation was amended to allow another language to be used wherever it is in the best interest of the child, but there is no specific, funded legislation. Presently their bilingual-bicultural programs are funded by Federal money.

West Virginia has no legislation providing for bilingual-bicultural education, nor any appropriations for this purpose. There are very few bilingual-bicultural children in West Virginia except for the migrant population in the panhandle (according to Mr. Purdy, State Title I Coordinator). However there isn't any legislation that restricts the medium of instruction to English.

Wisconsin does not have specific legislation for the provision of bilingual-bicultural education, but they do have bilingual-bicultural programs which are often funded on the local level. They operate on the basis of meeting special educational needs of children. Their legislation does not restrict instruction to the English medium, and they do receive Title VII funds.

Wyoming has no legislation directed toward any special programs other than provision for foundation of programs for vocational and handicapped education. Wyoming has no large concentration of non-English or bicultural citizens. The State, however, doesn't have any legislation restricting the medium of instruction to English. Wyoming has never received Title VII funds, the applications have always been turned down for one reason or another.

In summary, of the States surveyed only eleven have legislation of any kind concerning bilingual-bicultural education, and of these only Alaska, California, Illinois, Massachusetts, Maine and New Mexico seem to have explicit ideas about the subject. Of the eleven with some legislation only six have funds set aside to make the legislation work. A few other States have indicated either that there is some legislation pending in Congress with regard to providing bilingual-bicultural education or some interest by lobbying groups to the State Congress on the subject. Illinois and Pennsylvania have made provision for bilingual-bicultural education in ways other than legislation, but as a general rule it appears that the majority of the States would lose most of their support for bilingual-bicultural education if these funds were to be withdrawn by the Federal government.

The President firmly stated in his Equal Educational Opportunities Act that denial of equal educational opportunity is an unlawful practice, and in Section 201, Title II (Unlawful Practices) sets forth that "No State shall deny equal educational opportunity to an individual on account of his race, color, or national origin by . . . (f) the failure by an educational agency to take appropriate action to overcome language barriers that impede equal participation by its students in its instructional programs." The Act goes further in Title III (Enforcement) to state that "An individual denied an equal educational opportunity, as defined by this Act, may institute a civil action in an appropriate district court of the United States against such parties, and for such relief, as may be appropriate. The At-

torney General of the United States . . . for or in the name of the United States, may also institute such a civil action on behalf of such an individual." The bill goes further to say that if the Attorney General does institute such a civil action on behalf of the individual then the Federal Government will be liable for the costs of the suit.

The above-quoted legislation is strong evidence that the President considers the right to understand one's teacher one of the inalienable rights if equal educational opportunity is to be achieved, and with this in mind it appears that the withdrawal of Federal funds from the bilingual education programs would serve a great injustice to this ideal.

EXHIBIT 2

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
Washington, D.C., May 25, 1970.

MEMORANDUM

To: School Districts With More Than Five Percent National Origin-Minority Group Children.

From: J. Stanley Pottinger, Director, Office for Civil Rights.

Subject: Identification of Discrimination and Denial of Services on the Basis of National Origin.

Title VI of the Civil Rights Act of 1964, and the Departmental Regulation (45 CFR Part 80) promulgated thereunder, require that there be no discrimination on the basis of race, color or national origin in the operation of any federally assisted programs.

Title VI compliance reviews conducted in school districts with large Spanish-surnamed student populations by the office for Civil Rights have revealed a number of common practices which have the effect of denying equality of educational opportunity to Spanish-surnamed pupils. Similar practices which have the effect of discrimination on the basis of national origin exist in other locations with respect to disadvantaged pupils from other national origin-minority groups, for example, Chinese or Portuguese.

The purpose of this memorandum is to clarify D/HEW policy on issues concerning the responsibility of school districts to provide equal educational opportunity to national origin-minority group children deficient in English language skills. The following are some of the major areas of concern that relate to compliance with Title VI:

(1) Where inability to speak and understand the English language excludes national origin-minority group children from effective participation in the educational program offered by a school district, the district must take affirmative steps to rectify the language deficiency in order to open its instructional program to these students.

(2) School districts must not assign national origin-minority group students to classes for the mentally retarded on the basis of criteria which essentially measure or evaluate English language skills; nor may school districts deny national origin-minority group children access to college preparatory courses on a basis directly related to the failure of the school system to inculcate English language skills.

(3) Any ability grouping or tracking system employed by the school system to deal with the special language skill needs of national origin-minority group children must be designed to meet such language skill needs as soon as possible and must not operate as an educational dead-end or permanent track.

(4) School districts have the responsibility to adequately notify national origin-minority group parents of school activities which are called to the attention of other parents. Such notice in order to be adequate may have to be provided in a language other than English.

School districts should examine current practices which exist in their districts in order to assess compliance with the matters set forth in this memorandum. A school district which determines that compliance problems currently exist in that district should immediately communicate in writing with the Office for Civil Rights and indicate what steps are being taken to remedy the situation. Where compliance questions arise as to the sufficiency of programs designed to meet the language skill needs of national origin-minority group children already operating in a particular area, full information regarding such programs should be provided. In the area of special language assistance, the scope of the program and the process for identifying need and the extent to which the need is fulfilled should be set forth.

School districts which receive this memorandum will be contacted shortly regarding the availability of technical assistance and will be provided with any additional information that may be needed to assist districts in achieving compliance with the law and equal educational opportunity for all children. Effective as of this date the aforementioned areas of concern will be regarded by regional Office for Civil Rights personnel as a part of their compliance responsibilities.

SUMMARY SHEET

Number of districts presently under review, 27.

Number of districts scheduled to be reviewed during the 1971–72 school year, 10.

Number of districts notified of non-compliance and have negotiated plans, 12.

Number of districts notified of non-compliance and have not yet negotiated plans, 1.

Number of districts notified of non-compliance and will not negotiate or submit plans, 3.

Region I, Boston

Districts Presently Under Review

Boston Public Schools.

Region II, New York

Districts Presently Under Review

Hoboken, New Jersey, Perth Amboy, New Jersey, Buffalo, New York.

Districts Scheduled To Be Reviewed

Passaic, New Jersey (no date set).

Region III, Philadelphia

Districts presently under review

None.

District Scheduled To Be Reviewed

OCR 101 forms are being reviewed in order to select districts to review.

Region IV, Atlanta

Districts Presently Under Review

Aiken, South Carolina (blacks/special education).

Districts Scheduled To Be Reviewed

None.

Region V, Chicago

Districts Presently Under Review

East Chicago, Indiana, Saginaw, Michigan, Shawano, Wisconsin (Native Americans), Ulysses, Kansas, Goodland, Kansas, Garden City, Kansas, Holcomb, Kansas.

Districts Scheduled To Be Reviewed

Defiance, Ohio, Leipsig, Ohio, Findley, Ohio.

Region VI, Dallas

Districts Presently Under Review

Victoria ISD, Texas, El Paso ISD, Texas, Santa Maria ISD, Texas, South San Antonio ISD, Texas, Raymondville ISD, Texas, Hobbs, New Mexico.

Districts Which Received Letters of Noncompliance and Have Negotiated Plans

Ozona ISD, Texas, Bishop ISD, Texas, Lockhart ISD, Texas, Beeville ISD, Texas, San Marcos ISD, Texas, Weslaco ISD, Texas, Los Fresnos ISD, Texas, Sierra Blanca ISD, Texas. Rotan ISD, Texas, Pawnee ISD, Texas, Fort Stockton ISD, Texas, Carney Rural ISD, Texas.

Districts Which Received Letters of Noncompliance and Have Not Negotiated Plans Yet

La Feria ISD, Texas.

Districts Which Received Letters of Noncompliance and Will Not Negotiate or Submit Plans

Uvalde ISD, Texas, Karnes City ISD, Texas, Taft ISD, Texas.

Districts Scheduled to be Reviewed (before end of present school year)

Eagle Pass ISD, Texas, San Benito ISD, Texas, Soccoro ISD, Texas.

Region VIII, Denver:

Districts Presently Under Review

Colorado Springs, Colorado, Fort Lupton, Colorado.

Districts Scheduled to be Reviewed

None.

Region IX, San Francisco:

Districts Presently Under Review

Tempe, Arizona, Tucson, Arizona, Winslow, Arizona, Pomona, California Delano, California, Bakersfield, California, Fresno, California.

Districts Scheduled to be Reviewed

San Bernardino, California (May), Sweetwater Union, California (no date).

Region X, Seattle:

Districts Presently Under Review

None.

Districts Scheduled to be Reviewed

Alaska State School System (preliminary in April-May).

Mr. MONTOYA. Mr. President, the Bilingual Education Act, title VII of the Elementary and Secondary Education Act, has been in operation for 7 years. When we began this effort to assist the States in providing educational equality for children who speak a language other than English, we were embarking on a voyage into the unknown: We knew the need existed, but we did not know its limits or the best way to go about filling that need.

On July 12 of this year I made a statement to this body concerning our effort to correct the serious educational inequalities faced by these minority children—and our failure to do the job so far.

Today I am joining Senator CRANSTON and Senator KENNEDY in proposing amendments to our bilingual education legislation in an attempt to improve and expand on the original legislation. It is time for us to incorporate the knowledge we have gained in the last few years into our national program. It is time to reassess our plans and our problems. It is time to concede our inadequacies and to reaffirm our determination to work toward the goal of the best possible education for every American child.

On July 12 I spoke to you of the 7 million children who are victims of an educational system which is not yet equipped to teach them: Children who speak and think in one language and are asked to learn in another. The original intent of the Bilingual Education Act was to create educational programs which would provide these children with a new way to learn in two languages at once, and would make them truly bilingual. We wanted to give them the opportunity to speak

and read and write in two languages: In English, which is the language of the majority, and in their other language—Spanish, or French, or Indian, or Chinese—the language of their heritage, their home, and their community. We wanted to give them fluency in their native language and pride in their heritage, as well as the ability to live and work in a nation whose primary vernacular was English.

Our efforts were not entirely altruistic. We wanted to keep those children in school and to teach them enough so that they could become productive and participating members of our society, instead of becoming the dropouts and welfare recipients of the future. The money we provided for that extra educational effort would not only provide educational equality to those children, it would be an investment in the future well-being of this Nation.

Unfortunately, we have never been able to provide the money which would accomplish a real educational breakthrough for these children. We have only reached 2 percent of those youngsters who need bilingual education with our Federal programs, even in our most successful year. We found we did not have the books, the testing materials, the history texts, the teaching tools to do the job. We did not have teachers ready. There were many States with outmoded laws which made it impossible for the bilingual programs to be used effectively. We found that there was institutional resistance to change in education at every level. We found it hard to explain the educational handicaps of culturally different students to the rest of the taxpaying public.

But the last few years have seen many changes in our understanding of the problems of minority groups. The Civil Rights Commission has done an in-depth study of the education of the Mexican-American children of the Southwest. Puerto Ricans, Spanish-speaking Americans, Cuban refugees, Indian Tribes, and other groups have all organized themselves to provide us with new data and new ideas. The Office of Education and the Department of Labor have brought our statistics up to date.

Educators have made great strides too. They know now that exclusion from your own cultural heritage and history, from your language and community, can be so destructive of the self-confidence of a student that he gradually loses his ability to learn. We know that we can change that, and can provide an educational experience which enriches both the minority child and the English speaking child who is lucky enough to share in a bilingual and bicultural program. In the relatively few places where we have been able to provide model programs, we have made significant progress in cutting the dropout rates and in raising the educational attainment of all children.

The most serious discovery we have made is that we do not have the teachers or even the teacher-training programs to handle the problem nationwide. The tiny teacher-training effort we made through the EPDA under the Higher Education Act has now disappeared entirely—and was never enough to provide the thousands of teachers we would need to make bilingual education really work.

The junior colleges and community colleges, where most of these minority students go to school if they stay in the educational system, are not equipped themselves to teach bilingually, and are not ready to provide teacher-training programs which will lead to a large enough increase in number of teachers. Yet these schools are the ones which most clearly understand the problem and the need because they are closest to the target minorities.

Dr. Charles Lebya, director of project Maestro at California State College in Los Angeles, has recently sent me the preliminary report of a survey done on the bilingual projects funded under title VII. The responses to his questionnaire from directors in 106 of the 217 funded projects present a representative picture and dismaying one for those of us who are concerned about the real future of bilingual education.

In the districts covered there was a need for 35,117 bilingual teachers, but only 9,448 teachers who were actually bilingual. Colleges in the area were only preparing 2,000 bilingual teachers, yet these projects were in areas where 44 percent of the children were bicultural/bilingual children. Obviously, the need for bilingual education is not being met, even in these limited number of specially favored districts.

Even more discouraging, in the schools studied where a bilingual program was actually in operation, only 1,951 of the 2,772 teachers in bilingual programs were actually bilingual themselves. In other words, almost one-third of the teachers who were trying to teach a bilingual program were not able to speak to the children in their own language or were not able to read and write in both languages. And these, Mr. President, are our best programs—the programs selected for Federal funding under current budget limitations.

Language development, ethnic history studied, and new methods of teaching are all high on the list of both preservice and in-service training requirements mentioned by administrators in these programs. Unfortunately, the programs to provide that teacher training do not yet exist in sufficient amount to fill the need.

The amendments we are offering today will begin to provide for the in-depth teacher need more realistically. Provision is made in these amendments for both innovative new programs and for ongoing development of short-term and long-term special training programs. Provision for the development of new books, new testing materials, new visual aids and equipment, and new curriculum plans is important in connection with any teacher-training plans we make. It will be necessary to develop many new ways of doing the things we have done before. Education with only one language and one cultural slant is simpler, and is of course less rewarding than bilingual education. Now that we are able to utilize and understand the multicultural heritage and the multilingual capabilities which are an untapped national resource, we will be better able to expand on the educational offering we make to all children. But we must learn the best ways to use the new resource; like any new field of education, this will require the research and development effort which is provided for in these amendments.

One of the problems faced by any national program of this kind is the great variation in State needs, State requirements, and State capabilities. In recent years several States have rewritten their laws and have developed excellent bilingual State programs, but many States still have no real programs planned. The National Advisory Council on the Education of Disadvantaged Children has recently presented a report to the President and the Congress concerning America's educationally neglected children, and it provides a survey of the various State bilingual/bicultural legislation currently in existence.

I think every Member of Congress should be aware of the problem as it exists in his own State and of the State legislation which addresses that problem. Populations shift so rapidly in these times that States which have historically not had to face bilingual or bicultural education problems are now recognizing new needs and are developing new solutions.

Since each State has a somewhat different concern, and some States are better equipped financially to provide for educational needs than others, it is essential that the Federal program be concerned with the different needs and the different legislative responses, as they develop. The Cuban child in Florida, the Mexican American child in Texas, the Indian child in New Mexico, the chicano child in California, the Eskimo child in Alaska, the Puerto Rican child in New York—all of these children face the same difficulties, but may be helped by slightly different solutions. The flexibility of our programs and our guidelines will be important as we move ahead in finding educational solutions.

In order to properly address all of these facets of the bilingual/bicultural Federal effort, the amendments offered today provide for the creation of a Bureau of Bilingual Education and for a National Advisory Council to assess our needs and to coordinate new ideas. With that provision we will be better able to provide cooperation between the Federal, State, or local programs and to offer needed new tools as rapidly as possible. Cooperation between parent, community and school will be encouraged so that participation by minority groups at the local level will be developed to desirable levels.

Mr. President, this legislation will not provide all that is needed. We are only beginning to understand the desperate situation in which these children have been placed, and we are only beginning to understand the commitment we must make in order to truly provide equality of educational opportunity for them. The legislation proposed today will continue our national effort, and will expand our national program in such a way that imagination and creativity can produce real progress. The changes are essential if we are going to educate our bicultural children. But the future possibilities of

these programs are beginning to take shape. It is becoming apparent that bilingual/bicultural education will mean hope for the disadvantaged child who speaks and thinks in a language other than English. If we can develop the programs to fill the needs of these children, we will also be opening new vistas and new doors to all children. The provision in this legislation for participation by English-speaking children means that we want to offer a greater educational opportunity to the average American child. As we develop our own national multicultural resources we will be preparing all children for a better future in a multicultural and multilingual world.

I urge every Senator and every Congressman to examine the bilingual/bicultural needs of his own State and of this Nation—and to support the amendments which are being proposed today.

By Mr. CRANSTON (for himself, Mr. KENNEDY, and Mr. MONTOYA):

S. 2553. A bill to amend title VII of the Elementary and Secondary Education Act of 1965 to extend, improve, and expand programs of bilingual education, teacher training, and child development. Referred to the Committee on Labor and Public Welfare.

COMPREHENSIVE BILINGUAL EDUCATION AMENDMENTS ACT OF 1973

Mr. CRANSTON. Mr. President, I introduce for appropriate reference—for myself Mr. KENNEDY, and Mr. MONTOYA—a bill entitled the "Comprehensive Bilingual Education Amendments Act of 1973."

Also today, I am cosponsoring a companion measure on bilingual education introduced by the distinguished Senator from Massachusetts (Mr. KENNEDY) in which we are again joined by our colleague from New Mexico (Mr. MONTOYA.)

The measures are intended to be complementary. Taken together, they provide a broad new scope for our important Federal bilingual efforts.

My bill concentrates on programs at the elementary and secondary levels of education, which I will discuss in detail later in my remarks. Senator KENNEDY'S measure includes higher education programs, teacher training, and vocational provisions. The measures were developed in tandem, from a wide range of expertise and materials. Of great importance to the development of my own measure were field hearings in California earlier this year which I joined in chairing with the distinguished chairman of the Senate Education Subcommittee (Mr. PELL).

The measures we introduce today have an identical goal: To provide educational programs that regard the bilingual child as advantaged, not disadvantaged; that provide opportunities for the monolingual English-speaking child to encounter the rich resources the bilingual-bicultural child brings to the classroom; and to provide opportunities for parental and community involvement in the building of a sound bilingual-bicultural program available to all children.

INTRODUCTION

Mr. President, our current Federal bilingual education legislation—specifically title VII of the Elementary and Secondary Education Act of 1965—expires in 1974. Since its passage by the Congress in 1967, the program has provided a number of demonstration projects across the country that have evidenced the value of a bilingual-bicultural education for all children, not just those children whose mother tongue may be other than English.

The title VII program has proved its efficacy. It has proved its worth in spite of the perennial lack of sufficient funding. And it has proved its worth to a growing number of bilingual constituencies: In fiscal 1973, for example, $28.1 million was provided under title VII for projects involving the Spanish-speaking; $2.6 million was spent for Eskimo and American Indian bilingual education; $1 million was devoted to children whose dominant language is French; $650,000 went for bilingual programs serving those whose home language is Portuguese, and the balance of the appropriation was broken down into $500,000 for Chinese programs, $189,000 for the bilingual people of Guam, and $75,000 for the Trust Territories.

Still, we by no means met the need. Conservative estimates indicate that there are at least 5 million children in the United States who needed bilingual services. Under the fiscal 1973 expenditure level, only 147,000 were served, leaving an enormous gap between what we are doing and what we need to do.

The introduction of a measure such as we introduce today implies, of course, a certain bias. I believe in bilingual education and the diversity it suggests. I believe in regarding language and cultural differences as advantages to the development of a fully alive and productive human being. And I believe, based on the experience generated through title VII, that it is now time to give the Federal bilingual effort new legislative life, but with a stronger, more definitive focus.

Let us begin with a definition: In simple terms, bilingual education involves the use of two languages, one of which is English, as mediums of instruction. Both languages are used for the same student population—not as an isolated effort, but as a key component of a program embracing the total curriculum.

Rather than an objective in itself, bilingual education is part of a much larger goal: A child with a full understanding of his cultural heritage, in command of that heritage, and with a deep respect for all it implies. A model bilingual program treats the child whose mother tongue is other than English as advantaged, not disadvantaged. And a model bilingual program involves the parent and community—directly, fully, and honestly—in the fabric of the program.

Mr. President, when we talk about bilingual education we are talking about more than a transitory educational mode. We are talking about the lives of children, developed to their full potential in schools that exist for those children, not where children exist for the schools.

I believe that bilingual education can be a great force in fostering educational change in America. For one thing, it challenges the assumption that schools need offer only one curriculum in one language—English—to serve one group of children—Anglos. It sweeps aside the notion that the child must change to meet the needs of the school. And it clearly rejects the idea that the prime objective of the school is to wipe out all differences in style, heritage, and language background, delivering to society—at the end of 12 years—a nicely packaged, well-rehearsed, automatic reciter of majority maxims.

This is the route that schooling in America has travelled historically. I suspect it is also the route to a dull and lifeless society, as more and more we reorient, remodel, or retool children who are culturally and linguistically different, in the determined belief that they are somehow deprived.

It is not a new trend, but rather is a deeply imbedded view of what schools are for and what they should do. One writer has called it the "assimilate or starve" school of educational theory, and it reflects an antiminority tradition in American public education that is only now beginning to change.

In spite of popularly held notions, our schools were not the ladders upon which early 20th century immigrants climbed to instant success, dropping their language and their heritage on the way up. In fact, the public schools have never done much of a job of educating minority children. Minority distrust and avoidance of public schooling is deeply rooted in history.

As Nathan Glazer has pointed out, to most immigrant groups—the Irish, the Italians, the Poles, the Slavs—education was by no means important or highly regarded. On the contrary, families survived by working and pooling individual incomes—mother, father, and children.

UCLA historian Stephan Thernstrom estimates that nearly 20 percent of laboring families' incomes came from the labor of children under the age of 15. Houses were bought, clothes were purchased, and food was provided by keeping children out of school and working.

Most immigrants, in fact, viewed schools with suspicion and hostility. For one thing, as Glazer has pointed out, education "was for a cultural style of life and professions the peasant could never aspire to." Personal and family circumstances were changed by hard work, or luck, but not by spending time in a school.

Unfortunately, this attitude was shared by the schools. What resulted were middle-class schools with middle-class curriculums designed to serve the American middle class—not the minority often lower class, child.

Dr. Leonard Covello, the first Italian-American to become a principal in the New York City schools, describes his school days like this:

> The Italian language was completely ignored in the American schools. . . . We soon got the idea that Italian meant something inferior, and a barrier was erected between children of Italian origin and their parents. This was the accepted process of Americanization. We were becoming Americans by learning how to be ashamed of our parents.

Decades later, Charles Silberman—in

"Crisis in the Classroom"—would describe how schools had perpetuated this cultural annihilation, this time against the Spanish-speaking child:

In a South Texas school, children are forced to kneel in the playground and beg forgiveness if they are caught talking to each other in Spanish; some teachers require students using the forbidden language to kneel before the entire class.

In a Tucson, Arizona, elementary school classroom, children who answer a question in Spanish are required to come up to the teacher's desk and drop pennies in a bowl—one penny for every Spanish word. "It works," the teacher boasts. "They come from poor families, you know."

In a school in the Rio Grande Valley, teachers appoint students as "Spanish monitors." Their job is to patrol the corridors, writing down the names of any fellow students they hear talking in Spanish.

Even if we could agree that schools are to integrate minorities into the mainstream of society, there is ample evidence to suggest that schools have not done this well, either. We need only look at the tragedy of the Cherokees.

In the 19th century, prior to "termination," the Cherokees had their own highly regarded bilingual school system and bilingual newspaper. Jerry Kobrick, of Harvard's Center for Law and Education, points out that:

Ninety percent were literate in their own language, and Oklahoma Cherokees had a higher English literacy level than native English-speakers in either Texas or Arkansas. Today, after seventy years of white control, the Cherokee dropout rate in the public schools runs as high as 75 percent. The median number of school years completed by the adult Cherokee is 5.5. Ninety percent of the Cherokee families in Adair County, Oklahoma, are on welfare.

If we need more evidence of just how bankrupt has been our educational treatment of the bilingual child, we need only look a bit further into contemporary statistics:

Fifty percent of Spanish-speaking students in California drop out by the eighth grade; 87 percent of Puerto Ricans over 25 years of age in New York City have not completed high school; the average number of school years completed by the Mexican-American in the Southwest is 7.1 years; and in Boston, over half of the 10,000 Spanish-speaking students are not in school at all. In Chicago the dropout rate is some 60 percent.

So what are we doing about it?

Unfortunately, our educational response to these grim figures has been to apply band-aids when major surgery is required. For bilingual children, our band-aids have included programs in English as a second language (ESL) and remedial reading.

The sole objective of English-as-a-second-language is to make non-English speakers more competent in English. No effort is made to present related cultural material; the precise background of a child is not a consideration. Essentially, ESL is a crash-course in English. It requires no modification of the school curriculum. An estimated 5.5 percent of Mexican-American students in the Southwest receive some kind of ESL instruction, or about twice as many as are in bilingual education programs.

Of all programs dealing with the bilingual child, remedial reading is the most limited in scope. It requires no change in the school curriculum and the least special training of teachers. Using a strictly monolingual approach, remedial reading has been much more accepted in practice than either ESL or bilingual education. The program addresses itself to just one aspect of the language problem, poor reading achievement. By the 12th grade, 63 percent of all Chicano students read at least 6 months below grade level. More than half of the Southwest's schools offer remedial reading courses, yet only 10.7 percent of the region's Mexican-American students are actually enrolled in these classes.

Mr. President, I am not saying that remedial programs are wrong completely. We will always have remedial approaches in education, as long as some children are not achieving commonly agreed-upon goals.

What I am suggesting, Mr. President, is that our present educational goals need careful rethinking. There is evidence that what Americans prize most—that bright spark of initiative and individuality that helps a child achieve—may be smothered in classrooms where children are trained up as identical cogs in society's machinery.

What we need are schools with a passionate regard for the uniqueness of a child, and the inclination to develop and preserve intact the splendid resource that is a child's own background and cultural heritage. That is why I find bilingual-bicultural education approaches to be of such bright promise, concentrating as they do on making the school fit for the child.

Mr. President, the schools themselves are providing some of the greatest impetus away from the historical educational pattern and toward programs that meet the needs of the bilingual child. Where teachers once risked penalties for not teaching in English, the trend is now toward state statutes that require school districts to have a bilingual—or English-As-A-Second-Language — program for any student whose native language is not English.

In the courts, the right of a non-English-speaking child to a meaningful education is embodied in a case to be heard by the U.S. Supreme Court this term. The case involves 1,800 Chinese-speaking students in San Francisco whose parents say their children are being denied an equal educational opportunity. Regardless of what the high court rules, actions by lower courts have already resulted in mandated school programs that have bilingual-bicultural components in as many areas as is practical. Massachusetts has a bilingual program that is mandatory, and California has recently enacted a forward-looking State policy of quality bilingual education to be developed throughout the State.

From these happenings, we in the Congress should sense not only a new direction for education policymaking, but also a new responsibility in legislative planning. With a trend toward schools designed to meet the needs of bilingual-bicultural children, we must bring to bear all the resources we can muster for new programs of teacher training, community planning and parental involvement in school programs, fresh directions for educational research and demonstration, more bilingual moneys to State departments of education for State-based activities, and a Federal administrative structure that puts bilingual programs nearer the top of the educational organization chart.

The bill we introduce today is, I believe, an important step forward.

It builds upon the experience gained in the first, fledgling years of the Federal bilingual effort.

It encourages, in other States, the development of bilingual programs along the lines of those in California, Massachusetts, and one or two other States.

It encourages the bilingual activities of the National Institute of Education.

It sets forth new definitions for what is meant by a "bilingual child" and the programs in which he may participate under the act.

It offers new criteria for the development of an acceptable bilingual program application.

It expands the role of community and parent in program development.

And it establishes, within the U.S. Office of Education, an administrative structure wherein bilingual education activities cannot slip to the bottom of the organization chart, mired in bureaucratic inertia.

SUMMARY OF BILL

Briefly, Mr. President, the proposed "Comprehensive Bilingual Education Amendments Act of 1973" provides the following:

POLICY

Declares it the policy of the United States that bilingual educational methods and techniques shall be encouraged and developed in recognition of the special educational needs of children of "limited English-speaking ability."

AUTHORIZATION/APPROPRIATION

The sum of $135,000,000 is authorized for each fiscal year beginning fiscal year 1974 and ending fiscal year 1977, plus such additional sums as the Congress may determine necessary. Reserves some funds for administration and for census activities and other mandated programs. Earmarks one-third of the amount by which any fiscal year appropriation exceeds $35,000,000, to be used for teacher training and related educational personnel development.

DEFINITIONS/REGULATIONS

More precisely defines the term "children of limited English-speaking ability" as covered under the act. Sets an expanded definition for "program of bilingual education," adding studies in the native language of the child, as well as English, including speaking, reading, and writing; mandates bilingual instruction in each course required of the child; directs the study of the history and culture associated with the child's native language, as well as the history and culture of the United States; allows the participation of bilingual children in regular classes—such as art—where English is not necessary to understanding of the subject matter; provides for the voluntary enrollment of children whose language is English; and provides for individualized instruction.

Also, requires that applications for assistance be developed in open consulta-

tion with all constituents of the school, including parents of bilingual children, at public hearings. Directs the Commissioner to establish minimum requirements for bilingual education programs, such as pupil-teacher ratios and teacher qualifications.

GRANT CRITERIA

Provides that funds under the act shall be used for bilingual programs including preschool programs connected with Head Start; planning and technical assistance; training of educational personnel, including paraprofessionals; to encourage and develop higher education programs for bilingual teacher training; and auxiliary community activities in support of a bilingual program.

Provides that grants may be made to local educational agencies, or to institutions of higher education applying jointly with a local educational agency. Applications must be consistent with criteria established by the Commissioner and Commissioner must determine that the best available talents and resources will combine to provide increased educational opportunities for the children to be served. Provision for nonprofit, private school children shall be made. The State educational agency must be notified of the application and given opportunity to comment.

Further, empower the Commissioner to approve a State bilingual program, directed by the State educational agency, if State educational agency meets certain criteria designed to show sound planning and good faith Commissioner may, upon approval of State plan, provide administrative moneys to the State educational agency.

Specify that terms of accepted and funded applications shall constitute a contract between the State educational agency and the Commissioner and shall be specifically enforceable in any U.S. district court.

PARTICIPATION BY NATIVE AMERICANS

Provides that tribal organizations or other nonprofit groups concerned with Indian education, specifically for children in schools on reservations, may be considered to be a local education agency, as defined by the act, and eligible for grants under the act. Permits payments to be made to the Secretary of the Interior for the same purpose.

ADMINISTRATION

Creates, within the U.S. Office of Education, a Division of Bilingual Education headed by a Director to be placed in GS 17 in the Civil Service, leaves organization of the Division up to the Director, and provides two supporting positions, including a Deputy Director.

Provides that Director, in consultation with National Advisory Council on Bilingual Education, shall submit an annual report including a national assessment of bilingual education needs and efforts; a census of bilingual children in the States, and a 5-year plan for extending bilingual programs to all preschool and elementary school children, a plan for the development of educational personnel to work in bilingual programs; cost estimates projected for each fiscal year and how cost is to be borne by government agencies and private organizations and specifies that Commissioner's report shall include a report on activities during the preceding fiscal year, a statement of activities to be carried out during the succeeding fiscal year, and assessment of number of teachers and other education personnel needed in the future, including statement of present teacher training activities.

ADVISORY COUNCIL

Mandates establishment of a National Advisory Council on Bilingual Education—appointed by the Secretary of Health, Education, and Welfare—to include at least three members with general experience in elementary and secondary education; at least two members who are full-time classroom teachers of demonstrated bilingual teaching ability; and at least two members who are experienced in the training of bilingual education teachers. Overall, the council must be composed of persons experienced in the education of bilingual children.

Directs the Council to advise the Commissioner in the preparation of general regulations and in the preparation of specific policy matters arising in the administration of the bilingual program. Empowers the Council, at its option, should a majority of Council members find they are in disagreement with the annual report of the Commissioner, to submit a report of its own.

Permits the Commissioner to appoint advisors and technical experts to assist the Council.

SUPPORTIVE SERVICES, INCLUDING RESEARCH AND DEMONSTRATIONS

Directs the National Institute of Education—NIE—is directed to carry out a program of research in the field of bilingual education. Directs NIE, through its Director and the Commissioner, to contract with public and private educational agencies to develop bilingual program models, design a model State bilingual statute, develop and publish bilingual instructional materials and equipment, and operate a national clearinghouse of information for bilingual education.

Provides an additional authorization of such additional sums as the Congress may determine is necessary to carry out these special activities.

PROGRAMS OF STATE EDUCATIONAL AGENCIES

Authorizes the Commissioner and the Director of Bilingual Education to contract with State educational agencies to develop leadership capabilities in the field of bilingual education, in order that State educational agencies may be of maximum assistance to local educational agencies in providing bilingual educational opportunities.

Mr. President, my measure continues the existing dollar level of authorization for the title VII bilingual education program at $135 million for each fiscal year ending fiscal year 1977. However, it also provides that the Congress may appropriate such additional sums as may be necessary to carry out the purposes of the act in each fiscal year, and adds a special authorization of appropriations for the bilingual activities carried out by the National Institute of Education for programs mandated by the act.

I believe we must recognize, Mr. President, that the actual appropriation for title VII bilingual education in any given fiscal year has never exceeded $35 million. The Senate, however, has consistently approved more for the title VII program, including $60 million in fiscal year 1973, which was reduced to $45 million in conference with the House. However, the bill was vetoed by the President. Just this past week the Senate approved $55 million in the fiscal year 1974 Appropriation Act, now in conference. The bill we introduce, while continuing the existing dollar authorization level, gives the Congress full authority—at its option—to increase the moneys available for purposes of the act.

CONCLUSION

Mr. President, I believe the legislation we have introduced today—the Comprehensive Bilingual Education Amendments Act of 1973—will go a long way toward ending the nightmare of educational neglect that has so long plagued Spanish-speaking and other bilingual children in America. I urge its immediate and careful consideration by the Congress, along with the measure introduced by Senator KENNEDY, in which I have joined.

The futures of millions of children—both majority and minority—depend upon what we do, and how quickly we do it.

By Mr. ALLEN:

S.J. Res. 161. A joint resolution proposing an amendment to the Constitution of the United States relative to the assignment of students to public schools. Read the first time.

(The remarks that Senator ALLEN made when he introduced this joint resolution and the ensuing discussion are printed earlier in the RECORD.

Mr. HUMPHREY (for himself and Mr. DOLE):

S.J. Res. 163. Joint resolution authorizing the President to proclaim the last full week in March of each year "National Agriculture Week." Referred to the Committee on the Judiciary.

NATIONAL AGRICULTURE WEEK

Mr. HUMPHREY. Mr. President, a strong and prosperous agriculture is essential to the well-being of America. Agriculture provides us with the source of life itself—food. Without a sound, wholesome food supply, this country—or any country—cannot hope to progress, or even to survive. Describe to me a country's agricultural development, and I will describe for you that country's cultural and economic achievements.

When we talk about agriculture, exactly what is it that we are talking about? To begin with, we are talking about the biggest industry in the world—an industry with assets totaling $370 billion. That is equal to about three-fifths of the value of capital assets of all corporations in the United States or about half the market value of all corporation stocks on the New York Stock Exchange.

We are talking about an industry that provides one out of every five jobs in private employment in the United States. There are over 4 million farmworkers—including farmers; another 2 million people have jobs providing the supplies

farmers use for production; and about 10 million people have jobs storing, transporting, processing, and merchandising the products of farming.

There are in the United States today less than 3 million farms. Out of this comparatively small cornucopia flows a dependable and seemingly endless tide of foodstuffs that more than 200 million Americans and tens of millions of other peoples around the world have, until recently, taken for granted.

Only recently, under the impact of international crop shortfalls, expanding demand, and rising food prices, have many people come to realize that food does not spring full blown in some mysterious manner onto their supermarket shelves. They have become aware that behind their food supply stands a farmer—a very real person with very real hopes and dreams—a businessman with a tremendous capital investment in his business who can drown in his own debts if the weather changes, or insects attack, or the public's eating habits change even slightly.

Farmers may be small in numbers, but they take big strides in the national economy. Farm-operator families spend about $49 billion a year for their production needs. In addition, they have available $19.7 billion of realized net income from farm sources and $19.4 billion from off-farm sources to spend for personal taxes and the same things that city people buy. That's right. The farmer is a consumer as well as a producer. Last year, his taxes alone amounted to about $7 billion. After paying his taxes and business expenses last year, the average farmer had $3,182 of disposable income left compared with $3,847 for nonfarm people.

I realize that many of us in Washington have become so accustomed to working with budget figures in the millions and billions of dollars that we forget how hard it is to relate to such astronomical figures. Just how much is a billion dollars? The best answer I ever heard was that—it is an awful lot of money.

So let us convert these mammoth sums into something manageable and personal—the food in our stomachs and the clothes on our backs. The American farmer and the total agricultural industry, in 1972, made it possible for us to consume 189 pounds of beef, veal, pork, lamb, and mutton—per person; 52 pounds of chicken and turkey; 77 pounds of fresh fruits and 50 pounds of processed fruit and juices; 98 pounds of fresh vegetables and 62 pounds of canned or frozen vegetables; 561 pounds of dairy products; 120 pounds of potatoes and 5 pounds of sweetpotatoes. Furthermore, we can choose from as many as 8,000 different foods when we go to the market—fresh, canned, frozen, concentrated, dehydrated, ready-mixed, read-to-serve, or heat-and-serve.

We used 18 pounds of cotton per person, which is the equivalent of about 20 house dresses or 30 dress shirts. We consumed about 565 pounds of paper per person which required the net annual wood growth from three-fourths acre of commercial forest.

I would be remiss if I did not mention exports despite the current feeling that exports, particularly of feed grains, have contributed to rising domestic food prices. And there is no arguing that fact. Yet agricultural exports are absolutely vital to the health of the national economy and our balance of payments. It is through exporting the products of America's farms that the margin of resources is made available with which to purchase supplies from abroad to meet our critical energy needs.

Roughly one out of every four crop acres harvested is channeled into the commercial export market. This represents a sizable portion of farm income. Any significant reduction would force farmers to cut back production which in turn would increase his unit production costs. In the end, the consumer would have to pay the difference.

Right now 1 hour's work in industry buys 2.3 pounds of round steak compared with 1.8 pounds in 1940; 3.3 pounds of bacon compared with 2.4 pounds in 1940; 12.8 quarts of milk, compared with 5.1 quarts in 1940.

However difficult it may be to accept in terms of today's inflation, the fact still remains that we are better able to buy food today than ever before.

Today, the demands on these men who work the land are as burdensome as any they have ever faced. Their success not only depends on the cost of feed and seed and fertilizer, or on machinery and land, or the wide pendulum of the market, but that success must even depend on the completely uncontrollable forces of nature.

It is not an easy job. Today's farmer produces more for his country than any of his predecessors ever did. And yet he does it on fewer acres, with a shrinking labor force, from a smaller number of farms than this country has ever known.

Mr. President, I ask unanimous consent to have the joint resolution printed at this point in the RECORD.

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

S.J. RES. 163

Whereas American agriculture has provided the American consumer with the greatest variety and highest quality food available to the citizens of any nation in the world;

Whereas the continued vitality of American agriculture is essential to the expansion of food and fiber production required to meet the growing needs of an ever increasing and more affluent world population;

Whereas this food and fiber production of America's farm is essential in keeping domestic and international supply and demand in balance and thereby combatting inflation;

Whereas the production of our Nation's farms is of singular importance to U.S. exports and the Balance-of-Payments and provides the margin of resources with which to purchase supplies from abroad to meet our critical energy demand;

Whereas the American family farm has been recognized around the world as an extremely efficient unit of production;

Whereas American agriculture, utilizing modern science and technology, has developed superior farming methods leading to increased productivity and improved quality of farm products; and

Whereas it is appropriate to establish one week each year during which citizens can pause and reflect upon the contributions of agriculture to the Nation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is authorized and requested to issue a proclamation designating the last full week in March of each year "National Agriculture Week" and calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

ADDITIONAL COSPONSORS OF BILLS

S. 1796

At the request of Mr. MATHIAS, the Senator from Maryland (Mr. BEALL), the Senator from Illinois (Mr. PERCY), and the Senator from Minnesota (Mr. MONDALE) were added as cosponsors of S. 1796, to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide for grants to interstate metropolitan organizations.

S. 2167

At the request of Mr. BAKER, the Senator from Ohio (Mr. TAFT) was added as a cosponsor of S. 2167, a bill to authorize the Secretary of the Interior to conduct research, development, and demonstration projects in the fields of energy sources and technologies.

S. 2275

At the request of Mr. MCINTYRE the Senator from Georgia (Mr. NUNN) is added as cosponsor of S. 2775, to provide for an extension of certain laws relating to the payment of interest on time and savings deposits and for other reasons.

S. 2322

At the request of Mr. MCGOVERN, the Senator from Rhode Island (Mr. PASTORE), and the Senator from Minnesota (Mr. HUMPHREY) were added as cosponsors of S. 2322, the Vietnam Era Veterans and Dependents Psychological Readjustment Assistance Act of 1973.

S. 2397

At the request of Mr. ROBERT C. BYRD (for Mr. CHURCH) the Senator from Kentucky (Mr. COOK) was added as a cosponsor of S. 2397, to provide a 7-percent increase in social security benefits beginning with benefits payable for the month of January 1974.

Mr. CHURCH. Mr. President, I ask unanimous consent that the names of the following Senators be added as cosponsors of S. 2397, to provide a 7-percent increase in social security benefits beginning with benefits payable for the month of January 1974:

Mr. ABOUREZK, Mr. MONDALE, Mr. WILLIAMS, Mr. EASTLAND, Mr. KENNEDY, Mr. MCGOVERN, Mr. RANDOLPH, Mr. NELSON.

Mr. BIBLE, Mr. TUNNEY, Mr. MCINTYRE, Mr. METCALF, Mr. HUMPHREY, Mr. GRAVEL, Mr. BROOKE, Mr. MCGEE, Mr. MANSFIELD.

Mr. MOSS, Mr. ROBERT C. BYRD, Mr. BIDEN, Mr. HATFIELD, Mr. CASE, Mr. BAYH, Mr. CANNON, Mr. HUGHES.

Mr. JACKSON, Mr. STAFFORD, Mr. CHILES, Mr. GURNEY, Mr. MAGNUSON, Mr. EAGLETON, Mr. PASTORE, Mr. INOUYE, Mr. HARTKE.

Mr. MUSKIE, Mr. BURDICK, Mr. SCHWEIKER, Mr. HASKELL, Mr. WEICKER, Mr. JAVITS, Mr. HATHAWAY, Mr. BENTSEN.

Mr. HOLLINGS, Mr. MATHIAS, Mr. FULBRIGHT, Mr. STEVENSON, Mr. DOLE, Mr. PERCY, Mr. HUDDLESTON, and Mr. DOMENICI.

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

Mr. CHURCH. With the addition of these 50 Senators, this means that 58 Members of the Senate have now cosponsored S. 2397.

This measure, I am pleased to say, has received widespread bipartisan support.

As a result, the Senate Finance Committee adopted the basic thrust of my proposal as an amendment to H.R. 3153, technical amendments to the supplemental security income program.

The need for an earlier and larger social security increase is, in my judgment, especially compelling because inflationary pressures have clearly intensified.

Because of these events, I am hopeful that the Senate will register its overwhelming support for a 7-percent social security increase.

And, once again, I wish to reaffirm my strong intent to do all that I can to insure the prompt enactment of this vital legislation.

S. 2445

At the request of Mr. McINTYRE, the Senator from Arkansas (Mr. McCLELLAN) and the Senator from Alaska (Mr. GRAVEL) were added as cosponsors of S. 2445, a bill to amend the provisions of the Social Security Act to consolidate the reporting of wages by employers for income tax withholding and old-age, survivors, and disability insurance purposes, and for other purposes.

S. 2497

At the request of Mr. BAKER, the Senator from Alaska (Mr. GRAVEL), the Senator from Ohio (Mr. TAFT), and the Senator from Utah (Mr. BENNETT) were added as cosponsors of S. 2497, a bill to require the Librarian of Congress to establish and maintain a library of television and radio programs, and for other purposes.

S. 2513

At the request of Mr. RIBICOFF, the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 2513, the Catastrophic Health Insurance and Medical Assistance Reform Act of 1973.

S. 2544

At the request of Mr. HRUSKA, the Senator from North Dakota (Mr. BURDICK) was added as a cosponsor to S. 2544, to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 and other laws to discharge obligations under the Convention of Psychotropic Substances relating to regulatory controls on the manufacture, distribution, importation, and exportation of psychotropic substances.

SENATE CONCURRENT RESOLUTION 52—SUBMISSION OF A CONCURRENT RESOLUTION RELATIVE TO FRIENDSHIP WITH THE REPUBLIC OF CHINA

(Referred to the Committee on Foreign Relations.)

Mr. CURTIS. Mr. President, tomorrow, October 10, the Republic of China marks its 62d birthday. The republic was founded on October 10, 1911, making it the first republic in Asia. From its earliest days under the leadership of Dr. Sun Yat-sen, the Republic of China has had a close and friendly relationship with the United States and the American people. There has been and should continue to be the special relationship between the American people and the Free Chinese.

The Free Chinese have faced adversities throughout the years—the predominance of warlords in the republic's early years, the Japanese invasion beginning in the early 1930's, and the Communist revolution which resulted in the Republic of China's Government being moved to Taiwan. None of these adversities have defeated them. They maintain their desire to survive as a free and independent people and government and as a symbol for their enslaved countrymen on the Chinese mainland.

The Chinese on Taiwan and the other islands continue to prosper and produce at truly astounding rates. Twenty years ago, agriculture accounted for 35.7 percent of their gross national product while industry only accounted for 17.9 percent. In 1972, agriculture accounted for 15.7 percent of the GNP while industry's share had grown to 36.6 percent. From 1953 to 1971 the Free Chinese GNP grew at an average annual rate of 8.7 percent. Although some serious diplomatic setbacks were registered in 1972, their GNP grew by 11.5 percent and the industrial portion of the GNP rose by 26 percent.

Let us take a look at a few more statistics. In the capital of the Republic of China, Taipei, 10 of every 12 homes have television sets. Ten out of 14 homes have refrigerators. Ten out of 13 homes subscribe to one or more newspapers. The Free Chinese have the highest calorie intake in all Asia—including Japan and Communist China.

We in the United States can be proud of the record of our Free Chinese ally. We also can point to Free China as one of the few examples in the developing nations of the world where we gave foreign aid and it had success. In 1965 the United States stopped giving economic aid to the Republic of China. That country is one of the very few who were and remain thankful for such help because they know it helped make possible their heartening growth.

Although we must remember that the Republic of China is a developing country, we must not forget the growing trade role that they play with our country. In 1953 trade between the United States and the Republic of China was only $19 million; in 1960, $123 million; in 1962, $200 million; in 1968, $500 million; and it passed $1 billion in 1970. The Republic of China does enjoy a favorable trade balance with the United States, but it, as few other countries are doing, is attempting to redress that balance by buying more American goods, sending trade missions to the United States, and encouraging sales of American goods in Taiwan through trade displays and other means.

Today, the Republic of China is the 12th largest trading partner of the United States among a total of 145 nations. By 1976 the Republic of China is trying to be our seventh largest. It is interesting to compare the foreign trade totals of the 15 million Free Chinese in Taiwan and those of the 750 to 800 million living under Communist subjection. In 1971 the Republic of China was almost equal to Communist China. In 1972 the Republic of China passed Communist China in trade.

The Free Chinese estimate that their total trade for 1973 will surpass $8 billion which will be almost 50 percent more than that of all of Communist China.

The Free Chinese have prospered because of American help, their own hard work, and giving free enterprise a chance. The United States and the Republic of China are allied together by the Mutual Defense Treaty of 1954, by the Formosa Resolution of the Congress, and by years of friendship and respect between the American people and the Chinese people. Our two countries are tied together many ways. Taiwan and their other islands also play an important strategic role in the security of the whole Pacific area.

It is in the best interests of the United States and our people to do nothing to compromise the survival of these 15 million Free Chinese friends and allies. The Free Chinese only want a chance to continue and to build their country in freedom. They want to serve as a shining example for their enslaved brothers on the Communist mainland and for all peoples that hard work and free enterprise can work. They only ask the United States to do nothing to compromise their continued existence and freedom. They look upon the United States as a friend and example. Let us do nothing to harm their continued independence.

Today I am submitting a resolution in the Senate which supports the Republic of China. Periodic reaffirmation of our commitments is necessary. I urge all my colleagues to join in this sponsorship of this resolution which supports a small, prosperous, and free country's right to survival. I urge the American Government to give every support to the Republic of China in every international organization of which we are a member.

The concurrent resolution is as follows:

SENATE CONCURRENT RESOLUTION 52

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the United States Government, while engaged in a lessening of tensions with the People's Republic of China, do nothing to compromise the freedom of our friend and ally the Republic of China and its people.

The concurrent resolution, submitted by Mr. CURTIS, is cosponsored by Mr. BENNETT, Mr. BROCK, Mr. BUCKLEY, Mr. DOLE, Mr. DOMENICI, Mr. DOMINICK, Mr. EASTLAND, Mr. FANNIN, Mr. GOLDWATER, Mr. GURNEY, Mr. HANSEN, Mr. HATFIELD, Mr. HELMS, Mr. HUDDLESTON, Mr. McCLURE, Mr. PACKWOOD, Mr. WILLIAM L. SCOTT, Mr. THURMOND, and Mr. TOWER.

Mr. THURMOND. Mr. President, I rise in support of the concurrent resolution offered by the distinguished Senator from Nebraska (Mr. CURTIS). This resolution will put on record the sense of the Congress that the U.S. Government should do nothing to compromise the survival and freedom of our 15 million free Chinese friends and allies. The free Chinese people only seek a chance to continue to build their country in freedom. They desire no more, and they deserve no less.

Mr. President, we have recently concerned ourselves with the difficult prob-

lem of foreign aid to developing countries. Eight years ago we stopped giving such aid to the Republic of China which is now celebrating the 62d anniversary of its founding by Dr. Sun Yatsen.

I wonder how many of my colleagues know that the gross national product of Taiwan has increased 250 percent since American aid ended in 1965? I wonder how many know that less than one-third of the 14,000 square miles of Taiwan are arable and that the 15 million people who live on those 14,000 square miles represent the highest population density of any part of this world?

The Republic of China has been described as the "only one of the world's developing nations to have truly developed," and it is predicted that by 1975, per capita income in Taiwan will exceed $500. This income level is generally viewed by economists as the takeoff point for a modern, industrial nation.

In a recent advertisement in the New York Times, the Republic of China explained its success in these words:

People come first. Our society was built by, and for the benefit of, our people . . . 15,350,000 individuals. Happily, we have avoided the pitfalls encountered by other developing nations. We placed agricultural modernization ahead of steel mills. Health ahead of "showcase projects." People ahead of machines. We didn't squander U.S. aid on unnecessary and nonproductive projects. We were, in truth, stingy with ourselves. The result has been a society and an economic system that not only works, but is working better every day. Our secret is this: A philosophy and an economic system that recognizes the rights and dignity of the individual. Confucius said it best: "The people come first."

Mr. President, I wish, when the United States embarked on foreign aid, we had shown as much wisdom in its disbursement as the Republic of China showed in its utilization.

The Republic of China is unstinting in expressing its appreciation for the help the United States gave that country in its darkest hour after the retreat from the Communist takeover of the mainland. I think it only proper on this occasion of their 62d birthday to let the leaders of the Republic of China know that America deeply appreciates the remarkable achievements attained in Taiwan. We appreciate the contribution the Republic of China has made to make this a better world through imagination, initiative, and enterprise against tremendous odds. Taiwan has shown us the impossible can still be achieved. This should be the greatest of all incentives to the struggling, developing countries of the world.

Mr. President, I urge all of my colleagues to join in bipartisan sponsorship of the resolution.

ADDITIONAL COSPONSORS OF CONCURRENT RESOLUTIONS

SENATE CONCURRENT RESOLUTION 50

At the request of Mr. JAVITS, the Senator from Illinois (Mr. STEVENSON) and the Senator from Tennessee (Mr. BROCK) were added as cosponsors of Senate Concurrent Resolution 50, establishing a World Food Conference.

SENATE CONCURRENT RESOLUTION 51

At the request of Mr. THURMOND, the Senator from New York (Mr. BUCKLEY), and the Senator from Ohio (Mr. TAFT) were added as cosponsors of Senate Concurrent Resolution 51, to express the appreciation of Congress to Vietnam Veterans on Veterans Day 1973.

SENATE RESOLUTION 180—SUBMISSION OF A RESOLUTION DESIGNATING JOHN C. STENNIS DAY

(Considered and agreed to.)

Mr. MANSFIELD (for Mr. EASTLAND), submitted a resolution (S. Res. 180) designating a JOHN C. STENNIS Day.

(The text of the resolution is printed at a later point in the RECORD when submitted by Mr. MANSFIELD and agreed to.)

ADDITIONAL COSPONSORS OF RESOLUTIONS

SENATE RESOLUTION 173

At the request of Mr. MCINTYRE, the Senator from Georgia (Mr. NUNN), the Senator from New York (Mr. JAVITS), the Senator from Iowa (Mr. CLARK), and the Senator from Colorado (Mr. DOMINICK) were added as cosponsors of Senate Resolution 173, directing the Securities and Exchange Commission to make such amendments as may be appropriate in order to reduce any unnecessary reporting burden on broker-dealers and help to assure the continued participation of small broker-dealers in the securities markets.

SENATE RESOLUTION 179

Mr. MONTOYA. Mr. President, I ask unanimous consent that my name be added as a cosponsor of Senate Resolution 179, a resolution deploring the outbreak of hostilities in the Middle East.

Once again the world is subjected to a saddening, frightening display of violence in the Middle East. Saddening because it points out the failure of 6 years of diplomacy. Frightening because it raises the always-present possibility that the situation may grow out of control.

While the resolution addresses itself equally to Israel and to her neighbors, urging both sides to stop fighting and to return to the positions they occupied prior to the outbreak of hostilities, it seems reasonably clear that Egypt and Syria must bear the weight of responsibility for this round of fighting.

I commend the President and Secretary of State Kissinger for their handling of the situation thus far. Reports in the press this morning that the United States, the U.S.S.R., and China are cooperating to prevent the spread of fighting are gratifying. What is needed now is a restoration of the status quo ante, and a resumption of the diplomatic efforts, however long and tedious, needed to bring lasting peace to the area.

At the request of Mr. ROBERT C. BYRD (for Mr. NELSON) the Senator from Wisconsin (Mr. NELSON) was added as a cosponsor of Senate Resolution 179, supra.

REPEAL OF CERTAIN PROVISIONS OF AGRICULTURE AND CONSUMER PROTECTION ACT OF 1973—AMENDMENT

AMENDMENT NO. 617

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

Mr. CLARK submitted an amendment intended to be proposed by him to the bill (S. 2491) to repeal the provisions of the Agriculture and Consumer Protection Act of 1973 which provide for payments to farmers in the event of crop failures, with respect to crops planted in lieu of wheat or feed grains.

MIDWEST AND NORTHEAST RAIL SYSTEM DEVELOPMENT ACT—AMENDMENTS

AMENDMENTS NOS. 618 AND 619

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

Mr. MONDALE. Mr. President, I am submitting with Senator HUMPHREY two amendments to S. 2188, the Midwest and Northeast Rail System Development Act.

These amendments are designed to address the critical inadequacy of America's rural transportation system and to prevent the continued decline in rail services to rural communities.

Because of increased domestic and world demand for American farm products, farmers have greatly increased production this year; and the administration has announced its intention to bring an additional 19 million acres under cultivation in 1974. This large-scale expansion of production generates major new demands on our already overburdened rural transportation system—demands for shipment of seed, fertilizer, and equipment, as well as the movement of commodities to market.

At the same time rural transportation needs are rapidly growing; however, thousands of miles of railroad track serving farm communities are threatened with abandonment. Since 1970, the number of abandonment cases brought before the Interstate Commerce Commission has nearly tripled from a rate of about 100 per year in the 1960's to a rate of from 250–300 per year at the present time. In virtually every case that has been decided since 1970, the ICC has granted the railroad's request for a discontinuance of service, resulting in the loss of 7,800 miles of track to rural America.

Incredibly, the Federal agencies and departments, charged with responsibility for decisions that have a profound impact on America's rail transportation system, do not know precisely how rail abandonments have affected rural communities; and they do not know what the impact of future abandonments may be on the Nation's transportation system. In its report on S. 2188, the Senate Commerce Committee revealed:

Time and again, the Committee has found disturbing the large gaps in basic information about straight-forward questions—gaps shared alike by private and public organizations. For example, despite the decades of experience with economic regulation of the railroads by federal and state agencies, and the huge R&D budgets provided to the D.O.T., including both the Office of the Sec-

retary and the Federal Rail Administration, nobody could answer the simple question, "What has happened in the past to shippers, communities, workers and other affected parties when railroads have been permitted to abandon lines?" And what might happen in the future.

In many cases among communities now threatened with abandonment, alternative means of transportation do not exist, are more expensive and less efficient for shippers, or involve public costs which greatly exceed any private gain that might accrue to a railroad as a result of a discontinuance. In the State of Minnesota, for example, it would cost an estimated $80 million just to provide highways to serve those communities threatened with loss of their railroads. These towns have no alternative to rail service. And aside from the tremendous costs to taxpayers for the construction of new roads to replace rail lines, there would also be extremely high added costs to businesses, which would have to convert their terminals and receiving facilities to accommodate increased reliance on motor carriers.

Our country is facing a fuel shortage, necessitating ever-increasing imports of oil at great cost to our balance of payments and the value of the dollar. Expanded agricultural exports are viewed by economists as the principal hope for offsetting the disastrous trade deficit caused by oil imports. Yet we are at the same time continuing a policy of abandoning essential rural train service, trains which can move each ton of freight from one-fourth to one-seventh the amount of fuel consumed by trucks. Rural communities obviously need good modern roads; nevertheless, available evidence casts serious doubt upon the advisability of Federal policies which consciously result in decreased rail service and inordinate dependence upon highways . . . highways that too often do not exist or are hopelessly inadequate.

Before we proceed full speed ahead on a course which could result in immense costs to our Nation, we ought to examine the impact of continued rural rail abandonments and find out how best to provide an adequate rural transportation system.

The amendments which Senator HUMPHREY and I offer today are designed to obtain within 1 year the information we need to make a sensible judgment; and they would allow time for congressional action to promote the continuation and improvement of vital rural rail services.

One amendment would create a Rural Rail Transportation Planning Commission. The Commission would conduct a study of the overall transportation needs and capabilities in rural America. In addition the Commission would carry out an in-depth economic and operational study of rail lines, identified by the Governors of the States as presently threatened or likely to be endangered by abandonment. This study would include a calculation of current and projected demand for rail services, a review of available alternative modes of transportation, and an evaluation of the economic, environmental and social costs involved in the substitution of such alternatives, as well as an examination of the revenues and costs of rail service on identified lines. Finally, the Commission would be charged with responsibility for an analysis of the costs and benefits of various methods to continue rail service where a valid need for such service exists and for the submission of its recommendations on those methods which would best enable us to achieve an efficient and fully adequate rural rail transportation system.

In carrying out the Rural Rail Transportation Study, the Commission would cooperate with the Rail Emergency Planning Office, created under S. 2188, in the exchange of information, including data, analyses and findings with particular bearing upon methods to meet the rural rail needs of States included in the Rail Emergency Region.

But while these studies are being conducted to measure the consequences of abandonments and to develop methods to continue service, it would be senseless to proceed with the abandonment of many thousands more miles of track.

The second amendment, which Senator HUMPHREY and I today propose, would establish a 2-year moratorium on the abandonment of rural freight service to provide time for completion of the study and subsequent legislative action. This moratorium would not apply in a case where a railroad is in reorganization under section 77 of the Bankruptcy Act and where the Court requests the Interstate Commerce Commission to approve an abandonment. However, where no immediate financial threat exists and where States or local communities express opposition to a proposed abandonment, the ICC would be precluded from making a final decision until the study and congressional action can be completed.

The moratorium would simply insure that we have all the facts about the consequences of abandonment before we implement decisions which could seriously jeopardize the economic, environmental, and social interests of rural communities and the Nation as a whole.

I am hopeful that these two crucial amendments will be adopted as part of S. 2188 when that measure reaches the Senate floor.

Mr. President, I ask unanimous consent that the full text of the amendments be printed at this point in the RECORD.

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

AMENDMENT No. 618

At the end of the bill, insert the following:

CURTAILMENT OR ABANDONMENT OF RURAL RAIL SERVICE OR LINES

SEC. (a) Notwithstanding the provisions of the Interstate Commerce Act, no carrier subject to part I of such Act shall, within the two-year period following the date of enactment of this Act, limit in a significant way freight service to, or abandon all or any portion of a line of a railroad in, any rural area, except in any case where such discontinuance, significant limitation, or abandonment is not opposed, in hearings held by the Interstate Commerce Commission with respect thereto, by any State or local government having jurisdiction over an area receiving such service.

(b) If a railroad is in reorganization under section 77 of the Bankruptcy Act (11 U.S.C. 205) and the Court requests the Commission to approve an abandonment, the Commission may consider the abandonment request under the authority of the Interstate Commerce Act, without regard to the provisions of subsection (a) of this section.

AMENDMENT No. 619

At the end of the bill, insert the following:

RURAL RAIL TRANSPORTATION PLANNING COMMISSION

SEC. (a) ESTABLISHMENT.—There is hereby established and independent commission to be known as the Rural Rail Transportation Commission (hereinafter in this section referred to as the "Commission"). The Commission shall consist of five members who shall be appointed by the President on the following basis:

(1) one, the Chairman, to be selected from a list of not less than three qualified individuals recommended by the Chairman of the Committee on Interstate and Foreign Commerce of the House of Representatives and the Chairman of the Committee on Commerce of the Senate;

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

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

(4) one, to be selected from lists of qualified individuals recommended by organizations representative of significant rural rail shipping interests, including small shippers, consumer organizations, environmental organizations and community organizations; and

(5) one, to be selected from a list of not less than three individuals recommended by the Governors of the States and local community officials, who shall be representative of State and local interests.

(b) DUTIES.—The Commission shall:

(1) conduct a comprehensive analysis of present and future rail freight transportation needs in rural areas throughout the United States, taking into account increased demand for transportation resulting from expanded production of agricultural and forest products and the national goal of promoting the growth and development of rural America, and in carrying out such analysis, shall consider factors such as—

(A) the nature and volume of traffic now being moved and likely to be moved in the future in rural America by all the various modes of transportation;

(B) existing and projected rural transportation capabilities to handle such traffic, including all modes of transportation;

(C) the extent to which alternative modes of transportation are available to move traffic that is now carried by rail lines identified pursuant to paragraph (2) of this subsection; and

(D) the relative economic, social and environmental costs including energy utilization involved in the substitution of alternative modes of transportation to move traffic that is now carried by rail lines identified pursuant to paragraph (2) of this subsection and in increasing reliance upon alternative modes of transportation to meet projected rural transportation needs;

(2) prepare an information survey and an economic and operational study of all rural freight lines or portions thereof identified by the Governors of the several States as currently threatened or likely to be threatened by abandonment, taking into account—

(A) current and projected demand for rail service along such lines including demand which may not be reflected in current traffic density because of a shortage of rail cars or the poor condition of track and roadbed;

(B) traffic density over identified lines, plant equipment and facilities, and pertinent costs and revenues of such lines;

(C) the extent to which alternative modes of transportation could move traffic that is carried by identified lines;

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

(E) the economic impact, competitive and otherwise upon local shippers, railroad companies, and rural communities involved in the abandonment of identified lines; and

(3) analyze and make recommendations regarding methods to continue to improve rail freight service to rural communities particularly in cases where such service may otherwise be discontinued and where there is a valid need for such service in order to maintain economic growth and development of affected communities or to prevent adverse economic, social or environmental impacts resulting from the substitution of alternative modes of transportation, and such analysis shall include but not be limited to methods such as—

(A) the provision of low interest loans or loan guarantees to enable local non-profit organization composed of shippers and residents and agencies of State and local governments to continue rail service on abandoned lines or lines to be abandoned;

(B) the provision of low interest loans, loan guarantees, grants or other methods as may be appropriate to improve the availability of railroad rolling stock;

(C) operating assistance to enable rail companies or non-profit private or public organizations to maintain service along rail lines threatened with abandonment;

(D) assistance for the rehabilitation of track and roadbed, or the acquisition or modernization of facilities and equipment required to continue and improve service; and in analyzing such methods the Commission shall consider the relative economic, social and environmental costs and benefits thereof and utilize such findings in making recommendations concerning the methods which would best assist in satisfying the public need for an efficient and fully adequate rural freight transportation system.

(c) COMPENSATION.—Each member of the Commission shall be compensated at the daily equivalent of the annual rate of basic pay of level III of the Executive Schedule for each day he is engaged on the work of the Commission, and shall be entitled to travel expenses, including a per diem allowance in accordance with section 5703(b) of title 5, United States Code.

(d) RULES.—The Commission shall adopt rules of procedure to govern its proceedings. Vacancies on the Commission shall not affect the authority of the remaining members to continue with the Commission's activities, and shall be filled in the same manner as the original appointments.

(e) HEARINGS.—The Commission, or any members thereof as authorized by the Commission, may conduct hearings anywhere in the United States or otherwise secure data and expressions of opinion pertinent to its study. In connection therewith the Commission is authorized to pay witnesses travel, lodging, and subsistence expenses.

(f) OTHER DEPARTMENTS AND AGENCIES.—The Commission may acquire directly from the head of any Federal executive department or agency or from the Congress, available information which the Commission deems useful in the discharge of its duties. All Federal executive departments and agencies and the Congress shall cooperate with the Commission and furnish all information requested by the Commission to the extent permitted by law and the Constitution of the United States.

(g) CONTRACT AUTHORITY.—The Commission may enter into contracts with Federal or State agencies, private firms, institutions, and individuals for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of its duties.

(h) DELEGATION AUTHORITY.—The Commission may delegate any of its functions to individual members of the Commission or to designated individuals on its staff and make such rules and regulations as are necessary for the conduct of its business, except as otherwise provided in this section.

(i) STAFF.—The Commission may, without regard to the provisions of title 5, United States Code, relating to appointments in the competitive service but otherwise in accordance with General Schedule pay rates, appoint and fix the compensation of such additional personnel as may be necessary to carry out the functions of the Commission.

(j) EXPERTS AND CONSULTANTS.—The Commission may obtain services in accordance with section 3109 of title 5 of the United States Code, but at rates not to exceed $250 a day for qualified experts.

(k) ADMINISTRATIVE ASSISTANCE.—Financial and administrative services (including those related to budgeting and accounting, financial reporting, personnel, and procurement) shall be provided the Commission by the General Services Administration, on a reimbursable basis, from funds of the Commission in such amounts as may be agreed upon by the Chairman of the Commission and the Administrator of General Services. The regulations of the General Services Administration for the collection of indebtedness of personnel resulting from erroneous payments apply to the collection of erroneous payments to or on behalf of a Commission employee, and regulations of that Administration for the administrative control of funds apply to appropriations of the Commission.

(l) REPORTS.—The Commission shall submit to the Congress within 60 days from the date the members take office pursuant to subsection (a) a summary report of its plans for carrying on its duties, within 270 days from such date a preliminary report of its findings and recommendations, and within 360 days from such date a final report of its findings and recommendations.

(m) CONSULTATION.—In carrying out the provisions of this section, the Commission shall consult and cooperate with appropriate State and local agencies, shippers, railroads, organizations representing railroad workers, and other appropriate organizations and groups. The Commission shall also cooperate in the exchange of information regarding its plans, findings and recommendations with the Rail Emergency Planning Office, established under section 4(a) of this Act.

(n) AUTHORIZATION.—There is authorized to be appropriated for the purposes of this section not to exceed $2,000,000.

(o) TERMINATION.—The Commission shall cease to exist at the end of 30 days following the submission of its final report pursuant to subsection (l).

HOUSING ACT OF 1973—AMENDMENTS

AMENDMENT NO. 620

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

Mr. CRANSTON. Mr. President, I am pleased to submit, with my distinguished colleague from New Jersey (Mr. WILLIAMS), amendments to S. 2182, the Housing Act of 1973, to assist local housing authorities in providing greater security and safety to tenants.

These amendments require the Secretary of Housing and Urban Development to include security and safety factors in his estimate of the cost of constructing public housing units. Further, the amendments require the Secretary of Housing and Urban Development to take into account the cost of design features that will contribute to the security and safety of tenants within their project and in areas directly adjacent to their project.

A recent book by Oscar Newman entitled, "Defensible Space: Crime Prevention Through Urban Design," documents the influence that architecture and landscaping can have on a public housing tenant's perception of himself and his environment. Mr. Newman's book forcefully argues that design features play a significant role in promoting or detracting from security in public housing projects.

Mr. President, the book "Defensible Space" was reviewed in the New York Times on November 5, 1972. I ask unanimous consent that this review be printed in the RECORD at this point.

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

ARCHITECTURE: A PRESCRIPTION FOR DISASTER

(By Ada Louise Huxtable)

When officials dynamited Pruitt-Igoe Houses in St. Louis this year, they finally blasted the subject of housing design into the public consciousness. It took the violent and necessary act of destruction of part of a public housing project that had become an obscenity of American life to make it clear that we have been doing something awfully wrong.

It wasn't the failure of a dream, although that was bad enough. One of the great American social reforms—safe and sanitary housing in exchange for slums—has obviously gone off the rails. The anguished "why?" that society is asking now has many complex answers. But one of the most basic and important is the physical fact of how American public housing has been planned and designed. Now comes a supremely significant study and book to tell us that we have, with the best intentions, literally built in failure by erecting buildings that are actually designed to exacerbate crime and violence and problems of human behavior, for the near-destruction of a segment of our society and whole sections of our cities.

The book is "Defensible Space," subtitled, "Crime Prevention Through Urban Design," by Oscar Newman, just published by Macmillan. It details the results of a three-year research program called the Project for the Security Design of Urban Residential Areas, directed by Professor Newman, who is also an architect and director of the Institute of Planning and Housing of New York University, where he is an associate professor.

The study deals primarily with the "effects of the physical layout of residential environments on the criminal vulnerability of its inhabitants." It relates the incidence of crime and vandalism to the specific factors that encourage it. In doing so, it indicts much current housing practice. More broadly, and most importantly, it deals with a most controversial subject—how environment affects behavior.

The study, significantly for these times, has been funded not by housing or design sources, but by the U.S. Department of Justice. The method has been statistical analysis and experimental design modification of existing projects to test hypotheses. Housing developments in every major city in the country have been examined, with heavy reliance on the inexhaustibly complete statistics of the New York Housing Authority. Professor Newman points out that New York builds and maintains better, keeps better files, and has a better housing record than any other city. But the findings were the same everywhere, and they are going to shake a lot of people up.

The conclusion—given the same social factors and statistics of color, race, age and income level of residents, family size, condition and problems, number of welfare recipients, etc.—is that much of the difference between housing success and failure is in the design of the buildings and their grounds, and their relationship to the surrounding community.

The final conclusion is that the larger-and-larger cookie cutter formula projects of clustered high-rise buildings on superblocks of open space—usually dictated by land costs and economics—is the guaranteed prescription for disaster. Given the same densities and people crime rate and tenant disaffection drop substantially in smaller, low-rise projects where certain principles of social design have been followed.

Professor Newman defines these principles as territoriality, natural surveillance, and image and milieu.

Territoriality is the division of the residential environment into zones toward which adjacent residents easily adopt proprietary attitudes. Surveillance is achieved through the visual and physical contact of one area with another—by visibility, layout and plan. Image and milieu are concerned with the stock, large-scale housing project located conspicuously in unsympathetic areas, stigmatized by visible design, the criminal's "easy hit."

The real villains, the author says, are project size and tall buildings. Crime and vandalism rates go up with size and height. The only "defensible" space becomes the apartment itself. The blind elevators, the long, anonymous, double-loaded corridors, and the enclosed fire stairs are a noman's land made to order for anti-social activity.

As a test of his thesis, Professor Newman has modified some projects, specifically Clason Point in the Bronx, with the cooperation and encouragement of the New York City Housing Authority. Design changes have already reduced the crime rate to six times lower than formerly, and increased desirable social patterns. Moreover, HUD funds exist up to $1,000 a unit for such modifications for any city that wants to use them. There is no excuse not to do so now.

A lot of us have been indicting the design of housing projects for a long time, but mostly on the grounds of empirical observations of the relationship of design and a more humane environment, and half-formed feelings about the depth and importance of people's responses to the physical ordering of their lives. Professor Newman provides facts and figures, not feelings; this is definitive documentation of human and urban tragedy. Incredibly, similar projects are still going ahead, even as Pruitt-Igoe is dynamited and Philadelphia prepares to close off the top stories of Rosen Houses. Forest Hills, as planned, had almost every dangerous defect on the list.

The irony of all this is that the hard-nosed champions of housing—good men and true if sometimes politically motivated—have consistenly dismissed design as "frills." Their word. No matter how much those of us who believe otherwise have explained or argued we were met with a tolerant dismissal of our attempts to "pretty it up," as this was so woefully misunderstood, and told that the only important thing was to get countable units of desperately needed housing built.

Gentlemen, eat your words. The numbers game, without regard for design, or rather *specifically because of design*, has demonstrably increased tendencies toward crime, violence and social dislocation, compounding problems to the point of no return. And the costs, in terms of money and society, are insupportable.

But the saddest irony of all is that architects, pioneering innovations of impeccable social intent, have been so blindly at fault. To quote the author: "Many of these physical features may have been intentionally provided by the architects as positive contributions to the living environment of intended residents." But the superblock removed the life and surveillance of streets; the open grounds, meant for recreation were unused and invited only the criminal; the off-street entrances and their winding paths meant danger to the resident; the tall buildings hosted countless physical and psychological hazards. Le Corbusier's Ville Radieuse and dreams of the modern movement, R.I.P.

The whole area of architecture and behavioral science is fraught with challenges and uncertainties. It is a field that demands attention and research. Fallacy number one was the modernist idea that an architectural setting or group of buildings of certain design characteristics could give birth to a Utopian socley. "Isomorphism," says Professor Newman, "remains a happy delusion of very few architects and physical planners." Fallacy number two is a pendulum swing that rejects the idea that design can have any effect on behavior. It has now been conclusively demonstrated that while design cannot create behavior, it can to a significant extent modify and control it.

The inevitable conclusion is that the architect's responsibility, in the light of these findings, is now heavier than ever.

Mr. CRANSTON. Mr. President, the Federal Government needs to continue and strengthen its concern for the people who live in public housing. We need to protect, too, the huge dollar investment we have made in public housing projects. Security and safety features and good design can help prevent the destruction to life and property that we have witnessed in many public housing projects. This dual savings is the purpose of the amendments I offer today with Senator WILLIAMS.

AMENDMENT NO. 621

Mr. HUMPHREY. Mr. President, farmers, grainhandlers, forest products manufacturers, and other rural businessmen continue to be seriously hurt by a terribly inefficient system for moving their goods to market. Our Nation's rural transportation system is dangerously inadequate and getting worse each year. When I hear talk of maximizing U.S. agricultural production, I have to seriously wonder how we are going to move what we produce to market.

Rural transportation for many years has been deteriorating into what has now become a serious crisis. As it deteriorates, so does the rural economy which it sustains.

In the past 40 years, more than 46,000 miles of railroad trackage have been abandoned, largely in sparsely populated rural regions. Railroads today are operating with 30,000 fewer locomotives and 840,000 fewer cars than they had during peak years in the 1930's. This loss, according to a recent article in Construction News, "equates to 13 main line railroads, stretching from coast to coast, each located 100 miles apart and each having 2,300 locomotives and 64,000 cars."

Much more attention has been focused on our highway system and intercity transportation needs. These are very important, without question, but balance is essential in meeting all of our Nation's varied transportation requirements. When the United States launched its massive highway rebuilding program in 1956, emphasis was placed on the interstate expressway network and on heavily traveled Federal-aid primary routes. These two systems now carry 50 percent of all automobile and truck traffic, despite there being only 7 percent of total highway mileage. This concentration of resources has resulted in steady deterioration in much of the 36 million miles of roads not included in the two major systems. According to a recent study of rural transportation:

Most of the 2-million miles of non-federal system rural roads have gone untouched for 30 years or more.

While rural Americans bear the immediate costs of rail abandonments, boxcar shortages, decaying rail beds that make rail service in some areas terribly inefficient, and extremely poor farm-to-market roads, all Americans pay higher prices for food, fiber, and forest products as a result.

If we are serious in our commitment to pursue a more balanced national growth strategy in this country, and in revitalizing our Nation's rural areas and smaller communities as a part of such a strategy, then we must take a closer and more detailed look at the importance of continued rail transportation, and other economically viable alternatives, to their future growth and development.

As we prepare to deal with the restructuring of rail service in the Northwest, we must not fail to take action at the same time to improve the availability and quality of transportation in rural America.

For this reason, my colleague from Minnesota and I have offered today two amendments to S. 2188, the Midwest and Northeast Rail System Development Act. The first amendment will establish a new independent Rural Rail Transportation Planning Commission which would conduct an overall analysis of rural transportation needs and capabilities. The Commission would also undertake an indepth study of rural rail lines threatened with abandonment, and the likely effects social and economic, of such action. The Commission would be required to report its findings and recommendations to Congress within 1 year.

Since it would make no sense to allow thousands of additional miles of trackage to be abandoned while a solution to this problem is being actively sought by Congress, we are also offering an amendment to prevent abandonments during the 1-year period of study and for 1 year thereafter to allow for implementation of recommendations. During this time, however, the ICC would be able to permit abandonments in the case of rail carriers that are in bankruptcy proceedings.

I urge all of my colleagues to join me in support of these important amendments.

We must take action immediately to reverse the decline in our transportation system. If we fail to do so, not only will our rural residents suffer, but the effect of our neglect will be felt in the supermarket checkout counter by every person in America.

I ask unanimous consent that the amendment, in which Senator MONDALE

joins me, be printed at this point in the RECORD.

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

AMENDMENT NO. 621

At the end of the bill, insert the following:

CURTAILMENT OR ABANDONMENT OF RURAL RAIL SERVICE OR LINES

SEC. (a) Notwithstanding the provisions of the Interstate Commerce Act, no carrier subject to part I of such Act shall, within the two year period following the date of enactment of this act, limit in a significant way freight service to, or abandon all or any portion of a line of a railroad in, any rural area, except in any case where such discontinuance, significant limitation or abandonment is not opposed, in hearings held by the Interstate Commerce Commission with respect thereto, by any State or local government having jurisdiction over an area receiving such service.

(b) If a railroad which is in reorganization under Section 77 of the Bankruptcy Act (11 U.S.C. 205) files an application for an abandonment certificate, the Commission may consider the application under the provisions of the Interstate Commerce Act, without regard to the provisions of subsection (a) of this section.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 565 TO S. 1724

At the request of Mr. TUNNEY, the Senator from Texas (Mr. TOWER), was added as a cosponsor of amendment No. 565, intended to be submitted by him to S. 1724, to amend title 28, United States Code, to provide more effectively for bilingual proceedings in certain district courts of the United States, and for other purposes.

AMENDMENT NO. 523 TO H.R. 3153

At the request of Mr. FANNIN, the Senator from North Dakota (Mr. YOUNG), the Senator from Arizona (Mr. GOLDWATER), the Senator from Alaska (Mr. STEVENS), and the Senator from New Mexico (Mr. DOMENICI) were added as cosponsors to amendment 523 to H.R. 3153 to amend the Social Security Act to make certain technical and conforming changes, and for other purposes.

AMENDMENT NO. 611

At the request of Mr. BAKER, the Senator from Maryland (Mr. MATHIAS) was added as a cosponsor to amendment No. 611 to S. 425, the Surface Mining Reclamation Act of 1973.

NOTICE OF CHANGES IN BILINGUAL COURTS HEARINGS

Mr. BURDICK. Mr. President, as chairman of the Judiciary Subcommittee on Improvements in Judicial Machinery, I wish to announce that hearings for the consideration of S. 1724, the Bilingual Courts Act, scheduled for October 10, in room 2228, have been moved to room 2221. Also, the hearings on the same subject scheduled for October 11 have been postponed to a later, undetermined date.

NOTICE OF HEARING ON PROPOSED 10-YEAR TERM FOR APPOINTMENT OF DIRECTOR OF FBI

Mr. ROBERT C. BYRD (for Mr. EASTLAND). Mr. President, on behalf of the Subcommittee on FBI Oversight, I desire to give notice that the public hearing scheduled for October 11, 1973, has been rescheduled for Tuesday, November 6, 1973, at 10 a.m., in room 2228, Dirksen Office Building, on the bill, S. 2106, to amend title VI of the Omnibus Crime Control and Safe Streets Act of 1968, to provide for a 10-year term for the appointment of the Director of the Federal Bureau of Investigation.

The chairman of the subcommittee, Mr. EASTLAND, has designated me to act as chairman for the purpose of conducting this hearing.

ADDITIONAL STATEMENTS

HOLDINGS AND DEVELOPMENT OF FEDERAL COAL LEASES

Mr. MANSFIELD. Mr. President, an interesting analysis of Federal activity in the area of Federal coal leasing has come to my attention. A report on coal leases prepared by Mr. G. Bennethum, natural resource specialist, Bureau of Land Management, provides considerable statistical information. The report was prepared in November 1970, but it is applicable because of the general inactivity on the part of the Federal Government in the area of leasing of coal.

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

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

HOLDINGS AND DEVELOPMENT OF FEDERAL COAL LEASES [1]

I. INTRODUCTION

With total energy demand of the country growing at an alarming rate, western U.S. coal resources are becoming increasingly important to this country's continued economic well-being.

Most of the western coal resources are on Federally owned land, much of which is managed by the Bureau of Land Management. As administrator of the largest coal reserves in the country, the Bureau of Land Management, either directly or indirectly, affects the development and utilization of this increasingly important energy resource.

Purpose.—The purpose of this report is to examine the holding and development of Federal coal leases. Specifically this paper will: (1) determine the acreage included within outstanding coal leases and permits issued by the Bureau of Land Management, (2) estimate the recoverable coal reserves contained in these leases, (3) determine the extent of development, and (4) pattern of ownership of the coal leases.

Definitions.—Throughout this report the term "productive lease" is used. Any lease which has produced coal during the 6 month period, April-September 1970 is defined as a productive lease. It is possible that due to strikes, market situations, or acts of God, some operating mines temporarily closed down prior to this measurement period. However, it is believed that such occurrences are relatively few, and would not in any way alter the conclusions of this paper.

A distinction must also be made between the terms "productive status" and "productive lease." The BLM administers all newly issued coal leases until such time as the lessee produces coal or 5 years expires. After 5 years of production, the lease is administered by the United States Geological Survey. Such leases are said to be in a "productive status" whether or not any coal is produced. In this study, leases in a productive status which are not producing coal are considered to be nonproducing leases.

It is important to note that in the following tables the heading "productive acres" does not correspond to those acres actually being mined. The term represents the total acreage included within currently productive leaseholds. The number of acres from which coal is actually produced is far less than this figure.

All coal leases issued by the Bureau of Land Management through November 1970 have been considered in this report. Leases issued subsequent to this date are not included.[2]

II. STATUS OF COAL LEASING ON FEDERAL LANDS

Rate of Coal Leasing.—The curve in figure 1 shows the rate at which Federal coal reserves are being leased. The plotted time series represents the acreage included within the outstanding coal leases at the end of each of the last 30 fiscal years. Only coal leases on public lands are represented.

As of November 1970, there were almost 762,000 acres of Federal land under coal prospecting permit. This is the most acreage the BLM has ever had under such permits. It represents almost a 50 percent increase over the previous fiscal year.

The sudden increase in the acreage under permit is not a random event. From all indications it is apparent that coal prospecting permit actively will likely continue to accelerate at increased rates.

As of March, 1971, there were almost 300 coal prospecting permit applications outstanding, a record level. The number of permit applications is growing monthly.

The reasons for the upsurge of interest in Federal coal reserves are several. First, antipollution statutes in many urban areas are requiring the use of low sulfur coal in electric power plants. Much low sulfur coal exists on Federal land. It is expected that the President's proposed legislation which would tax high sulfur fuels will further enhance the attractiveness of the lower-sulfur western coals.

Second, current and expected increases in the price of oil and gas are prompting many companies to look toward the vast coal reserves of the western U.S. as a primary source of energy. To use these coals, new technologies such as coal gasification, liquification, and solvent refining are being developed.

It is expected that commercial coal gasification will be a reality within the decade. Many potential gasification sites are located on Federal land. Commercial development of such processes will suddenly and substantially increase the value of the publically-owned coal reserves of the western United States.

Under these conditions it is advantageous for an energy supplier or consumer to control as much Federal coal as possible.

Estimation of Leased Reserves.—As of November 1970, there were over 773 thousand acres of public and acquired land under BLM-issued coal leases. The coal reserves contained in these leaseholds are enormous. No official reserve figure is available. However, it is possible to estimate the recoverable coal reserves included within these outstanding leaseholds.

Since estimations of reserves are often controversial it is important to identify the parameters under which such an estimate is made. All of the factors in this estimate are believed to be very conservative resulting in a minimum recoverable reserve figure.

The first step in the estimation process is to determine the average thickness of workable coal beds by state and/or geologic

[1] G. Bennethum, Natural Resource Specialist, Branch of Upland Minerals, BLM.

[2] Eight coal leases have been issued since November 1970.

provence. In determining the coal thickness care has been taken to include only minable beds of coal. Where published information was sketchy or not available, experienced geologists and mining engineers in the appropriate states were asked to estimate the average minable thickness of coal for the areas where BLM-issued leases exit. The average coal thickness is then multiplied by its net area of influence and a factor representing coal densities and mining recovery.

The area of influence is the total acreage of outstanding non-productive coal leases within the area for which the average thickness applies. Since recoverable coal does not underlie all acres under lease and since all the acres under lease will not be mined, a 20% covering factor is applied to the acreage figure to give the net area of influence.

The product of the average workable thickness and the net area of influence is then multiplied by a third factor. Represented in this factor is the tons of coal per acre per foot of thickness. Three different figures were used depending on the type of coal which predominates in the area of influence. These figures with their corresponding coal types are:

Bituminous coal—1,800 tons per acre per foot.

Subbituminous coal—1,770 tons per acre per foot.

Lignite—1,740 tons per acre per foot.

Also. represented in this factor is the average recovery of inplace coal. A very conservative 50% recovery factor is used. Actually, much of the acreage under lease will be mined by stripping methods with recovery factors approaching 90%.

Using this approach the total estimated known recoverable reserves of coal currently under lease is 8.6 billion tons. It must be emphasized that this figure is believed to be an absolute minimum and does not include marginal deposits which could not be mined at present costs and prices.

Without some comparison, the importance of this reserve estimate may not be fully appreciated. If the reserve figure is compared with coal production from public lands its significance becomes more apparent.

In 1970, the USGS reported that total production from public domain and acquired lands was 7,339,775 tons. Thus, coal reserves currently under BLM-issued leases are over 1,100 times greater than coal production from Federal lands.

On a tonnage basis and at current rates of consumption and production, there is sufficient economically recoverable coal currently under Federal lease to supply this Nation's needs for the next 14 years.

Holdings of Federal Coal Prospecting Permits.—One way to acquire a Federal coal lease is through the prospecting permit—preference right lease procedures authorized by the Mineral Leasing Act of 1920.

Prospecting permits are issued to prospective lessees in areas where the extent and workability of coal deposits is uncertain. The permit is good for a period of two years with the right to one, two-year extension. If the permit holder discovers coal and establishes its extent and workability then a preference right lease will be issued for all or part of the lands included in the prospecting permit.

As of November 1970, slightly over 761 thousand acres of public and acquired lands were included within outstanding coal prospecting permits. Table 1 lists the ten largest holders of coal prospecting permits.

TABLE 1

Permittee	Acres	Land office State
1. Page and E. Jenkins	87,017	Colorado, Wyoming.
2. Thomas C. Woodward	84,761	Montana, Colorado, Wyoming.
3. Coal Conversion Corp	46,795	Wyoming.
4. Cayman Corp	43,691	Utah.
5. Kerr McGee Corp	40,250	Colorado.
6. Robert V. Bailey	38,003	Do.
7. Kemmerer Coal Co	36,420	Colorado, Wyoming.
8. Robert Cutherall et al	35,938	New Mexico.
9. Sharon and E. B. Larue et al	30,832	Do.
10. Rosebud Coal Sales Co	25,566	Wyoming

It is interesting to note that few coal producers and consumers appear to be actively engaged in exploring the public lands for coal resources. Only 2 of the largest 10 coal permittees have any appreciable Federal coal reserves under lease. Compare table 1 with table 2.

By far the dominant force in the acquisition of coal prospecting permits is the "lease broker." Of the top 20 coal permit holders, on an acreage basis, only four are actively engaged in the production of coal. It is not the purpose of this report to discuss the pros and cons of coal brokers. Suffice it to say that brokers—not coal producers or users—are the predominant holders of Federal coal prospecting permits.

TABLE 2

Lease	Land office States where leases occur	Total acres directly leased	Productive acres	Percent productive acres
1. Peabody Coal Co	New Mexico, Colorado, Utah, Wyoming	63,218	2,360	3.7
2. Atlantic Richfield	Colorado, Utah, Wyoming	43,502	0	0
3. Garland Coal Co	New Mexico	40,239	4,000	9.9
4. Pacific Power & Light	Oregon, Wyoming, Montana	39,958	2,000	5.0
5. Consolidation Coal Co	New Mexico, Utah, Montana	39,882	0	0
6. Resources Co. et al	Utah	39,352	0	0
7. Kemmerer Coal Co	Colorado, Utah, Wyoming	38,705	1,751	4.5
8. Utah Construction & Mining Co	Utah, Colorado	34,448	0	0
9. Richard D. Bass	Wyoming	20,700	0	0
10. Kerr McGee Corp	New Mexico, Wyoming, Montana	19,778	0	0

Holdings of Federal Coal Leases.—The following table lists the 10 largest acreage holders of BLM-issued coal leases:

As might be expected, the major coal mining and coal consuming companies control the most acreage.

The top acreage holder, Peabody Coal Company directly controls 8.2% of all acres currently under coal lease. Table 3 summarizes the degree of ownership concentration for all public domain and acquired lands.

TABLE 3

Lessee (rank by acres)	*Percent of total acreage controlled*
Largest 1	8.2
Largest 2	13.8
Largest 5	29.3
Largest 10	49.1
Largest 15	59.6

Together the 15 largest acreage holders directly control 460,674 acres or about 60% of the 773,384 acres currently under lease. On a percentage basis these 15 lessees represent only 8% of the total number of coal lessees. Thus 8% of the lessees account for 60% of all acres under lease. In fact, as few as 2% of all lessees control almost 25% of the total acreage under lease.

At the State level there is greater concentration of lease ownership on an absolute basis. The following table summarizes the degree of ownership concentration within the major coal leasing States.

TABLE 4.—LESSEE RANK WITHIN STATE [1]

State	Percent				Total number lessees
	Largest 1	Largest 2	Largest 5	Largest 10	
Colorado	[1] 13.3	25.5	50.1	75.3	44
Montana, North Dakota	19.5	37.8	78.2	97.1	20
New Mexico and Oklahoma	15.3	28.6	57.1	91.3	31
Utah	15.0	27.2	58.6	79.4	47
Wyoming	14.8	25.7	51.7	77.1	33
Average	15.3	28.6	59.1	84.0	

[1] Percent of total acreage under lease within State.

Within each of the major coal leasing States the largest lessee controls an average of 15.3% of all acres under Federal coal lease. The corresponding figure for all public and acquired lands is 8.2%, see table 3. The largest 2 lessees control an average of 28.6% of all leased acres within each state. If all states are considered together the largest 2 lessees control only 13.8% of all acres under lease.

D. Development of Federal Coal Leases.—It is apparent that there is little development of Federal coal leases. For all public and acquired lands, 91.5% of the total acreage under coal lease is within nonproductive leaseholds. If all leases issued since 1966 are excluded from construction (on the average 3 to 5 years are required to fully develop a mine) the unproductive lease acreage is still almost 90% of all acres leased through 1965.

The top five acreage holders control almost

226,000 acres of coal leases (table 2). Of this total, only 8,362 acres or 3.6% are within producing leaseholds. The number of acres from which coal is actually being mined is far less.

Of the top 15 acreage holders, only one has more than 10% of its total acreage within producing leaseholds.

Within each coal leasing state there is a similar lack of lease development. Table 5 lists the total acres under lease by State and the degree of lease development.

TABLE 5

State	Acres under coal lease [1]	Nonproductive acres	Percent nonproductive
Alaska	10,355	8,875	85.7
Colorado	122,190	108,591	88.9
Montana and North Dakota	48,101	42,903	89.2
New Mexico and Oklahoma	136,209	120,039	88.2
Oregon and Washington	5,683	5,145	90.5
Utah	262,254	246,146	93.9
Wyoming	188,326	175,851	93.4
Other	264	264	100.0

[1] As of November 1970.

It is clear that development of Federal coal leases is not taking place. Of the 529 Federal coal leases outstanding in Nov. 1970, 91% are not producing a single ton of coal. Almost 708,000 of the 773,000 acres under coal lease are unproductive. Some of the nonproductive leases are over 40 years old and many are over 20 years old.

Table 6 lists the percentage of outstanding coal leases which are now in production. The percentage figure given in the table, is that portion of the currently outstanding leases issued in the time period specified, which are in production.

TABLE 6.—*Percentage of outstanding leases which are currently in production*

[In percent]

1920–30	40.7
1931–40	30.8
1941–50	24.4
1951–60	13.7
1961–70	2.4

The largest portion of the outstanding producing leases were issued between 1920 and 1930. But even for this period almost 60% of the leases still in effect are not currently producing coal. In addition, less than 2½% of all leases issued between 1960 and 1970 are in production.

The volume of coal production from public lands is another indicator of the development of Federal coal leases. Figure 4 is a time series showing coal production from public domain lands for the last 27 years. Coal production from these lands in 1970 was only slightly greater than it was in 1943 which was the first year production statistics were reported by the Bureau of Land Management on a regular basis.

It is interesting to compare the curve in figure 1 page 2 with figure 4. Maximum coal production from public lands occurred in 1945 when more than 10 million tons of coal were produced. In this same year about 75,000 acres of land was under coal lease. At the end of fiscal 1969, the number of acres under lease had increased to over 725,000 acres while coal production decreased to less than 7½ million tons.

Along with fewer producing leases, there is a trend toward an increase in the average size of coal leases. The average coal lease issued in the 1966–70 period contained 2,173 acres. This is 400 percent greater than the average size of a lease issued in the 1940–49 period.

Conclusions.—Summarizing the conclusions of this report:

1. The rate of leasing of Federal coal reserves is growing at increasing rates. Record levels of coal permit and lease activity indicate that this trend will continue as demand for coal reserves on public lands continues to increase and companies attempt to establish strong resource positions.

2. There are currently over 761,000 acres of public and acquired lands included within outstanding coal prospecting permits. Coal "brokers"—not producers—are the predominant holders of Federal coal prospecting permits.

3. There are extremely large undeveloped reserves of recoverable coal within outstanding BLM-issued coal leases. Minimum recoverable reserves are estimated to be over 8 billion tons or more than 1,100 times current yearly coal production from public lands.

4. If all public and acquired lands are considered, there is evidence of some concentration of coal lease ownership with 8% of the lessees accounting for 60% of all acres under lease. As few as 2% of the lessees control 25% of all acres under coal lease. Within coal leasing states there is a greater concentration of lease ownership on an absolute basis.

5. Development of Federal coal leases is not taking place. Approximately 91% of all BLM-issued coal leases and 91.5% of all acres under lease are currently not producing a single ton of coal.

6. Despite tremendous increases in the number of acres under coal lease and the large reserves contained in these leases, coal production from public lands is remaining constant and has actually decreased slightly in 1970. This is occurring at a time when demand for coal is increasing and coal prices are at their highest levels in decades.

With large recoverable coal reserves already under lease and with 91% of all leases undeveloped, it is evident that existing policies and procedures with respect to development of Federally-managed coal resources are inadequate to encourage their development.

SENATOR GRIFFIN ON "MEET THE PRESS" PROGRAM

Mr. HUGH SCOTT. Mr. President, the distinguished assistant minority leader, Mr. GRIFFIN, of Michigan, appeared on NBC's "Meet the Press" last Sunday, October 7. I believe my colleagues will find the transcript most informative and I ask unanimous consent that it be printed in the RECORD.

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

MEET THE PRESS, SUNDAY, OCTOBER 7, 1973

Guest: Senator Robert P. Griffin (R. Mich.), Minority Whip.

Moderator: Lawrence E. Spivak.

Panel: Carl T. Rowan, Chicago Daily News; Jack W. Germond, Gannet News Service; Godfrey Sperling, Christian Science Monitor; and Paul Duke, NBC News.

Mr. SPIVAK. Our guest today on Meet the Press is Senator Robert P. Griffin of Michigan, Minority Whip of the Senate.

In addition to his leadership position for the Republicans, Senator Griffin is a member of the Foreign Relations Committee and the Commerce Committee. He is a lawyer and served ten years in the House of Representatives before coming to the Senate in 1966.

We will have the first questions now from Paul Duke of NBC News.

Mr. DUKE. Senator Griffin, it appears that a new full-scale war may be underway in the Middle East. What do you think the United States should do

Senator GRIFFIN. Well, Mr. Duke, I might say that I talked this morning with Secretary Kissinger to try to be briefed both as to the developments and also as to what the United States might be doing. I think that what Secretary Kissinger has been doing and what he is doing are the right things. He immediately contacted the other governments involved. He has been able, incidentally, to contact and maintain contact with all the governments participating except Syria; has urged that they observe the cease-fire. He is, I am sure, interested in the United Nations taking some steps in this situation which I would think would be particularly appropriate considering the creation and the birth of Israel and the fact that the United Nations has had observers in that part of the world.

I think that our policy for the moment at least ought to be to do everything we can to contain the extent of fighting, the extent of participation, and to do whatever we can outside the United Nations and inside the United Nations to bring a cease-fire about.

Mr. DUKE. Does Secretary Kissinger regard this as a serious outbreak? Does he view this as a conflict that could go on for some time or possibly just a limited series of engagements?

Senator GRIFFIN. Well, as you would appreciate, it is hard for me to speak for Secretary Kissinger, but I would read all the signs as there being grave concern that this is not just a minor skirmish; that it may be a long and drawn out affair, and we hope it will not be. There are charges and countercharges about who started it. I don't think it would serve the interests of the United States in trying to be a peace maker at this point to point the finger at either side, at least for the moment. And the United Nations should really get into that business of trying to judge what the situation is.

Mr. DUKE. Well, Senator, as you know, the United Nations has been grappling with this problem now for a number of years and has never been able to devise any kind of permanent peace settlement, principally because the super powers, themselves, cannot agree on any formula for the Middle East. What new hope do we have that the UN at this stage can work out a peace settlement?

Senator GRIFFIN. Well, I would have to agree with you, Mr. Duke, that the prospects don't look bright. On the other hand, it is about the only alternative we have got, other than acting unilaterally as we are doing. I think that there may be more hope in the new relationship as far as the Soviet Union is concerned with regard to the Middle East, which of course has changed in recent times

(Announcements.)

Mr. ROWAN. Senator Griffin, Vice President Agnew and/or some of his friends have charged that the Justice Department is out to get Mr. Agnew, to refurbish the image of Henry Peterson and other Justice Department officials.

Do you think the Administration is out to sacrifice up the Vice President?

Senator GRIFFIN. Mr. Rowan, I have no way of answering that question. I do know that Mr. Agnew has real reason to be concerned about the leaks and the charges that have emanated from unnamed sources which have, without any question, affected his right to a fair trial. As to who is responsible for that and whether or not it is the Justice Department or someone in the Administration, I think it is going to take a little time to answer that kind of a question.

Mr. ROWAN. Senator, one specific point: The Justice Department is arguing in court that the President is immune from indictment or court prosecution but that the Vice President is not.

Do you accept that as a valid distinction?

Senator GRIFFIN. I read the brief filed by the Justice Department. I wouldn't say, Mr. Rowan, that I would pose as an expert to answer that very complicated and very difficult constitutional question without a great deal more research than I have done. I will say, to my surprise, because if you look at the language of the Constitution there seems to be no basis for any distinction—that they did make a pretty good case for a distinction between the President and the Vice President and other civil officers and no one is going

to know until the Supreme Court answers the question.

Mr. ROWAN. Senator Barry Goldwater has said that there is not a man in the Senate who couldn't be gotten on charges similar to those levied against the Vice President if somebody wants to make a case about their campaign donations and so forth.

Do you believe that every member of the Senate could be gotten or hauled off to jail if somebody really wanted to go after them?

Senator GRIFFIN. Certainly not. Furthermore, Mr. Rowan, let me say that the charges, as I understand them, at least as they were described in a letter from the District Attorney to Mr. Agnew, which was released, referred to bribe taking, extortion and tax evasion. As President Nixon said, those are very serious charges. What kind of evidence there is to back up and support those charges we don't know except for the stories by leaks that have appeared in the paper.

Mr. SPERLING. Senator Griffin, do you agree with what Senator Fulbright said today, that Israel controls policy in both houses of Congress?

Senator GRIFFIN. No, I do not. I think also it is a very unfortunate statement to be made at this time, and certainly won't help, as the Senate and the Congress tries to play a meaningful and appropriate role in the weeks ahead, considering the problems in the Middle East.

Mr. SPERLING. Well, Senator, you are on the Foreign Relations Committee. Would the Vietnam doves on that committee give equal resistance to our sending troops to help Israel should Israel ask for troops?

Senator GRIFFIN. I don't know, Mr. Sperling. I think that having just recently concluded, after many lives lost and a great deal of dissension within our own country, that unfortunate excursion into Vietnam, I think there would be a great deal of reluctance on the part of the Congress to involve American troops in any kind of a war in the Middle East at the present time. Despite the great sympathy that we have for Israel and the support that we have, when one would provide Israel in terms of indirect support.

Mr. SPERLING. Certainly many Americans must be asking today, and I would like to have you answer the question if you could, is there a chance that we might be sucked into another Vietnam?

Senator GRIFFIN. I don't think so, Mr. Sperling. President Nixon has gotten us out of the war that he inherited by bringing 550,000 troops home, and I know that he is the last one that would want to get us back into a war.

Mr. GERMOND. Senator, I would like to go back to the Agnew matter, again. The Vice President has said that if indicted he will not resign. The President has said that he considers this a matter solely for the Vice President. Do you think that is the case? Do you think he should not resign if he is indicted, or do you think he should resign?

Senator GRIFFIN. Well, Mr. Germond, the Vice President has answered the question, and he is the only one who can answer it, he is the only one who can sign a letter of resignation.

I think that it would be very—let me say this, that in the absence of some solid evidence to replace the vague charges that have appeared and the vague statements that have appeared in the press attributed to unnamed sources, I don't see how anyone who is sincerely interested in civil rights could take issue with the Vice President, unless we just say that the presumption of innocence doesn't mean anything at all.

Now beyond that, I think I ought to say that it is altogether possible that proceedings leading toward possible impeachment could be started in the House of Representatives, even though they haven't up until now, and I think that I would like to caution you, as I try to answer your questions as best I can, that as a member of the Senate, I might be called upon to sit in judgment, and I would be very hesitant to get into too much judgment at the present time because I think I could prejudice Mr. Agnew's case if it came to the Senate, or I could call into question my own ability to be an objective judge.

Mr. GERMOND. There is a question here that has nothing to do with the possibility of your sitting as a judge in the Senate and that is the possibility, however remote, that if the Vice President were indicted or the President died or were disabled we would have succeeding to the Presidency a man under indictment facing criminal charges in Baltimore.

Senator GRIFFIN. That disturbs me very much, Mr Germond, and that is one of the reasons I am disappointed that the House leadership didn't respond to Vice President Agnew's request for an inquiry. I think it would be very unfortunate for the nation to have a Vice President with this kind of cloud over his head for very long.

Now I think the man ought to be vindicated or he ought to be impeached, convicted and removed from office. The quickest and surest way to accomplish one or the other is for the House of Representatives to move as requested.

Mr. GERMOND. You said a moment ago, you suggested that this is still a possibility, despite what Speaker Albert has said. Was that based on some information, do you have some information indicating the House is getting ready to act on this thing?

Senator GRIFFIN. I have no special information. I would think that in the event—and I only say this—in the event that Mr. Agnew would be indicted by the Grand Jury in Baltimore, that surely the House would take another look at it at that point, particularly in view of the statement by the Justice Department that they would wait for a reasonable time to give the House of Representatives an opportunity to move.

Mr. SPIVAK. Senator Griffin, the House and Senate is expected to pass a bill next week which would limit the power of the President to wage war without congressional approval.

In your judgment will the Senate support a presidential veto on that?

Senator GRIFFIN. Well, Mr. Spivak, it would be just a pure guess at the present time, but I would say that the Senate is not likely to sustain the President's veto in view of the votes in the past on that issue. However, it is more likely to be sustained in the House of Representatives.

Let me say that I think that bill is rather mischievous in the way it is drafted. I think it almost gives a President a license to make war for 60 or 90 days without the consent of Congress.

I think that it would mislead the American people and more dangerously would mislead our potential adversaries abroad and might cause miscalculation as to what could happen in the United States if the need to defend ourselves arose.

Let me say that whatever powers the President has to involve the nation in hostilities without a declaration of war he has under the Constitution and the Congress can't change those powers by a simple act of legislation.

Congress does have a very, very potent power, however, and that is the power of the purse. At any time, at any time after President Kennedy sent the first ground troops into combat in Vietnam, Congress could have cut off the funds, as we did in terms of the Cambodian bombing. That is the real power that Congress has and they ought to remember that and not confuse it with this kind of a bill.

Mr. DUKE. Senator, you said some time ago that you felt President Nixon would and should release the pertinent portions of his taped conversations relating to Watergate. Do you still feel that way?

Senator GRIFFIN. Well, Mr. Duke, I prefaced that by saying that it was my view as a lawyer who hasn't practiced law in the last 17 years that he did have a legal right, however not to turn over the tapes. I think that he is standing on sound legal and constitutional grounds, but I thought in terms of his own situation the ability to govern the country, of political considerations, if you will, that he should have turned over the tapes. I am very hopeful, incidentally, that in the future, regardless of how the Supreme Court rules, that he will voluntarily make those tapes available. I say I am hopeful. I have no basis for saying that that will happen.

Mr. DUKE. Should the Supreme Court rule that the President must turn over the tapes and the President then refused to turn over the tapes, would that be grounds for impeachment?

Senator GRIFFIN. Well, Mr. Duke, first of all, I don't think that situation is going to develop. The President has made it clear that he would obey a definitive order by the Supreme Court to turn over the tapes.

Secondly——

Mr. DUKE. Well, there has been some doubt cast on that by the President's lawyers who indicate the President might not turn over the tapes even if he were mandated to do so.

Senator GRIFFIN. Well, I am going to take the President at his word in this situation. I do think we could get into a discussion which we couldn't resolve about what is meant by definitive—that would be the crucial question there. But in any event whether he complies with a court order or whether he is sustained by the court in not being required to turn over the tapes, I am hopeful, and I think with some reason, to believe that at a future date, particularly if he is proven to be right by the Supreme Court, that he would make the tapes available.

Mr. ROWAN. Senator, John Connally, who is a potential GOP presidential contender, says there are times when a President has a right to defy a decision of the Supreme Court. Do you agree with that?

Senator GRIFFIN. Well, Mr. Rowan, I don't agree with that. I don't think there is a—this gets into a very deep and philosophical discussion about the co-equal branches of government and whether or not the Supreme Court dominates the others and so forth. But I do think that the people expect, and I am glad that the President has indicated that he would comply with a definitive order of the Supreme Court.

Mr. ROWAN. Senator, you have got a situation now with two cabinet members or ex-cabinet members under indictment, numerous White House aides or former aides resigning, fired, facing indictment; President and Vice President suspected of various kinds of felonies. Is this going to have a devastating effect upon the Republican party in '74?

Senator GRIFFIN. Well, it isn't going to help, Mr. ROWAN. On the other hand, to be realistic, I think the American voter is a very sophisticated, very knowledgeable group of people. They have followed this Watergate mess on television. They are familiar with those responsible in general and realize that most of the people that we generally refer to as politicians had nothing to do with it. In fact, one of the ironic things is that most of the people who really were involved in Watergate and those kind of adventures were not politicians.

I think that unfortunately the American people are becoming rather discouraged and disgusted, if you will, with not just the Republican party, but politics and government in general and that is a very sad result of the Watergate situation.

I noticed one poll that indicated that identification with the Democratic party had dropped 11 per cent while the people identified with the Republican Party had dropped only 1 per cent indicating that both parties are going to—and I think the incumbents

can expect to be damaged and suffer as a result of all this.

Mr. SPERLING. Senator, can the President pull himself out of Watergate and govern effectively again?

Senator GRIFFIN. Yes, Mr. Sperling, I think that he can. I think that to a large extent he already has. I realize that some of the polls that are taken don't indicate that all the approval has bounced back, but in terms of his relations with the Hill, his meetings with the leadership, his meetings with the press, his pressing for his legislation, the fact that his vetoes have been sustained seven out of seven in this session of Congress, all of these things it seems to me point to the fact that President Nixon has survived the Watergate mess and is again at the helm and leading the country effectively.

Mr. SPERLING. How about the post-Watergate period? Will Watergate, in your opinion, usher in a better day in politics in government?

Senator GRIFFIN. I think that is a very good question, Mr. Sperling, because of all the problems that it does create. Perhaps there are more positive things to come out of Watergate than there are disadvantages. I think the interest in the incentives that we have for reforming the campaign financing legislation, I think the fact that President Nixon's Administration is more open, the fact that his Cabinet officers now are running their department, the fact that he has people around him in the White House who understand the Congress, these are just some examples of the way that the fallout from Watergate has actually been helpful.

Mr. SPERLING. * * * see now to end the Watergate period and see to it that we get a new politics in America?

Senator GRIFFIN. Well, actually the things that were done that were crimes in the Watergate thing were crimes under laws that we already had. But nevertheless, surely the least that we can expect will be some real tightening up of the campaign financing law.

The Senate, for example, passed a bill and sent it over to the House to put a limit on individual contributions. In this last election there was no limit at all, as we read in the paper every day, about some of these people who gave such huge amounts. Now under the bill it would be $3,000. And there would be an absolute limit on how much you could spend in a campaign, and there would be other—and the whole thing would be administered and enforced by an independent election commission, rather than by each house of Congress, itself, if we could get our way in that regard. And it has also, of course, moved us closer to considering various proposals for some public financing of campaigns.

Mr. SPIVAK. Gentlemen, we have less than three minutes left.

Mr. GERMOND. Senator, you first made a national reputation in the Senate opposing the nomination of Abe Fortas for Chief Justice on the grounds that he appeared to be involved in conflicts of interest and possible improprieties.

In view of that, do you feel now that if you applied the same standards that you would have opposed Mr. Nixon and Mr. Agnew, in view of what we know about Watergate?

Senator GRIFFIN. No, certainly I would not in either case. The Watergate hearings, it seems to me have, if anything, vindicated President Nixon. There have been some 40 witnesses now to appear and testify, and only one of them, who enjoyed immunity, incidentally, and whose testimony was based on his own assumptions and implications, in any way tried to implicate Mr. Nixon.

As far as Mr. Agnew is concerned, as we have said before on this program, all we have are some charges against him. We don't know what the substance of those charges is. And, incidentally, I am very glad you referred to that fight over the Fortas nomination. I think as we consider the Senate asserting itself as vis-a-vis the Executive Branch of government, I look back to the fight over the nomination of Mr. Fortas for the Supreme Court as the beginning of a new resurgence of real Senate involvement, not only in foreign affairs, but in the selection of justices of the Supreme Court.

Mr. SPIVAK. Senator, do you consider that U.S. vital interests are involved in the Middle East? Whenever a discussion of the Middle East comes up the United States is always brought into this thing. Are vital interests involved in the Middle East?

Senator GRIFFIN. I think without question our vital interests are involved. They are involved insofar as it is a tinder box that can erupt not only into a regional war, but into a world war if we are not careful. It is involved in terms of the people and our past associations with people in that area, and it is involved in terms of the resources that are in that area that we have to look to.

Mr. SPIVAK. Would you be in favor of imposing a settlement in any way on Israel and the Arab nations, if so much is involved?

Mr. SPIVAK. Well, I don't know exactly, Mr. Spivak, how you would impose a settlement. I don't think either of the parties—you could really stop the fighting in that way, and I don't know what organization or what country would be able to do that.

Mr. SPIVAK. I am sorry to interrupt, but our time is up. Thank you, Senator Griffin, for being with us today on Meet the Press.

HOW WEST VIRGINIA IS GETTING PEOPLE OFF WELFARE

Mr. HOLLINGS. Mr. President, few people deny that we in this country have a welfare mess. The trouble is that everyone talks about it, but nobody really does anything. The welfare rolls go on ballooning, more and more dollars are pumped in, and yet the problems compound.

Now, however, the efforts of one State to actually do something are gaining well-deserved national attention. I am referring to West Virginia and its dramatic success in getting people off the welfare roll and onto a payroll. West Virginia leads the Nation in reducing the number of families on welfare. Jobs have been found for many of those able to work. At the same time, the State has been able to increase its aid to those who stand in genuine need.

This is the direction we ought to be following in each of our States. No one denies that there are many millions of people standing in need of assistance. As the West Virginia experience demonstrates, there are many men and women who could be working but are unable to find employment. West Virginia has developed an aggressive program to find jobs for such people and it has been remarkably successful against many difficulties.

What has turned many people against such assistance programs is that there are some who take advantage. While it may not be possible to control this problem 100 percent. West Virginia has developed a strict system of enforcement to minimize the number of welfare cheaters.

Mr. President, the October 1, 1973, issue of U.S. News & World Report carried a fine closeup of what West Virginia is doing. It is an important article, and I call it to the attention of my colleagues. For that reason, Mr. President, I ask unanimous consent that the article—"How a State With Lots of Poor Is Getting People Off Welfare"—be printed in its entirety in the RECORD. I hope it will not be long before other States can match the splendid work West Virginia has been doing in this area.

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

HOW A STATE WITH LOTS OF POOR IS GETTING PEOPLE OFF WELFARE

(Find jobs for those who can work, provide decent benefits for those who can't. This is the approach that is getting results in West Virginia.)

CHARLESTON, W. VA.—Welfare has made a dramatic turnabout in this rural, mountainous, traditionally poor State.

Until 1971, West Virginia was typical of most of the nation, with relief rolls climbing regularly—even in times of relative prosperity.

In a recent two-year span however, this State led the nation in reducing the number of families receiving aid to dependent children—the critical problem area in welfare everywhere in the U.S.

Jobs were found for thousands once on public assistance. At the same time, welfare payments and services were increased for those persons who needed help badly.

Federal officials say what is going on here is an example of a trend they hope will catch on across the nation. West Virginia is one of a handful of States leading the way in welfare reform—and the only such State that is mainly rural.

As a result, observers from 47 other States and four foreign countries have come here to see how this reform plan works.

A top official of the Department of Health, Education and Welfare in Washington explains:

"Governors, more and more, are beginning to face up to the problems of welfare, squarely and personally. For a long time, it was thought that nothing much could be done. And the bureaucracy tended to encourage this thought.

"Now, there are some examples—such as West Virginia, California and New York—to show what can be done. Welfare rolls are being cut. Payments to those who are really in need are going up. Better administrative policies are being put into effect. Arch Moore is one of the first Governors to take those steps."

FIRST-TERM MOVES

When West Virginia's Governor Moore began his first term in 1969, what he did was this:

To start with, he reorganized welfare operations to increase efficiency. The initial relief check for a new applicant now comes within a week. Once it took six weeks, or more.

Then he moved to eliminate deadbeats. The rolls are screened regularly. The latest investigation of the more than 18,000 families with dependent children began a few weeks ago.

At the same time, with the help of the Internal Revenue Service, collections from runaway fathers rose from $21,460 in 1969 to $178,632 last year.

Next, a major emphasis was placed on finding jobs for those eligible to work. Five years ago, there were 5,376 fathers on relief. Today, there are 945, with a goal of putting all able-bodied fathers to work by Christmas.

Over all, in the family category, the rolls dropped from 23,518 cases including 95,034 individuals in July, 1971, to 18,713 cases with 72,621 persons in July of this year.

Savings from more efficient operations were used to improve benefits. Where needed,

additional money was sought. In November, 1971, grants in the aged, blind and disabled categories were increased from $76 to $123 a month for individuals and from $97 to $156 a month for a couple. Last October, the grant for a family of four was raised from $182 to $217 a month.

"One major goal when I took office was to get a handle on welfare," says Governor Moore. "We wanted to stress finding out who was available for work and getting them on the job. It was hard to sell this new attitude to all the staff and the clients."

As welfare commissioner, the Governor chose Edwin F. Flowers, who is a lawyer, not a welfare professional. He is a long-time friend of the Governor.

"At one point," Governor Moore remembers, "Ed Flowers had me go out and talk to the staff in the field to let them know that this was the Governor's program. We have turned around the thinking of the staff. And I think we have turned around the thinking of the people of the State about welfare."

One symbol of change is the support that the Democratic-controlled legislature is giving the Republican Governor's program. In the past, lawmakers consistently cut money bills for welfare. Now, even though spending still is rising, appropriations pass unchanged.

FULL STATE CONTROL

In reorganizing the system, the Governor eliminated county involvement entirely, giving the State total control of welfare. The entire record-keeping operation is tied into a central computer at the Charleston headquarters.

Fifty-five county food-stamp offices, 55 county welfare offices and nine district offices were consolidated into 27 area offices, with thinly staffed satellite offices remaining in counties where there is no area office.

West Virginia also originated sale of food stamps by mail. A family in a remote area can have the cost of stamps deducted from its relief check and get both by mail.

Few problems were found in the adult categories—the aged, blind and disabled. But in the family areas, the Governor says, "We found we actually were providing benefits to a third generation on welfare, in some cases."

When Mr. Flowers took over, he spent two days a week in the field for several months. He went out with case workers, interviewed clients.

"I learned a lot about the clients and the case workers," he says. "I learned what was right and wrong with the system. I also found out that many decisions we were making in the early days were not getting through to case workers."

In 1970, Mr. Flowers went on a Statewide listening tour. He explains:

"We would announce where the meeting would be held, then I would sit down and spend the evening listening to what citizens, recipients and groups had to say about welfare."

A SPEEDUP

Out of this came the realization that the mails were too slow in dealing with problems and complaints.

"To speed things up," says Mr. Flowers, "we set up connections so they can call us toll free from anywhere in the State. Instead of writing, we try to call back with the answer the same day. I take some of the calls myself."

At first—even as late as last December and January—not all of what West Virginia was doing met with the approval of U.S. officials. It wasn't until Caspar W. Weinberger took over as HEW Secretary last January that solid support came from the federal level.

As long as West Virginia's welfare rolls went up like those in the rest of the nation, Mr. Flowers says, HEW was pleased. He points out:

"It was when our rolls started descending that these same officials grew suspicious and displayed adverse reaction to our efforts. I am pleased that the recent changes which have been made in HEW bring a new consistency of purpose throughout the Department and complement our goal of freeing persons from welfare dependency."

Three years ago, West Virginia tested rules that mothers of school-age children on welfare must register for either work or job training. These regulations were adopted Statewide July 1, 1971. A year later, Congress adopted this policy nationwide.

An effort was made, at one point, to require each family on welfare to file a new application every six months. The courts ruled this illegal, but officials say essentially the same goal is accomplished by rechecking eligibility regularly.

Now, unemployed fathers or mothers with school-age children may be sent first to apply for a job. If they refuse, no welfare will be approved.

On the other hand, if need is urgent, even a satellite office can write an emergency check.

IN THE FIELD

How does this new philosophy work in the field? A visit to the Summersville area office, about 100 miles east of Charleston, shows case workers competing to reduce family assistance rolls.

Summersville serves Nicholas and Webster counties. These are two of the 10 counties in the State where there is not a single unemployed father on relief—this despite the fact that unemployment remains relatively high in the two counties.

"When we get a man applying for welfare, we don't talk about anything but finding him a job," explains Delmas Cogan, head of the job-finding unit. "We talk about his qualifications. We try to get him talking to possible employers, even though we don't have a specific job."

Paul Girod, area director, says:

"We never give him a chance to think about anything else. Even if he doesn't plan to work, we wear him down."

Both men agree that when the word "job" is mentioned, some applicants head out the door, or develop an ailment. But they say this is a relatively small number, that most men and women want to work.

Finding jobs in this rural, mountainous area is a problem, Mr. Cogan admits.

"We get a lot of jobs by going door to door to employers," he says. "We try to get them to come to us, but we recheck periodically. It's hard to get some employers to hire a person on welfare, but we are changing that attitude. In fact, we have been so successful that now some people not eligible for welfare come to us for help in finding a job."

TRANSPORTATION WOES

For both men and women in such rural counties, there is a problem of how to get to work. No public transportation is available in either county.

Some persons have been kept on welfare simply because there is no way to get them to and from work. Others have been relocated closer to jobs, with help from the welfare office. Car pools are arranged, even rides on school buses.

Welfare mothers are harder to place than fathers, in most cases. Many have no work experience. They may need day-care services or care after school for their children.

Wayne Starkey, who works with welfare mothers, tells how this part of the system works:

"We sit down as a team to talk to each mother. We size up their qualifications. We plan what kind of job they might fill. If job training is required, that is part of the plan. We look at other needs, day care and so on."

Most frequently, he says, mothers go to work under a "work experience" setup. While in training, they get their relief check, plus $30 extra for job costs, day care and transportation help, if needed. They get no salary from the employer who trains them. Usually, after this three-month training period, they are hired at regular pay.

Mothers with school-age children must register for such training. Others, with younger children, can volunteer.

"Some welfare mothers are shaken by the idea that they must work," says Mr. Starkey. "One woman cried all day when she was told about it. Next day, when I saw her, she told me, 'I've never worked. I can't work. I don't know how.' Now, she is in work experience, doing well and likely to be hired."

As to the job itself, any work is considered acceptable, so long as it meets existing State and federal standards for wages and working conditions.

Says Commissioner Flowers:

"We take the position that if they are in a job, they are more likely to be promoted into adequate-paying jobs than if they are sitting at home. Taking a low-paying job doesn't mean they have to stay there, although many will. If they are out of a job too long, it gets harder and harder to redevelop the work habits they lost."

IMPROVING SERVICES

For those persons who still qualify, welfare services are improving.

There are foster-care arrangements, a home-repair plan and a new program providing subsidized bus rides where there is public transit, plus more day care, and family planning.

For children, there is an early screening and diagnostic system aimed at the spotting and correction of health problems as promptly as possible.

Also, welfare children get a $30 grant for back-to-school clothes, and another $10 for winter clothing.

To help poor families stretch food budgets, a weekly radio broadcast of nutritional and cooking tips is sponsored. Country-and-Western music on the show is performed by food-stamp users and welfare clients. It is a regular feature on 35 stations in West Virginia, Kentucky and Ohio.

This year, other benefits were added.

"We increased payments for nursing care for the aged and upgraded medical care," says Mr. Flowers. "As a result, many more nursing homes will take welfare cases, and we have almost doubled our medicaid rolls."

The philosophy behind all this, explains the commisisoner, is this:

"We feel that no persons should be on welfare if they are not eligible on the basis of legitimate need, but if that need exists, they should be supported decently."

THE DEEPENING AMERICAN ENERGY CRISIS

Mr. GOLDWATER. Mr. President, in the past few months, I am sure all of us have heard many arguments about the growing energy crisis in the United States and the measures being proposed to come to grips with such an emergency.

And in this connection, I would like to say that I have yet to see a more concise and intelligent appraisal of this problem than one which appeared on September 17 in the Honolulu Star-Bulletin and was written by our former congressional colleague, Mrs. Clare Boothe Luce. As we all remember, Mrs. Luce was an accomplished and successful playwright before she aspired to and became

a Member of the U.S. House of Representatives where she served with great distinction. Later, I am sure you will all recall Mrs. Luce served in the diplomatic corps with equal distinction and throughout her life has shared a great respect and concern for the United States of America.

As she points out in her article, "The Deepening American Energy Crisis," oil is the lifeblood of the American economy and Americans "live by, for, and in their automobiles."

Stating that the United States with 210 million people consumes 33 percent of the oil consumed by the world's 3½ billion people, Mrs. Luce poses the question "where does the oil come from?"

From there, Mrs. Luce goes on to explain how much oil is produced in the United States, in Canada, Latin America, and the Arab States. Her analysis is so sharp and penetrating that I believe it would prove valuable if all Members of the Congress were to read the full text of her article. I, therefore, Mr. President, ask unanimous consent that the article by Mrs. Luce be printed in the RECORD.

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

THE DEEPENING AMERICAN ENERGY CRISIS

(By Clare Boothe Luce)

George Washington, 1782: "If we are wise, let us prepare for the worst."

President Nixon, 1973: "The United States must be in a position that no other nation can cut off our oil."

The United States, with 210 million people, consumes 33 percent of the oil which is being consumed today by the world's 3½ billion people.

Oil is the life-blood of the American economy. Americans live by, for, and in their automobiles.

In 1972, U.S. plants produced 8½ million cars, and one out of four employed Americans were working in the automotive industry, or in automotive-connected businesses or services. There were about 120 million registered cars, buses and trucks in the U.S.A., which American motorists drove 970 billion miles. Americans consume, per capita, 1,100 gallons of oil a year.

Where does the oil come from that keeps the wheels of U.S. industry and its automobiles turning—and which also keeps the U.S. Navy, Air Force and Army mobile?

The U.S. produces about half the petroleum it uses. The rest is imported from foreign countries, principally from Canada, Latin America and the Arab states. But our dependence on foreign oil, especially Middle East oil, is growing.

When the President said that the United States must not be in a position to let other nations cut off "our oil", what he meant to say, of course, was "we must not let the Arab states cut off their oil to us."

So long as we remain friendly with the oil-rich states, and so long as we are able to pay the prices they ask for their oil there is no reason to suppose that they will cut us off.

The real question is, how long will we be able to pay their prices?

We live in a finite world of finite natural resources. All of them are exhaustible. And many, like the mineral fuels, are unrenewable. (It takes Nature 100 million years to produce the barrel of oil which sells today for four dollars.) When oil is removed from the earth and burned up, it cannot be recovered or recycled. It is forever gone. Today, oil is being used up at an exponential rate. It has become the largest commodity in international exchange. As nation after nation industrializes (some, like Japan, with amazing rapidity) and as this irreplaceable, continually diminishing 'black gold' becomes the lifeblood of *their* economies, the inexorable law of supply and demand is causing a steep rise in oil prices. The oil-rich Arab states (it *is* their oil!) may also decide to limit production, since oil in the ground is like money in the bank for future generations of Arabs. This also will create scarcities that will further raise the price of oil.

In 1971, the U.S. bill for foreign petroleum was close to 3½ billion dollars—the largest *single* item in our 45 billion, 600 million dollar bill for imports. In that year, we, ourselves, exported 44 billion dollars worth of goods and commodities. Our unfavorable trade balance then (and since) has been inexorably reflected in the decline of the purchasing power of the dollar abroad, inflation at home, and a growing list of serious shortages of the many vital raw materials we *must* import to keep our industry going.

If we continue to maintain our present rate of oil consumption, and if oil prices increase at their projected rate, our bill for foreign oil will be about 36 billion dollars in 1980. Unless, in the meantime, we have managed to double our own export trade, (which we cannot do and at the same time maintain our present wage scales) we cannot foot that bill. But increasingly unfavorable trade balances will cause a further decline in the dollar, an enormous inflation, and ever-increasing shortages of essential imported materials. And the end of it all will be a collapse of the American economy.

What steps can we take to prevent this catastrophe?

We must continue to seek new sources of oil, at home and abroad. For several decades, American geologists have been fully aware of the developing U.S. energy crisis. But today, almost none are sanguine about finding any vast new *on-shore* oil fields in America. But there may be off-shore oil on our coasts. Environmentalists have fought tooth and nail to prevent their development, for fear of "Santa Barbaras."

American oil is expected to arrive by the 800 mile Trans-Alaskan pipeline from the recently opened North Slope Alaskan range to the Alaskan port of Valdez in from three to seven years. Alaskan oil reserves are estimated to be as large as the reserves of Louisiana, Oklahoma, Kansas and half of Texas combined. However, the flow of North Slope Alaskan oil will be limited by the amount that can be pumped through the 48-inch pipeline. (However deep your water well, you can't water a big thirsty farm with a garden hose.) Alaskan oil will relieve, but it will not solve our growing oil shortage.

We could, obviously, cut our foreign oil bill by domestic cutbacks in the use of oil. U.S. coal resources are plentiful, and coal could be brought back into wide use for heating purposes. But coal is the filthiest of fuels, and any large increase in coal burning would dash much of our hopes for clean city air. As to the cost of a stepped-up coal mining program, this would depend on the unions. Coal mining is also the filthiest and most dangerous of the manual labor jobs.

We can develop new sources of energy. The practical use of wind and sun power are a long way off. But nuclear power is a proven and very powerful energy source. Up to now, the gruesome hazards of nuclear pollution have inhibited the development of nuclear plants. Many would be needed, and the cost is tremendous. Moreover, in the present state of the technology, it takes eight years to build a safe underground nuclear plant. And it is precisely during the next eight or ten years that our energy crisis will begin to evidence its worst effects.

Nuclear energy can be used industrially and probably for mass transit systems. But, like coal, it cannot be used by automobiles—the greatest users—and wasters—of oil.

We could conserve oil by taking trucks, busses and commuter cars off the roads, building up our neglected railroad system, and constructing new urban transport systems.

The automobile industry could conserve oil by making smaller, fewer and better cars. But such automotive cutbacks are not likely to be welcomed by either industry or the labor unions. In the words of Henry Ford II, "Mini-cars means mini-profits". Fewer and better cars could also mean mini-wages, and maxi-unemployment. Anything that adversely affects the automotive economic complex would also hurt advertising. As three-fourths of the profits of the communications media come from advertising, their support for such a program cannot be counted on.

To be sure, the United States could, instead of conserving oil, embark on the deliberate depletion of U.S. oil stockpiles and reserves—which, today, are still substantial. This, however, would simply postpone the oil shortage, and would result, in the end, in our more or less complete dependence on foreign oil. If that time came, the U.S. Navy would put to sea, and the U.S. Air Force would take to the air, only by courtesy of a handful of Arabian sheiks. And U.S. "sovereignty" would also be simply a courtesy title.

In any event, such are the choices open to us.

If the U.S. cannot find new sources of oil at home, if it will not conserve oil, while using coal and developing, full-speed ahead, new sources of energy, if it refuses to make the domestic sacrifices necessary to produce enough (cheap) exports to settle its foreign oil bill—then a depression far greater than the depression of the '30s is inevitable.

Before that were to happen, one other course of action would be possible—the U.S. could go to war for the control of Middle East oil.

To do so would most certainly lead to a military confrontation with the U.S.S.R. Oil is also the life-blood of Russian industry. Russia produces less oil than the U.S.A. Its interest in access to Middle East oil is as vital as our own.

If our leaders do not very soon put their minds to solutions for our oil problem, we will either fall into economic disaster—and political chaos—or we will stumble, unprepared, into war—and possibly a nuclear war—with the U.S.S.R. Our democracy will not survive either outcome.

To be sure, when one considers not only the terrible dangers and miseries the developing energy crisis presents for the American people, but the amount of dedicated, unselfish political leadership it is going to take to solve it, it is really no wonder that so many of our legislators and journalists find it easier to concentrate on Watergate.

NEED FOR SUPERPORT OFF GULF COAST

Mr. ALLEN. Mr. President, with the energy crisis reaching new heights almost every day, there is no question that the economy of the United States will continue to rely on the importation of crude oil into the foreseeable future.

Even before the President's message earlier this year discussing ways to meet and beat the energy crisis, many acknowledgeable leaders in industry and in government were urging development of deepwater superports to provide unload-

ing facilities for the giant oil tankers which are being built, and larger ones now on the drawing boards.

Construction of these superports will be a monumental undertaking but, under the direction of Congress, the U.S. Army Corps of Engineers is already at work preparing a study of deepwater port facilities off the coastal areas of the Gulf of Mexico.

In a joint venture, the States of Alabama and Mississippi have formed the Ameraport Committee to promote location of a superport off the gulf coast near the Alabama-Mississippi boundary. The State of Tennessee has now joined in these efforts to create the Ameraport.

Mr. President, the Port of Mobile is operated by a port authority as an arm of Alabama's State government. Serving the port as an in-house publication is a monthly magazine, "Port of Mobile." In its September 1973, issue, this magazine included a splendid discussion of the Ameraport development. I believe that this article will be enlightening to all who are concerned with the energy crisis, and I ask unanimous consent that it be printed in the RECORD.

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

SUPERPORT STUDY CONTINUES

Superport!

The very name is enough to quicken the pulse of even the most casual observer. And for those playing the game, the stakes are high indeed.

As the U.S. Army Corps of Engineers prepares its Gulf Coast Deep Water Port Study at the direction of Congress, the impact on the ultimate winner or winners, becomes increasingly clear: an unprecedented boost to the economic development of the entire area.

The need for action is obvious: America is in the throes of the worst energy crisis in its history. The U.S. economy currently relies on crude oil as its major fuel source, and must continue to do so for the foreseeable future. Projections indicate an early peak in domestic exploration and production.

Yet, our demand will continue to accelerate. The importation of crude oil appears to be the answer. Venezuela, currently our chief source of imported crude oil, has indicated that she intends to limit exports to conserve reserves for domestic use. As a result, we must look to the vast oil reserves of North Africa and the Middle East as a new source.

To meet the demand and keep costs at a reasonable level, deepwater ports are a necessity. For instance, present tankers bringing oil to terminals in the U.S. average only about 47,000 tons, and it costs about $13 a ton to transport oil from the Persian Gulf and unload it in the U.S. in these ships.

By contrast, a 250,000-ton tanker could bring in and unload its crude oil at a Gulf Coast superport for about $5.70 a ton. The cost drops to about $5.15 a ton in a giant 500,000-ton supertanker. Currently, two 540,000-deadweight tonnage tankers are under construction, and plans for larger ones are on the drawing boards. So the need for deepwater ports is obvious and immediate.

The absence of deepwater port facilities in the Gulf led Corps engineers to project establishment of a deepwater port in the Bahamas as the base condition for their study. At a hearing held in Mobile by the Corps of Engineers, Mobile District Engineer Col. Harry A. Griffith (who has since been promoted and transferred) read a lengthy statement containing a mass of technical and statistical data on economic, ecological and sociological impacts of the various plans.

Summarizing the results of the engineers' studies, Griffith said, "Projections indicate that there will be a huge increase in crude oil imports through the Gulf Coast in the very near future. Our analysis of transportation costs showed that bringing oil to this region using existing size vessels would cost at least twice as much as bringing it in very large crude oil carriers to the Bahamas and transshipping it to the Gulf Coast in smaller ships, a very clear advantage for the use of very large crude oil carriers."

He further stated, "Regarding port facilities for very large crude oil carriers in the Gulf, bypassing the Bahamas, we found,

"Dredge channels are not economically feasible, and would also have a very adverse environmental effect.

"A port system using artificial islands would be feasible and would have a lesser, more localized, effect on the Gulf in their immediate vicinity.

"Monobuoy systems are the most feasible and have the least effect on the environment. (Monobuoy systems provide for giant oil tankers to discharge oil at a buoy. The oil is conveyed to a central underwater station and then carried by pipeline to huge tanks on shore.)

"A two or three part monobuoy system is more economical than a single or four part system.

"Environmental damage from an off-shore oil spill will be minimal compared to a spill in nearshore or estuarine waters.

"Construction of any of the monobuoy alternatives would have a strongly positive effect on the Gulf Coast region.

"There would be some adverse, short-term social effects, resulting primarily from rapid population growth, but these would be overcome by the long-run economic improvement."

In a subsequent statement issued by Gen. Charles C. Noble, Division Engineer, it was noted that "development of deepwater ports along the Gulf Coast to import foreign crude oil in large quantities is economically feasible."

It stated that of the three facility systems investigated—dredged channels, artificial islands and monobuoys—the monobuoy system is the most economically and environmentally feasible.

While the report made no recommendation with respect to the possible development of deepwater port facilities, it noted that environmental safeguards can and should be an integral part of the planning, design, construction and operation of any monobuoy system.

At the Mobile hearing, Alabama State Senator Lionel W. Noonan, Chairman of the Ameraport Committee formed to promote location of a superport off the coast near the Alabama-Mississippi boundary, announced that Tennessee had joined the efforts of Alabama and Mississippi.

Noonan read a letter from Tennessee Gov. Winfield Dunn, pledging his state's "best effort to achieve the goal of a deepwater terminal in the eastern Gulf of Mexico." Dunn is current Chairman of the Tennessee-Tombigbee Waterway Development Authority.

In his testimony Noonan said, "Our goal is to move forward with our environmental friends in a positive way and to make it possible to return to nature and the people of the state and nation the benefits of the bounty that nature has so generously endowed us with."

The Alabama senator expressed confidence that the hearing would produce "productive and profitable results for all segments of society in Alabama and Mississippi and the United States."

A statement from U.S. Rep. Jack Edwards of Mobile was read, strongly endorsing the location of a superport off the mutual boundaries of Alabama and Mississippi.

Mississippi Gov. Bill Waller also appeared before the hearing to urge location of the superport off the Alabama-Mississippi coast.

He said that the site off Pascagoula, Miss, and Mobile, Ala. "offers the maximum benefits to the nation and this region because of its strategic location . . ."

He said it was near "existing and proposed inland waterways and other transportation modes, developable land areas, available labor market, water supply, environmental advantages, favorable public attitudes and political climate and the great need for economic development of Mississippi and her sister states."

Waller noted that the nation's fuel shortage could not be solved by simply adding a superport "to an existing system which already exceeds practical limits in size." He said it would require new refineries, terminals and transportation facilities.

"We have an opportunity and responsibility to put the new superport and the new energy system . . . where it will do the most good," he said. "The Alabama-Mississippi Gulf Coast is the preferred site.

"It will be strategically located with respect to major Mid-America as well as the intracoastal waterway. It will also be accessible to the major existing petroleum pipelines . . . to the East Coast, closer than Texas or Louisiana to the major Eastern markets. The transportation costs to customers on the East Coast shall be lower."

Waller stated that the Alabama-Mississippi site was environmentally superior to others, protected by offshore islands and with superior bottom conditions. He also pointed out that the area has large parcels of land at attractive prices for development as sites for tank farms, refineries and petrochemical industries.

Manpower is available, he added, and "if training programs are needed, we will provide them."

In a related development some weeks following the Mobile superport hearing, J. W. Flynn, President of the North Atlantic Oil Co. of Westport, Conn., announced that his company was negotiating with the State of Alabama to build a 120,000-barrel-per-day oil refinery at the Theodore Industrial Park south of the Port of Mobile. It was projected that the refinery would cost about $400 million to build.

Flynn said North Atlantic has entered into a partnership with Carbonaptha, a French firm, in the venture. The two companies have organized Odessa Refining Co. for the Soviet technology trading agency Techmasexport, which Flynn said would supply Russian-made equipment for the refinery.

Construction of the proposed refinery is expected to start in late 1974 and be completed before 1976.

While in Mobile to inspect the proposed site, Flynn and associates conferred with Sen. Noonan and Dr. Joe Moeller, Executive Director of the Ameraport committee.

Flynn said that among items discussed in negotiations with the Alabama Development Office and the Ameraport officials were pipeline easements and an environmental impact statement.

The companies involved in the proposed venture plan to originally import crude oil to the site by pipeline, but would require a ship channel within the next four or five years.

Gov. George C. Wallace's office recently filed an application with the U.S. Army Corps of Engineers to dredge a three and one-half mile long ship channel, 250 feet wide and 40 feet deep, from the Mobile Ship Channel to the entrance to the Theodore Barge Canal.

The engineers have had under study for some time a seven and one-half mile diagonal

channel running into the proposed Theodore Industrial complex along the general route of the present barge channel. Application for the longer channel was filed by the Alabama State Docks several years ago.

The Corps of Engineers said that both proposed channels would be subjected to environmental, navigation and economic tests on the Mobile Bay hydraulic model at Vicksburg, Miss. Data obtained would be used by the engineers in preparing required environmental impact statements.

North Atlantic Oil Co. last winter imported 12 million barrels of Russian heating oil to relieve an acute shortage in the northeast. Flynn conceived the idea of importing the oil in American vessels that had delivered wheat cargoes to Russia. The proposed Theodore plant is the company's first venture into oil refining.

OPPOSITION TO PROPOSED INCLUSIVE TOUR CHARTER LEGISLATION

Mr. FANNIN. Mr. President, since S. 1739, the inclusive tour charter legislation, will shortly be before the Senate, I have been watching the present controversy over S. 1739, and would like to draw the attention of my colleagues to a speech made by Congressman ESCH on October 3. It provides some food for thought as well as a partial list of all the organizations who are opposed to this bill. Frankly, I find it to be an impressive array, particularly since the proponents of this bill seem to be trying to create the impression that the airlines are the only opposing force. It appears a lot of people other than the airlines and their employees are concerned about the impact this legislation would have.

While my mail from Arizona has not been as extensive as that of Congressman ESCH, I have been impressed by the fact that I have received well reasoned arguments for opposing S. 1739 from such organizations as the Brotherhood of Railway and Airline Clerks Union and the Air Line Pilots Association as well as many individual constituents who have no financial interest in scheduled airlines.

I would like to submit Congressman ESCH's speech for the record, since the list of organizations may be useful reference for us all. You will note that the AFL–CIO, IAM, TWU, and other labor organizations share the airlines' concern.

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

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

CONGRESSMAN ESCH'S SPEECH

Mr. ESCH. Mr. Speaker, on September 18, I placed in the RECORD a statement expressing my deep concern with legislation now pending before the Congress which in my view would do great harm to the scheduled airline service which exists in this great Nation.

S. 1739 is now on the Senate Calendar and H.R. 8570 and H.R. 9367 are now pending before the House Interstate and Foreign Commerce Committee. I have been receiving many expressions of opposition to these bills from my constituents. Mr. Speaker, I am astounded by the vitriolic attacks which are being made upon the integrity not only of the scheduled airlines but upon honest citizens who are availing themselves of their constitutional right to express their opinions to their duly elected Members of Congress.

Mr. Speaker, I have received many publications, well-prepared and obviously well-financed, from supplemental airline representatives. I defend their right to express their point of view.

It occurs to me that airline employees who are the most likely to suffer by the passage of this proposed legislation would be the exact people we in Congress would be expecting to hear from. The insinuation is made that no one else opposes these bills except airline employees. This simply is not true; they affect the entire traveling public.

I am inserting herewith a partial list of organizations who oppose this legislation. I do not believe these organizations or their members lack credibility:

ORGANIZATIONS OPPOSED TO ITC LEGISLATION

AFL–CIO.
Brotherhood of Railway, Airline & Steamship Clerks—Air Transport Division.
International Association of Machinists and Aerospace Workers.
Transport Workers Union.
Airline Passengers Association.
Alaska Dept. of Economic Development.
American Society of Travel Agents.
American Automobile Association.
American Trucking Association, Air Freight Motor Carriers Conference.
Arkansas Chamber of Commerce.
Atlanta Chamber of Commerce.
Birmingham (Ala.) Area Chamber of Commerce.
Buffalo Area Chamber of Commerce.
Chamber of Commerce of Clayton County, Ga.
Chamber of Commerce of Greater Augusta, Ga.
Chamber of Commerce of Hawaii.
Chicago Association of Commerce and Industry.
City of Macon, Ga.
City of Oklahoma City.
City of Philadelphia.
Detroit Chamber of Commerce.
Fort Wayne (Ind.) Chamber of Commerce.
Georgia Chamber of Commerce.
Grand Rapids (Mich.) Chamber of Commerce.
Greater Miami Traffic Association.
Greater Minneapolis Chamber of Commerce.
Greater Philadelphia Chamber of Commerce.
Greater Portland (Maine) Chamber of Commerce.
Greater Providence Chamber of Commerce.
Illinois State Chamber of Commerce.
Indiana State Chamber of Commerce.
Jackson, Mississippi, Chamber of Commerce.
Kansas City, Mo., Chamber of Commerce.
Kansas Economic Development Commission.
Lansing (Mich.) Chamber of Commerce.
Los Angeles Chamber of Commerce.
Louisville Chamber of Commerce.
Maine Association of Chamber of Commerce Executives.
Maine State Chamber of Commerce.
Memphis Area Chamber of Commerce.
Michigan State Chamber of Commerce.
National Association of State Aviation Officials.
National Passenger Traffic Association.
New Jersey State Chamber of Commerce.
New York City Chamber of Commerce.
Ohio Chamber of Commerce.
Pittsburgh Chamber of Commerce.
Salt Lake City Chamber of Commerce.
Society of American Florists.
South Bend (Ind.) Chamber of Commerce.
Springfield (Mass.) Chamber of Commerce.
Toledo Chamber of Commerce.
Utah Agencies (Representing City & State Chambers of Commerce).
Warner Robins, Ga., Chamber of Commerce.
Worcester (Mass.) Chamber of Commerce.
American Federation of Labor and Congress of Industrial Organization.
Air Transport Lodge 1736.
Flight Engineers Association.
Air Cargo, Inc.
Air Freight Forwarders, Inc.
Doric Corporation.
Emory Air Freight.
The Express Company (N.Y.).
Fidelity Bank.
Florida Tropical Fish Industries.
Lowe Runkle Company.
Railway Express Company.
International Northwest Aviation Council.
United States Limousine Operators.
Montgomery Airport Authority.
Arizona Department of Aeronautics.
Tucson Airport Authority.
Litle Rock, Arkansas, Airport Commission.
John Burns, Governor Hawaii.
San Francisco Chamber of Commerce.
Illinois Department of Aeronautics.
Illinois Public Airport Association.
Illinois Department of Transportation.
Brunswick, Ga., Chamber of Commerce.
Director of Aviation, Macon, Ga.
Greater Macon (Ga.) Chamber of Commerce.
Indiana Transit Service, Inc.
Maine Publicity Bureau.
Kingsford (Mich.) City Council.
Mississippi Aeronautics Commission.
Mayor of Kansas City, Missouri.
Gallatin Field (Bozeman, Mont.).
Montana Airport Management Association.
Bert Mooney—Silver Bow County Airport.
Manchester, N.H. Chamber of Commerce.
Director, New Jersey Division of Aeronautics.
Mercer County Airport Board (N.J.).
Summit County Board of Commissioners—Ohio Quad City Airport.
Mayor of Akron (Ohio).
Mayor of Canton (Ohio).
Port of Portland, Oregon.
Allegheny County Director of Aviation (Pa.).
Rhode Island Department of Aeronautics.
Columbus (S.C.) Chamber of Commerce.
Greenville-Spartanburg (S.C.) Airport Commission.
Mayor of Charleston (S.C.).
South Carolina Aeronautics Commission.
Governor Richard F. Kneip (S.D.).
Chattanooga (Tenn.) Airport.
Texas Tourist Council.
West Virginia Chamber of Commerce.
Airline Ground Transportation Association.
American Ground Transportation Association.
Griffith Travel Service, Inc.
Larry Diana's Wonderful World of Travel.
Philadelphia National Bank Travel Agency.
National Innkeeping Association.
Decker House of Travel.
Montclair Travel Agency, Inc.
Joyce Gardner Travel Consultant, Fort Lauderdale, Fla.
NOTO Travel Service, New Rochelle, N.Y.
Helft World (Travel Consultants), Vienna, Va.
Leisure Travel (Travel Consultants), Atlanta, Ga.
Embassy Travel Bureau, Inc., Palm Beach, Fla.
Blue Bell Travel Service, Inc., Blue Bell, Pa.
China Travel Bureau, Inc., Akron, Ohio.
National City Bank of Marion, Ohio, Travel Department.
National Air Transportation Conferences, Inc.
Seymour Travel Agency, Bayonne, N.J.
Vermont Transit Company.
A Rhode Island Tourist/Travel Association.
MAST (Midwest Agents Selling Travel).
World Travel Bureau, Inc. (Minnesota).
Rich's Travel Agency (Atlanta, Ga.).

THE ARAB ATTACK ON ISRAEL

Mr. WILLIAMS. Mr. President, the warfare now raging in the Middle East is a tragic blow to hopes that a lasting peace for that part of the world might be within reach. Although a great deal of uncertainty exists concerning events of the past 3 days, and the current state of the fighting, two things at least are clear: first, that the armed forces of Egypt and Syria launched a savage attack across the cease-fire lines; and second, that the fierce fighting which has ensued is exacting a heavy toll in death and destruction.

This Arab aggression, while treacherous in its timing and execution, certainly did not come as a complete surprise. Rather, it is the logical outgrowth of the blind, unyielding, and self-destructive course which has been pursued by some Arab leaders since the State of Israel was born. They have attempted repeatedly to eradicate this tiny nation, attempts which have been decisively turned back by Israelis fiercely determined to defend their homeland.

Mr. President, in the 25 years of its existence, Israel has achieved a modern miracle. Despite the ever-present threat of attack, Israel has developed into a free, strong, and democratic state. She has time and again offered the hand of friendship and peace to her Arab neighbors, only to be answered by violence, demagoguery, or, at best, stony silence.

There can be no doubt that Israel's only objective is to live in peace and harmony with her neighbors. This can be accomplished, and it would certainly be beneficial not only to Israel, but also to the Arab States. Nevertheless, Arab leaders have unswervingly refused to negotiate face to face with Israel, without precondition. Instead, they have continued to talk of war, prepare for war, and now once again, make war.

It has become clearer than ever before that Israel must maintain secure and defensible borders, in order to forestall the threat of armed aggression with which she has had to contend continuously since her beginnings. And, it is also very clear that the United States must redouble its support for Israel, so that she may continue to successfully defend herself.

Mr. President, although the outcome of the latest Mideast warfare is still in doubt, it appears the tide has turned in favor of Israel. The United States, and all freedom-loving nations, must now support Israel's right—indeed her obligation—to take the steps necessary to insure against future attacks. And, we should all pray that out of the current bloodshed will come a new willingness on the part of Arab leaders to at last concede Israel's right to exist, and to finally choose the path of negotiation, rather than war.

ACCOMPLISHMENT OF WORLD PEACE—ADDRESS BY SENATOR FULBRIGHT

Mr. SAXBE. Mr. President, last night in a masterful speech Senator FULBRIGHT set out his views on how world peace could best be accomplished. I believe that all who listened to him were impressed by the deepness and sincerity of his argument. I would like my colleagues and the Nation to have the full text of this speech, and ask unanimous consent that it be printed in the RECORD.

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

STATEMENT BY SENATOR J. W. FULBRIGHT

PREFACE: THE MIDDLE EAST

One of my principal themes tonight is the need of a world rule of law, in the words of the United Nations Charter, "to save succeeding generations from the scourge of war."

Regardless of the outcome of the current fighting in Sinai and the Golan Heights, Arabs and Israelis alike are catching a glimpse of their destiny in a world without law. It is a destiny of recurrent war, unending tensions, fear and hate, and a crushing burden of arms. For the fourth time in a generation these otherwise gifted and talented peoples have failed of the promise of their own ancient civilizations and plunged into futile hostilities. The failure, however, like the danger, is not theirs alone but that of the entire civilized world, which solemnly committed itself at San Francisco in 1945 "to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind."

It is possible, though hardly likely, that the Arabs and Israelis are content to continue the struggle each in vain hope of some ultimate victory. I cannot believe that really is their wish because of the enormous costs to themselves and the bleakness of the future which continuing struggle will bring. The Arab states, including those which are now conservative, are likely to be radicalized as their grievances fester. Israel, already a garrison state, faces the prospect of mounting terrorism and recurrent war, of a national existence with no semblance of security. However confident they may be of their own military prowess, the Israelis can hardly relish this prospect.

But even if the combatants can accept the prospect of unending struggle, the outside world cannot. As long as there is danger of other nations being drawn in—and that danger is constant—the world cannot stand aside. Like the Balkans in 1914, the Middle East has become the potential flash point of world conflict. In addition, there is the energy problem. Call it what you like—blackmail or ordinary business—the Arab Middle East possesses at least 300 billion of the 500 billion barrels of proven world oil reserves. With no spare productive capacity of its own, the United States—like other industrial nations—is increasingly dependent on Middle Eastern oil, and consequently in need of good relations with the producing countries. These countries, it is well to remember, have no direct quarrel with the United States and have never done anything to harm the United States. Our dependence on their oil is a matter of national interest, no more so perhaps than our emotional bond to Israel, but surely no less so either. These are matters which affect all nations, and because they go beyond the Arab-Israeli conflict itself, the outside world has the right and responsibility to participate in the making of a settlement.

The first requirement is an immediate cease-fire—not a delayed cease-fire which might allow one side or the other to impose "new facts," but an immediate cease-fire ordered by the United Nations Security Council in accordance with its authority, under Chapter VII of the Charter, to "decide what measures shall be taken" to restore peace. Beyond a cease-fire the Security Council ought now, without delay and with full support from the United States, to implement its resolution of Novemver 22, 1967, by permission if possible, by enforcement if necessary in accordance with the terms of the United Nations Charter. That resolution officially supported by the United States through the Robers plan of 1969, calls for the withdrawal of Israeli forces from the occupied territories, but also provides for Israel's survival and security by requiring the "termination of all claims or states of belligerency and respect for and acknowledgement of the sovereignty, territorial integrity and political independence of every state in the area."

Given a will to settle, reasonable variations on the Security Council resolution of November 1967 might be worked out to ensure Israel's security. The Rogers Plan allows of "insubstantial alterations" of territory for the sake of mutual security, and these could include the retention by Israel of some part of the Golan Heights from which the Syrians before 1967 fired down upon civilian communities. In addition, arrangements might be made for the phased restoration of Sinai by Egypt along with a general acknowledgement of Egypt's sovereignty over the region. Israel's right of free access through the Gulf of Aqaba might be secured by the stationing at Sharm el Sheikh of an international force, removable only by the consent of all parties, or alternately by an Israeli leasehold comparable to the special French presence in the German Saar after the First World War.

Jerusalem, because of its profound importance to three great religions, can and should be made an international city and given special status with free access to all. Its sacredness to Chistians and Jews is well-known, but its equal importance to Muslims has not been fully appreciated in the West. It may be recalled that in 1967, by a vote of 99 to 0 in which the United States abstained, the United Nations General Assembly condemned Israel's unilateral annexation of the old city. Its status now cannot be accepted as "non-negotiable."

All these arrangements could be guaranteed by a binding agreement, duly ratified, between Israel, the Arab states and the United Nations. In addition—as I have suggested on several previous occasions—a United Nations guarantee could be supplemented by an identical bilateral treaty between Israel and the United States—not an executive agreement but a treaty consented to by the Senate—under which the United States would guarantee the territory and independence of Israel within its adjusted borders. This supplementary, bilateral arrangement with Israel would obligate the United States to use force if necessary, in accordance with its constitutional processes, to assist Israel against any violation of its borders, which it could not repel itself, but the agreement would also obligate Israel, firmly and unequivocally, never to violate those borders herself.

The conflict in the Middle East is testimony to the bankruptcy of traditional power politics. Had the nations met their responsibilities under the United Nations Charter in 1948 or 1956 or 1967, any or all of these three wars could have been avoided. Now, once again, tragedy brings opportunity. As will be shown in the remarks which follow, I am less than confident of the rational and humane conduct of human affairs. But neither have I given up on that possibility. I perceive in the Middle East a unique opportunity to make the United Nations work as it was intended to work, and by doing so, not only to resolve the conflict between Arabs and Israelis, but also to create a most valuable precedent for the future.

ASPECTS OF THE NATIONAL INTEREST

Perhaps in the abstract sense there is an objective category which can be called the

"national interest". Human affairs, however, are not conducted in the abstract, and as one moves from the theoretical to the operational, objectivity diminishes and sentiment rises; ideas give way to ideology, principle to personality, reason to rationalization. As formulated by men of power, the national interest is a subjective and even capricious potpourri, with ingredients of strategic advantage, economic aspiration, national pride, group emotion, and the personal vanity of the leaders themselves. This is not to suggest that the concept of "national interest" is false but that it is elusive and far from self-evident, and when statesmen invoke it, they raise more questions than they answer.

There have been in recent American usage at least three separate conceptions of national interest; the ideological, exemplified by the anti-Communist crusade of the cold war; the geopolitical, which treats international relations as an endless struggle for power as an end in itself; and the legal-institutional, an approach which holds that international affairs, like domestic affairs, must be brought under the regulation of law, an approach which gave rise under American leadership to the League of Nations Covenant and the United Nations Charter. Depending upon which approach you embrace, or deplore, your conception of the national interest will differ from, or conflict with, that of others. My own preference—bias if you like—is toward the legal-institutional. The preference of the Nixon Administration, as I perceive it, has been—at least in the past—strongly geopolitical. Though divergent in concept, these approaches often overlap in practice; I find myself, for instance, in agreement with the Administration on the wisdom of détente with the Soviet Union, but in disagreement on certain underlying concepts of what the national interest is and what it is not.

It is not my intention here to offer a definitive catalogue of the national interests of the United States but rather to comment on certain aspects of the national interest which I believe to be illustrative of its basic character.

I shall comment briefly later on the emergence of China as an influential and innovative nation, in the process of creating an extraordinary experiment in social cooperation within China which may well prove exemplary for much of the third world, and also to express hope that China will play a leading and responsible role in strengthening the United Nations. Nor do I comment here on the seemingly intractable problems of poverty and population growth in the Third World. In all of these the United States has major national interests, but I confine myself here to a discussion of basic concepts of national interest, of the fragile and threatened détente with the Soviet Union, of the need to restore economic health at home, and the continuing significance of the all-but-forgotten promise of the United Nations. Though by no means definitive, these areas seem to me to be both topical and illustrative of the kinds of national policy which are consistent with our national tradition, congenial to our national character, and best conceived, overall, to advance the security and welfare of the American people.

I. CONCEPTS OF POLICY

It has ceased to be useful, if ever it was, to deal with foreign policy as a category distinct from domestic policy. Neither can be rationally conceived or successfully executed except as aspects of national policy. I am thinking not of the policy maker's natural preference for strong domestic support of his foreign policy, but of the more fundamental need of a foreign policy which advances the well-being of our people, does not drain resources unduly, and is compatible with the national character. In the course of history nations have been defeated by foreign enemies at least as often because of internal weaknesses of their societies as because of insufficient armaments. But I would go even beyond the fact of demonstrable interaction between foreign and domestic problems to suggest that a well-conceived foreign policy is not only related to, but necessarily subordinate to, domestic needs and aspirations. In a report of a few years ago the Senate Foreign Relations Committee noted that "Foreign policy is not an end in itself. We do not have a foreign policy because it is interesting or fun, or because it satisfies some basic human need; we conduct foreign policy for a purpose external to itself, the purpose of securing democratic values in our own country."[1] To put the matter simply: our national interest has to do with the kind of society we live in, and only incidentally with the kinds of society other people live in.

It is mistaken to conceive of foreign policy as an adventure even an idealistic adventure. Echoing General de Gaulle's mystical conception of France's role, Secretary Kissinger has suggested twice that "America was not true to itself unless it has a meaning beyond itself"—a "spiritual" meaning, he went on to explain.[2] Dr. Kissinger also endorsed Theodore Roosevelt's entreaty that we "dare mighty things" and "win glorious triumphs". That invocation, the Secretary said, "epitomizes the essence and strength of this nation". I do not know exactly what "mighty things" to be dared the Secretary of State has in mind, but I must say that I find the notion disturbing. It is my impression that Theodore Roosevelt was an impetuous and enthusiastic chauvinist, with imperialistic tendencies.

There may have been a kind of romantic idealism in his outlook, but it is the wrong kind of idealisms, dangerous and obsolete in this nuclear age.

Foreign policy is not an adventure, and our statesmen are not cavaliers but public servants. It is not daring but competence and prudence that are required of them. When they forget that, and take flight with their own soaring rhetoric, they get into trouble, and drag the rest of us with them. I do not agree with Dr. Kissinger that our American experience necessarily has "universal meaning," or that America requires a meaning beyond itself. There is meaning enough in being ourselves, a meaning by no means yet fulfilled, and in letting others find their own meanings.

The primacy of domestic policy has nothing to do with "isolationism"—a concept which has become functionally irrelevant as well as rhetorically polemical. The charge of "neo-isolationism" is an invention of people who confuse internationalism with an intrusive American interventionism, with a quasi-imperialism. Those of us who are called "neo-isolationists" are, I believe, the opposite: internationalists in the classical sense of that term, in the sense in which it was brought into American usage by Woodrow Wilson and Franklin Roosevelt. We believe in international cooperation through international institutions. We would like to try to keep the peace through the United Nations, and we would like to try to assist the poor countries through such institutions as the World Bank. We do not think the United Nations is a failure; we think it has never been tried.

The merit of the administration's foreign policy is that it is rooted in a coherent view of the world; the principal failing of this policy is the particular worldview in which it is rooted. The power politics approach is an improvement on the ideological crusade of the cold war, and the Administration deserves credit for the openings to China and Russia which have alleviated the cold war. But the balance-of-power approach, on which our new relationships with China and Russia are based, is justly criticized as cold and amoral, oriented to process rather than purpose, as if the "game" of nations were nothing but a game, conducted for the sake of the game, not for winning something but just for the sake of winning, for being "Number One." But the ultimate failing of supposedly hard-headed, realistic power politics is that, always in the long-run and often in the short-run as well, the approach turns out to be neither hard-headed nor realistic as a means of keeping the peace. However successful the balance-of-power has been in keeping the peace over certain periods of time, it has always broken down in the end, culminating as in 1914, in general war.

There are many reasons for the inherent instability of power politics. One is the failure to take account of the internal life of nations. In the eighteenth century the kings of Europe were able to alter and adjust the balance-of-power through shifting alliances; even in 1939 the Hitler-Stalin pact shattered the last remaining fragment of European stability. For the most part, however, modern nations gain and lose strength, and with it the ability to upset the international equilibrium, as the result of internal developments. Germany upset the European balance in the late nineteenth century primarily because her economy and industry grew much faster than those of her neighbors, enabling Germany to become militarily preponderant. More recently, France has reclaimed a leading role in Europe despite the loss of empire, more accurately perhaps because of it; the stability of the Fifth Republic and the rapid growth of the French economy since the Algerian war have given France a new weight in international affairs. Conversely, and more pertinently, we have seen the influence and reputation of the United States in world affairs diminished by political scandal and economic dislocations the latter largely the result of extravagant military spending. Confrontations, summits, alliances and spheres-of-influence are surely factors in a nation's position in the world, but they are no longer the major factors; the major factors are internal.

A skillful diplomacy can of course take account of domestic developments, but here we are thrown back upon the cleverness of statesmen—a commodity hardly to be relied upon. And that indeed is the root weakness of the game of nations: it is a despotism without laws, as stable or shaky, just or unjust, as the men momentarily at the top of the heap. In international relations as within our own country order and stability requires institutions; it requires a system that ordinary men can run and incompetent men cannot ruin. Guarantee if you can that the game will be played by a Bismarck or Talleyrand, by a Kissinger or Le Duc Tho, and perhaps I will withdraw my objections. But as long as luminaries give way to lesser lights—and they always do—the objection stands. As Henry Kissinger wrote of Prince Bismarck, "In the hands of others lacking his subtle touch, his methods led to the collapse of the nineteenth century state system. The nemesis of power is that, except in the hands of a master, reliance on it is more likely to produce a contest of arms than of self-restraints."

That brings me to the nub of both my concurrence with, and dissent from, the Nixon-Kissinger foreign policy and the Johnson-Rusk policy. I concur, strongly, in the efforts toward a "structure of peace," but I am concerned with flimsiness of the structure. It is makeshift and fragile, too dependent on agility and cleverness, too delicate to work for dull leaders or withstand incompetent ones. I remain, therefore, a Wilsonian, a seeker still of a world system of laws rather than of men, a believer still in the one great new idea of this century in the field of international relations, the idea of an international organization with permanent processes for the peaceful settlement of international disputes.

Footnotes at end of article.

II. THE STRUCTURE OF DÉTENTE

Reluctant though we may be to relate foreign policy to our own domestic affairs, we seem all too willing at times to apply our foreign policy to other people's domestic affairs. The Jackson amendment to the trade bill pending in Congress would deny most-favored-nation trade treatment to the Soviet Union—which is to say discriminate against its trade with us—unless the Soviet Union eliminates restrictions on emigration by its citizens. On September 17 the Senate, on the initiative of Senator Mondale, adopted a resolution, without referral to a committee and with minimum discussion, asking the President to press the Soviet Government to stop oppressing dissidents and permit its citizens freedom of expression and emigration. Under the Mondale resolution the President is called upon to negotiate nothing less than a revamping of the Soviet system, and the dismantling of a police state apparatus going back half a century under the Communists and a thousand years before that under the tsars. It is a worthy sentiment but a tall order.

Nonintervention in the internal affairs of other countries is one of the cardinal rules of international law and relations, and it is codified in the United Nations Charter. The essential purpose of the rule of nonintervention is to prevent larger countries from bullying smaller ones, and to prevent quarrels arising from gratuitous meddling. There are times when nonintervention seems harsh and immoral, as when an oppressive government is left free to mistreat its own people. At times an exception may be warranted, as when a society disintegrates into barbarism, or when an internal issue becomes a threat to international peace, as that is defined in the United Nations Charter. Much more often than not, however, nonintervention is more likely to advance justice than to detract from it. As we Americans discovered in Vietnam, outsiders are seldom wise enough, just enough, or disinterested enough to advance the morality or welfare of a society not their own. The Russian people have lived under dictatorship throughout their history; it is not for us, at this late date, to try to change that by external pressure, especially at a time when there is a better chance than ever to build a cooperative relationship between the Soviet Union and the United States.

Why indeed should we cooperate with the Soviet Union, a country whose social system is inimical to our own? The answer is simplicity itself: we have to get along with the Russians because, in matters of world peace, we cannot get along without them. The threat of nuclear destruction has become a commonplace, so much so that we tend to dismiss it or forget it. But the fact remains that the leaders of the two nations have the means at their disposal at any time to destroy each other's cities and much or most of each other's populations, and there is nothing—nothing—either side could do to prevent it. American pioneer families helped each other to build cabins and clear the land because the job was too big to do alone—cooperation was a matter of survival. Similarly, the Bedouin Arabs have an ancient etiquette of hospitality—a traveller across the desert cannot be refused food and water, because the host knows that he too may someday journey across the desert. Here too it is a matter of survival—not of affection of friendship or religion or ideology. That is the sum and substance of it: in matters of war and peace Russians and Americans are wanderers in the same desert, and in that desert it is not ideology that counts but food and water—the "food and water" of trade arms control, political cooperation and cultural exchange.

While I sympathize with the plight of the dissidents and minorities in the Soviet Union, I cannot concur in the approach of Mr. Sakharov, the Soviet physicist, who says that there can be no detente without democracy, or the novelist Solzhenytsin, who says that "mankind's sole salvation lies in everyone making everything his business." This asks too much of human nature, assuming that involvement will always be benign rather than aggressive, moral rather than predatory. Were everyone to make everything his business, the result would be war not peace, imperialism not democracy. Men have capricious notions of what is and is not their business; that is why it is usually better for them to mind their own. I do believe that the world can be made better, and that man is capable of aiding its betterment, but I am equally a believer in selectivity of means. Important as it is to know what we hope to achieve, it is equally important to know what we are incapable of achieving; which is to say that humane aspiration must be tempered by realism.

Choosing from among alternatives is, of course, inevitable in politics, even on the part of those who would base detente upon sweeping standards of morality and justice. Why indeed are they so distressed by the denial of civil rights in the Soviet Union, when we have close and amicable relations with—and give material assistance to—a large number of non-Communist dictatorships who mistreat their citizens? Why do we suddenly require measures of democracy in the Soviet Union as the price of our trade? In Chile a freely elected but Marxist government has been overthrown by a book-burning military dictatorship. Do you suppose we will require a return to democracy before resuming trade and investment with the military junta there? If we wish to apply pressure for democracy and human rights, would it not make sense to start with Chile, Brazil or Greece, all of whom are vulnerable and should be responsive to American pressures, and none of whom are as essential partners for the maintenance of world peace as is the Soviet Union? Why start with the Soviet Union, a superpower which can, if it must, live without our trade and investment, and the one country whose cooperation is absolutely essential for building a structure of peace, which I know we all desire?

The adoption of the Jackson amendment requiring continued discrimination against the Soviet trade may not in itself destroy the détente between the Soviet Union and the United States, but it may well derail it. We may recall that in 1960 the U–2 affair shattered the Eisenhower-Khrushchev "spirit of Camp David," and that the Cuban missile crisis precipitated a renewal of the arms race. Khrushchev went on to conclude the partial nuclear test ban treaty with President Kennedy, but his position at home had been irreparably weakened by his failures in attempting to get along with the Americans, and he was displaced in 1964.

General Secretary Brezhnev has now reiterated Khrushchev's request for business-like dealings with the United States. In Moscow last year significant agreements were reached in the field of arms control—especially the ABM treaty—and for cooperation in such fields as space, science and health. Now the Russians are interested primarily in trade and investment, and without being gullible or naive, surely we owe it to ourselves to give openminded consideration to Mr. Brezhnev's assurance to members of Congress: "We came here to consolidate good things, not to quarrel." If Mr. Brezhnev, like Khrushchev, fails in his détente policy because of American pressures on emigration and the treatment of Soviet intellectuals, it is possible that Brezhnev, like Khrushchev, will be discredited at home and displaced by hard-nosed successors who will have little interest in trade, arms control or détente with the United States, or in freedom of thought or emigration for Soviet citizens.

The Soviet Government, it is true, has already yielded a great deal under our pressure: emigration to Israel, which was kept to only 1,000 three years ago, is now being permitted at a rate of over 30,000 a year. But we should not conclude that the Russians will continue indefinitely to yield to American pressure. The adoption of the Jackson amendment might induce the Russians to remove remaining restraints, or it might anger them into clamping the controls back on. If ever there is to be an authentic liberalization in the Soviet Union, it will come about as the result of internal pressures from increasingly assertive professional, managerial and intellectual classes within the Soviet Union.

Like the tsars before them, the Soviet leaders greatly fear Western political ideas, which they consider a threat to their rule. It is understandable, though not admirable, that they should tighten internal controls at the same time that they are seeking closer political and economic ties with the West. They fear our subversion, just as we once feared theirs; specifically they fear that we will try to bring our political ideas into their country along with the trade and investment which they desire. The Jackson amendment reinforces these fears and, in so doing, threatens the political and economic cooperation which both sides need and desire.

I would judge that the most we can do to advance the cause of liberties within the Soviet Union is to help create an international atmosphere of security and cordiality, an atmosphere calculated to diminish rather than aggravate neurotic fears of Western ideas on the part of the Soviet leaders. In practice this would mean a continuation of measures of détente already begun, in trade, investment, cultural exchange, and above all arms control.

While recognizing the futility of war, the superpowers refuse to recognize the resulting futility of the arms race. Instead of pursuing the logic of the ABM treaty and proceeding energetically with the SALT talks, they prepare for future agreements by feverishly accumulating "bargaining chips," which is to say, by arming to the teeth. To cite one recent example: on September 27 the Senate by a narrow margin voted $1.6 billion to allow the Administration to accelerate the development of the Trident ballistic missile submarine. Each single Trident will cost an estimated $1.3 billion, and that does not allow for the Pentagon's inevitable cost-overruns. The decision to accelerate the Trident program was made in the wake of last year's interim agreement so as to give the United States additional "bargaining chips" in the negotiations for a permanent treaty, and despite the fact that our Polaris and Poseidon submarines are virtually invulerable to attack and likely to remain so for the foreseeable future. As Charles Yost has written, "When Congress votes funds for a submarine, it votes not for one but for two, an American and a Soviet."[4] Progress toward arms control—the most important single area of Soviet-American détente—is thus negated by the self-defeating theory of "bargaining chips". If we are to have the "structure of peace" of which President Nixon and Secretary Kissinger speak, it is essential that we terminate this irrational, ruinously costly practice of accelerating the arms race while trying to restrict it.

Until and unless China joins the other great powers in their ill-considered arms race, her significance will consist primarily in the challenge of her society. Visitors to China—experts and amateurs alike—report on the orderliness, purposefulness, cleanliness, and cooperativeness of Chinese society. Perhaps, to some degree, the visitors have been misled by guided tours; perhaps their reports reflect something of the old conde-

Footnotes at end of article.

scending sentimentalism of Americans toward China. The evidence suggests however, that there is more to the modern Chinese experiment. The evidence suggests that this largest of human communities and oldest of civilizations has moved far to bring health, education, social cohesion and a sense of purpose into the lives of a long-divided, poverty stricken and demoralized population.

The world significance of the Chinese experiment is its potential impact on the third world. China alone of the great powers has a claim to membership in the third world. As an economically less developed nation itself, China has the potentiality of serving as a model for Asian, African, and Latin American nations to whom the experience of economically developed nations like the Soviet Union and the United States may seem out of reach and irrelevant. It seems possible, therefore, that neither of the missile-wielding superpowers will prevail in the competition for influence in the third world, but that the role of an exemplar will fall to China as one of their own. It is in this respect—not as a "power" but as a society—that China commands a position of primacy in our foreign policy and in our national interest, warranting our attention, our friendly interest and our best efforts toward understanding. Dr. Kissinger commented after his visit to China in early 1972, "These people have a sense of purpose. If there is communication, it will be a great challenge to our whole society." That, I believe, was a perceptive observation.

III. THE DOMESTIC SIDE

If détente with the Soviet Union and with China represents the first foreign requirement in the national interest, the first requirement on the domestic side is the restoration of a healthy national economy. The two, as we have seen, are inseparable: extravagant military expenditures strain our economy, and the weakened economy in turn detracts from our foreign policy. The essential corrective is a more restrained American role in world affairs, a reduction in status, so to speak, from "Number One" to something like "first among equals."

On August 15, 1971, the day President Nixon imposed emergency controls on the economy, the United States passed through a symbolic watershed in its foreign policy. Prior to that date we had felt ourselves able to shape our foreign policy solely in terms of what we needed and wished to accomplish in the world. Since that time we have been compelled—or should have been compelled—to recognize that our resources are limited and that we must base our policy decisions not only on what we wish to do but also on what we can afford.

Some cogent statistics illustrate the change. In 1950 the United States produced half of the world's total output of goods and services; by 1970 our share had dropped to 30 percent. In 1950 we produced almost half of the world's steel; today we produce about one-fifth. In 1950 the United States held half of the world's monetary reserves; today we hold less than one-tenth.

The significance of these developments, by no means yet fully appreciated, is that the United States can no longer afford, and no longer can fairly be expected, to sustain the military and political supervision of world affairs which it has exercised for three decades. The role of global colossus came to us by default after World War II when every other major industrial nation in the world was economically devastated. We thereupon undertook extraordinary global—and even extra-global—enterprises, including the Marshall Plan, the rearmament of ourselves and our allies, worldwide military and economic aid programs, two long and costly wars, the extravagantly and incredibly expensive arms race with the Soviet Union, and a superheated race to the moon.

Only recently, with our national economy beginning to crack under the strain, have we been constrained to recognize the necessity of bringing our military and political activities back into harmony with their economic base. For this purpose economic controls are only temporary expedients. They are no substitute for the fiscal and monetary reforms which are essential to curb inflation, stem the dollar outflow, and restore confidence at home and abroad in the American economy and its managers. However many "phases" of control and de-control are superimposed on our national economy, a stable equilibrium can be restored only through some combination of increased revenues and reduced expenditures.

The most promising field by far for reducing expenditures without risk to our national security is in the development of unessential new weapons systems. The Brookings Institution economist Edward R. Fried suggests that savings of $10 billion could be made without appreciably altering current military capabilities by major economies in the use of manpower and by slowing down the developments of such weapons systems as the Trident ballistic missile submarine and the B–1 supersonic bomber, the one designed to supplant the still-functional Polaris, the other to supplant the still quite adequate B–52 bomber.[5] There are, in addition, numerous aid projects, troop deployments, and other foreign operations which, though individually modest in cost, are quite costly in the aggregate and of dubious relevance, in any case, to the national interest.

In practice if not in their declarations, Congress and the Nixon Administration reject the concept of interacting foreign and domestic policies. Congress pays eloquent tribute to the need of economy but votes just about everything the Administration requests for arms procurement.

The Nixon Administration, for its part, pursues détente with the Soviet Union, but at the same time pursues an arms policy which undermines détente and which strains our national economy. The military budget for fiscal year 1974 is still based on outdated cold war assumptions and on the equally outdated assumption of unlimited American resources to prosecute it. Conceived as it seems in isolated compartments, the overall Administration policy is one of pressing the cold war while also trying to end it, of straining the national economy while also trying to revive it.

Karl Marx predicted that the capitalist countries would ultimately collapse under the weight of their own internal contradictions. Our current ambivalence as between détente and cold war, extravagant weapons systems and the needs of the domestic economy, lend more than an iota of credibility to the Marxian prophecy. On the one side Senators and Congressmen sincerely advocate détente; on the other they vote for expensive and unnecessary weapons systems. On the one side the President and Congress take statesmen's advice on the possibilities of international accommodation; on the other side they accept the generals' and admirals' drastic estimates of a possible adversary's capacity and intentions. The effects of these contradictions are self-defeating abroad and debilitating at home.

Lord Salisbury, a British Prime Minister of the late nineteenth century, said to a colleague, "You listen too much to the soldiers . . . you should never trust the experts. If you believe the doctors, nothing is wholesome; if you believe the theologians, nothing is innocent; if you believe the soldiers, nothing is safe."[6] We are in need of an overview, one which will put risks and costs, projects and opportunities, in clarifying perspective.

IV. A CONCEPT OF ORDER

Shortly before he entered government, Dr. Kissinger wrote that "The greatest need of the contemporary international system is an agreed concept of order." I surely do agree that a concept of order is essential to the world and essential to our own national interest. I agree too that the Nixon Administration's foreign policy has had a more well-defined central concept than that of any Administration since Woodrow Wilson's. But as noted before, I believe the Nixon concept to be adequate, reactionary in the historical sense, and profoundly pessimistic; reconciled as it is to struggle for power as something permanent and inevitable, the administration's approach is essentially devoid of hope for progress or betterment in human affairs. Believing as I do that there is hope, however slight, for fundamental change and fundamental improvement in the way nations deal with one another, I retain my faith in the Wilsonian concept of a powerful world peace-keeping organization, not really because I am confident of its coming about or of its success, but because I think it is within the range of human possibility to make a world organization work, and that seems to me worth striving for.

It follows from this conception of the national interest that the United Nations ought to be at the very center of our foreign policy and not at its far periphery. In this connection I was disappointed by the lack of conviction and detail in Secretary Kissinger's recent speech to the United Nations, and by his "unnecessarily modest proposals"—as the New York Times put it—for strengthening the world organization.

The United Nations—despised, neglected and misused—remains nonetheless the greatest potential instrument for dealing with the global problems of our time. When all is said and done—when all the ideologies have been exposited and found wanting, when all the theories of "realpolitik" have been tested and revealed as dangerous romanticisms—one ancient, still untested idea persists: the idea that politics can be put to the service of ordinary human needs; the idea that through world law we can free ourselves from the costly and dangerous burden of international conflict; the idea that through cooperation and man's genius we can alleviate poverty and put our technology to humane and rational purposes. It is the age-old dream of beating swords into plowshares, of changing the rules of the old, discredited game by supplanting the anarchy of nations with an effective international organization.

To begin to achieve these great aims, we must recognize that the principle of absolute sovereignty is obsolete. We must begin to think of the world as a community in which, for certain limited purposes at least, the good of the whole must take precedence over the advantages of the parts. Neither the large countries, including our own, nor the small countries have ever accepted that principle with respect to the United Nations. The large nations, including the United States, have used the United Nations as a minor instrument of their own foreign policies, to be used or—more commonly—ignored according to their convenience.

The United States is only just turning away from a long period of unilateralism, in the course of which we allowed ourselves to believe that we ourselves were the effective successors to an enfeebled United Nations, forced by fate and circumstance to bear the responsibilities of power." In so doing we not only went beyond our own legitimate interests and responsibilities; we discouraged others from accepting their fair share of international responsibility. Unilateralism fed upon itself; having gotten in the habit of acting on our own because others seemed unwilling to act, we then found them more unwilling than ever to accept collective responsibilities. For this reason, and for the even more important reason that long-neglected domestic needs now claim our attention, the United States can make a great

contribution to international cooperation by making it clear that the Pax Americana—such as it has been—is now at an end, and that hereafter the United States will act promptly and loyally in concert with other nations in the United Nations but will not act alone.

Even without the immediate cooperation of others there is much the United States could do to breathe life into the United Nations. We could make it national policy to appoint men or women of eminence and power—with the prestige of the late Adlai Stevenson or the late Senator Robert Taft—as our representatives in the United Nations. We could make it national policy to refrain from using our veto in the Security Council.

We could make it known to other great powers that the United Nations is our preferred forum for negotiations on arms control and other crucial issues. And we could take the lead in negotiating those long-neglected agreements called for by Article 43 of the Charter, under which members would "make available to the Security Council . . . armed forces, assistance and facilities" to deal with threats to and breaches of the peace.

We have survived in the nuclear age so far not through any "agreed concept of order" but through crisis displomacy and that frail substitute for a "concept of order" known as the balance of power. At its best the old system was only fairly successful in preventing and limiting war, but in the age of nuclear weapons only one breakdown would result in catastrophe, quite possibly in the destruction of civilized human life in much of the world. Sooner or later the law of averages is going to run out on us.

There is very little in international affairs about which I feel certain but there is one thing of which I am quite certain: the necessity of fundamental change in the way nations conduct their relations with each other. There is nothing in the human environment, as Adlai Stevenson once reminded us, to prevent us from bringing about such fundamental change. The obstacles are within us, in the workings of the human mind. But just as it is the source of many of our troubles, the inventive mind of man is sometimes capable of breaking through barriers of prejudice and ancient attitude. In the field of international affairs, I believe, such a breakthrough was achieved with the formation, first of Covenant of the League of Nations, then of the United Nations Charter. The next breakthrough, urgently awaited, is to make the conception work.

FOOTNOTES

[1] "National Commitments," *Report prepared for Committee on Foreign Relations* (Washington: U.S. Govt. Printing Office), Apr. 16, 1969, page 9.

[2] Confirmation Hearing before Senate Foreign Relations Committee, Sept. 7, 1973; International Platform Assoc., Aug. 2, 1973.

[3] Quoted by James Chace in *A World Elsewhere: The New American Foreign Policy*, (New York, Charles Scribner's Sons, 1973), pp. 33–34.

[4] Yost, Charles, *The Conduct and Misconduct of Foreign Affairs*, (New York: Random House, 1972), p. 101.

[5] Testimony before the Joint Economic Committee, July 31, 1973.

[6] Quoted in Yost, *The Conduct and Misconduct of Foreign Affairs*, page 107.

PRIVATE PENSION REFORM

Mr. NELSON. Mr. President, on September 19, the Senate by a vote of 93 to 0 passed landmark legislation reforming and improving pensions. This bill was the work product of two major Senate committees and was a merger the best features of two lengthy and complex pension bills reported by the two committees.

Pension experts of the Congressional Research Service of the Library of Congress, have prepared an excellent summary of the pension bill. For the benefit of people throughout the country, I ask unanimous consent that this summary by Peter Henle, Raymond Schmitt and Ann Marley, of the Congressional Research Service, be printed in the RECORD.

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

1973 SENATE ACTION ON PRIVATE PENSION REFORM—A SUMMARY OF H.R. 4200 (H.R. 10470)

INTRODUCTION

Comprehensive private pension plan reform legislation passed the Senate September 19, 1973 by the unanimous vote of 93 to 0.

Efforts to enact such legislation originated several years ago. Although committee hearings were held on numerous bills in earlier years and one bill was reported in the closing days of the 92d Congress, this was the first time either House had passed pension reform legislation.

Action in the 93rd Congress leading up to passage of this legislation includes the following major developments. A proposed Retirement Income Security for Employees Act (S. 4) was originally introduced on January 4, 1973, by Mr. Williams, Mr. Javits, and 39 other co-sponsors. The bill was referred to the Senate Committee on Labor and Public Welfare as a matter relating primarily to labor-mangement relations. The bill dealt with the issues of vesting, funding, plan termination insurance, portability, fiduciary standards, reporting, and disclosure. It did not, however, deal with tax-related matters such as individual retirement savings, or changes in retirement deductions for the self-employed. After legislative hearings were held by the Labor Subcommittee on February 15 and 16, the Committee reported out S. 4 on April 18, 1973 (Report No. 93–127).

Meanwhile, other bills concerned with the same subject had been introduced and a number of them had been referred to the Senate Finance Committee since they approached the issues by proposing changes in the Internal Revenue Code. Among these were S. 1179, introduced on March 13, 1973 by Mr. Bentsen and S. 1631 introduced on April 18, 1973 by Mr. Curtis. S. 1179 dealt with the issues of vesting, funding, plan termination insurance and also included provisions for tax deductions for an individual's retirement savings program. S. 1163 dealt with vesting, funding, and tax deduction provisions for both individuals and the self-employed. After legislative hearings were held by the Subcommittee on Private Pension Plans on May 21, 22, 23, June 4, and 12, the Finance Committee reported out S,. 1179, as amended, on August 21, 1973 (Report No. 93–383). As reported, S. 1179 dealt with vesting, funding, plan termination insurance, portability, fiduciary standards, reporting, disclosure, and allowable tax deductions for retirement plans of individuals, the self-employed, and owner-manager corporations.

With two bills covering the same basic subject matter reported out by two committees, leading members of the Senate Labor and Finance Committees initiated a series of discussions to resolve their differences and reach agreement upon a single bill. These efforts proved successful and on September 17, 1973 the substance of the new bill was jointly released by the two committees. The compromise bill (Amendments 496 and 497) was introduced on the floor of the Senate on September 18, 1973 by Mr. Nelson in the nature of a substitute for S. 4, the pending Senate business.

During the course of debate on September 18 and 19, the Senate adopted the following amendments:

Congressional Record page reference September 19, 1973

(1) By 89 yeas to 2 nays, modified Nelson amendment No. 506, to provide that the maximum $75,000 limitation on retirement benefits applicable to proprietary employees shall also apply to all other corporate employees; S16859, S16874.

(2) Hathaway amendment the effect of which would place a ceiling on the amount of money that a partner may transfer for the retirement benefit of a senior partner; S16890.

(3) Modified Buckley amendment No. 504, to permit individuals to deduct annually $1,000 or 15 percent of earned income up to $1,500 for contributions made to a qualified retirement savings plan; S16892.

(4) Modified Taft amendment No. 480, to increase from 5 percent to 7 percent amount of pension fund assets which may be invested in employer securities; S16903.

(5) Huddleston amendment to permit self-employed individuals to contribute total income up to $750 annually to a pension plan; S16904.

(6) Modified Stevenson amendment to allocate three seats on the Advisory Council to persons representative of those receiving benefits under a private pension plan; S16905.

(7) A series of Nelson amendments of a technical and clerical nature; S16905.

Following adoption of these amendments, the text of the amended bill was incorporated in H.R. 4200, a House-passed bill to continue certain servicemen's and former servicemen's survivors annuity benefits.

The following pages summarize the major provisions of H.R. 4200 as passed by the Senate. (Subsequently, on September 24, Mr. Ullman introduced the Senate-passed bill as H.R. 10470.)

PARTICIPATION AND VESTING

No plan may require as a condition of participation a period of service longer than one year or attainment of an age greater than 30 years, whichever occurs later. This provision would become effective after enactment for new plans but for existing plans not until plan years commencing after December 31, 1975.

All private pension plans regardless of their tax qaulification status and regardless of their size are required to comply with the vesting requirement. Plans of federal, state and local governments are also included in years beginning after December 31, 1980.

The vesting requirement calls for the following:

(1) An employee must be vested at all times in the accrued benefits derived from his contributions;

(2) With respect to accrued benefits derived from employer contributions, the employee must be vested in accordance with the following schedule:

Years of service and percent vested in accumulated benefits

0–4	0
5	25
6	30
7	35
8	40
9	45
10	50
11	60
12	70
13	80
14	90
15	100

Under a so-called "look back" rule, once an employee becomes eligible to participate in a pension plan, his years of service before becoming a participant, up to a maximum of 5 years, would be credited toward his required years for minimum vesting.

For current plans, the vesting requirement applies to all accrued benefits including those which accrued before the effective date of the law, but not to any service prior to the estab-

lishment of the plan. For new plans and benefits arising from plan amendments, no retroactivity is required. Current plans which provide for 100% vesting after ten years of service may retain this provision.

A "year of service" will be defined under regulations to be issued jointly by the Departments of Labor and Treasury. However, beginning in 1981, the definition would include any year in which the employee worked at least 5 months with at least 80 hours of work each month. A definition of "accrued benefits" is included which in essence calls for benefits to be earned proportionately over years of participation.

Two special provisions are included for so-called "highly mobile" employees such as engineers or scientists. The Secretary of Labor is to develop recommendations for modifying federal procurement regulations to insure that such employees under federal contracts will be protected against forfeiture of their retirement benefits. In addition, the bill modifies the no-discrimination provisions of the current tax law so that an employer may establish a separate plan for highly mobile workers with lower benefits but more liberal vesting than under his plan for other employees. Also with respect to the coverage and antidiscrimination requirements of the current tax laws, collective bargaining employees may be excluded for purposes of applying the coverage test for a qualified plan where there is evidence that the retirement benefits have been the subject of good faith bargaining between the union employees and the employer in the negotiations relating to the most recent contract.

Enforcement of the provisions is the responsibility of both the Labor and Treasury Departments. The Secretary of Labor may proceed in the courts for appropriate remedy in cases of violations of employees' vesting rights. The Secretary of the Treasury may seek injunctive relief against a plan which is maintained in violation of the vesting requirements and may also impose a special excise tax on plans which have caused vesting deficiencies to employees in violation of the vesting standards.

The vesting requirement takes effect after enactment for new plans and for current plans beginning with plan year after December 31, 1975. For federal, state, and local government employee plans,the effective date is the beginning of plan years after December 31, 1980.

For plans for which implementation of the vesting requirement would impose "substantial economic hardship" as determined by the Secretary of Labor, its effective date may be postponed for a period of up to six years.

FUNDING

Coverage generally includes all tax qualified private pension plans. Plans of federal, state and local governments are not included. However, the Secretary of the Treasury is directed to study the adequacy of funding under plans for government employees and make recommendations regarding the advisability of imposing a funding requirement on these plans. The study is to be completed by December 31, 1976.

The funding requirement calls for annual contributions to pension funds in amounts sufficient to 1) equal each year's "current service costs", and 2) amortize "past service costs" in no less than equal payments over no more than 30 years. The funding requirements apply not merely to vested benefits, but to all accrued plan benefits.

Plan amendments which increase past service costs by as much as 5% may be treated as a separate plan for purposes of the funding requirement, and therefore amortized over no more than 30 years. Benefits created by other plan amendments must be amortized over 15 years or the average remaining service life of the covered participants, whichever is shorter.

Experience losses or gains resulting from changes in asset valuation or other developments not forseen in advance must be amortized over 15 years or the average remaining service life of the covered participants, whichever is shorter.

Multi-employer plans as a whole are recognized as more financially secure and are permitted a longer funding period of forty years. Moreover, with respect to any multi-employer plan for which the Secretary of Labor finds that even this requirement would impose "substantial economic hardship" to more than ten percent of the contributing employers, the 40-year period may be extended to as much as 50 years.

Additional hardship provisions are included under which an employer may obtain a waiver for his required annual contribution from the Secretary of the Treasury. Any amounts waived must be amortized over no more than ten years and no more than 5 waivers may be granted an employer in any ten-year period. The plan may not be amended to increase benefits as long as any waived amounts remain unpaid.

The funding requirement will be enforced through the tax laws. Any employer failing to contribute the required amount is subject to an initial 5% excise tax on the funding deficiency which rises to 100% if the deficiency is not corrected within the period allowed by the Internal Revenue Service. For multi-employer plans, the tax would initially be imposed only on delinquent employers.

For new plans, the funding requirement would take effect after enactment. For current plans, the requirement would take effect beginning with plan years after December 31, 1975. For plans for which implementation of the funding requirement would impose "substantial economic hardship", as determined by the Secretary of Labor, the effective date may be postponed for a period of up to six years.

PLAN TERMINATION INSURANCE

A Pension Benefit Guaranty Corporation would be established as a government corporation with in the Department of Labor administered by a three-member Board of Directors, with the Secretary of Labor as Chairman. Other board members would be the Secretaries of Treasury and Commerce. The Corporation would be required to issue by-laws and rules within 180 days after enactment.

A Pension Benefit Guaranty Fund would be established to pay guaranteed benefits as well as the operational and administrative expenses of the Corporation. The Secretary of the Treasury would be the trustees of the fund and would report to the Congress annually on the operation and status of the fund. The Corporation is authorized to borrow up to $100 million from the Secretary of the Treasury.

All tax-qualified plans would be covered under the termination insurance program, with the exception of profit-sharing, stock bonus, money-purchase, federal, state, local government, church and some fraternal plans. The insurance corporation would guarantee within certain specified limits, the payment of all vested ancillary benefits, in the event of a plan termination. No benefits would be guaranteed for a plan in effect less than three years, nor would benefits resulting from any plan amendment be guaranteed until the amendment had been in effect for 3 years. Moreover, the monthly benefits guaranteed to any beneficiary could not exceed the lesser of 50 percent of the participant's average monthly earnings during the participant's highest-paid five years or $750.

The Corporation would be authorized to prescribe insurance premium rates sufficient to fund any guaranteed payments. Separate rate schedules would be maintained for single employer and multi-employer plans. Initially, the premiums (to be collected as a "head" tax) would be $1 for each individual covered by the plan. Congress would have to approve any revised rate schedule.

In advance of any plan termination, the plan administrator would be required to file a notice with the Corporation. If the administrator found that the plan would be unable to pay the benefits guaranteed, he must so notify the Corporation. The Corporation may also institute procedings to terminate a plan whenever it finds that (1) the plan has not met the minimum funding standard, (2) the plan is unable to pay benefits when due (3) the liability of the Corporation may be expected to increase substantially if the plan is not terminated, or (4) other specified events occur, including the loss of qualified or exempt status by the plan or trust, a decrease in pension benefits, or a substantial decrease in active plan participants. The termination proceedings would be under the jurisdiction of the appropriate U.S. District Court.

Employers would have limited liability for any loss of covered benefits resulting from their plan's termination. This liability, which would also extend to successor employers as a result of reorganizations, liquidations, mergers, and consolidations, would be limited to 30 percent of net worth. However, employers (except those remaining in business) would be able to avoid any liability by paying a higher insurance premium to be set by the Corporation. In lieu of such a surcharge, employers could also elect to gain protection against such liability through a private insurance carrier.

As a further protection against possible manipulation by employers to place the burden of any termination on the Corporation, plans would be required to allocate their assets in a specific order of priority: first, to benefits based on employee contributions, second to guaranteed benefits in pay status at least 3 years prior to termination, and third, to all other guaranteed benefits. (If a plan is terminated and the foregoing provisions did not apply to the termination, the same allocation procedures would apply nevertheless.)

Special provisions are included relating to multi-employer plans. Whenever a substantial employer (whose contributions comprise at least 10 percent of the total for two consecutive years) withdraws from a multi-employer plan, he would be required to place in escrow his proportionate share of employer liability or alternatively to post a bond for that amount. If the multi-employer plan did not terminate within five years after withdrawal of the employer, the liability would be abated and any escrow payment refunded or the bond cancelled. If the plan did terminate, the Corporation could include any escrowed payments as plan assets or demand payment of the bond. The above provisions could be waived by the Corporation if an indemnity agreement was in effect among all the other employers of the plan. In the case of a terminating multi-employer plan, each employer's liability would be based upon his proportionate share of the contributions over the preceding five years.

If the withdrawal of a substantial employer from a multi-employer plan causes a significant reduction in the total contributions to the plan, the Corporation may require fund assets to be equitably allocated between those participants working and those no longer working in covered service under the plan. The portion of the plan fund allocable to participants no longer in covered service would be treated as a termination; whereas the portion allocable to participants remaining in covered service would be treated as a new plan.

The insurance program would take effect on enactment but liability of the Corporation

for the payment of benefits would not take effect until 1977 (unless the Corporation determines that it has sufficient funds to meet these liabilities earlier).

PORTABILITY

The Pension Benefit Guaranty Corporation which will oversee the plan termination insurance program is also directed to administer a voluntary pension benefit portability program. A special Pension Benefit Portability Fund is established to be administered by the Corporation.

The portability program is designed to facilitate the transfer of vested retirement benefits by individuals changing jobs. Workers who change jobs may have their vested retirement credits transferred to the portability fund. The worker may maintain these credits in the fund or alternatively have the amount in his account transferred to a retirement plan of a new employer. The program will be entirely voluntary requiring the consent of both employers who have established the plans to or from which the pension monies are to be transferred, and the employees who have to request such transfers.

Transfers to and from the central fund are to be on a tax free basis. Income earned by the central fund is also tax free until it is paid out to participants or beneficiaries at retirement.

The Corporation is also authorized to provide technical assistance to pension plan managers and trustees to aid in the development of reciprocity or other portability arrangements between plans in the same industry or area.

In addition, to assist employees in keeping track of any vested retirement credits, each plan (including federal, state and local government plans) is required to report to the Secretary of the Treasury the names of individuals who leave the plan with vested benefits and the amount. A statement setting forth this information would also have to be furnished to the individual. This information would then be maintained by the Social Security Administration. Upon an individual's application for social security retirement benefits, the Social Security Administration is to furnish him with information regarding any vested pension benefits that he may have accumulated during his working career.

FIDUCIARY STANDARDS

Both the Welfare and Pension Plans Disclosure Act and the Internal Revenue Code of 1954 would be amended to include new standards of conduct for fiduciaries who deal with plan assets. In addition, certain types of transactions would be specifically prohibited. In essence, fiduciaries would have to administer the pension plan solely in the interest of participants and beneficiaries.

Under the amendments to both laws, a fiduciary would be prohibited from dealing in his own interest or engaging in a transaction with a party in interest which constitutes a (1) sale or exchange, or leasing, of any property, (2) lending of money or other extension of credit, (3) furnishing of goods, services, or facilities, or (4) transfer to or use of any assets of the trust. The prohibitions woud not apply to any loan to parties in interest who are participants or beneficiaries of the plan if such loans (1) are available to all participants on a nondiscriminatory basis. (2) are not made available to highly compensated employees in an amount greater than that made available to other employees, (3) bear a reasonable rate of interest, and (4) are adequately secured. Similarly, a fiduciary would not be prohibited from receiving any reasonable compensation for services rendered. Several other exemptions would be provided from the list of prohibited transactions.

The Welfare and Pension Plans Disclosure Act would be further amended to require fiduciaries to act as a prudent man would in a like capacity and familiar with such matters. It would also prohibit more than 7 percent of a pension fund to be invested in employer securities. Plans would have to divest themselves of any excess within ten years. This limitation, however, generally would not apply to profit-sharing and stock bonus plans.

Loans and the leasing of property to a party-in-interest under a binding contract in effect on August 21, 1973 would be permitted for ten years if it remains at least as favorable to the trust as an arms-length transaction. The sale, disposition, or acquisition of this property during the ten year period must be for fair market value.

The Secretary of Labor woud have primary responsibility for enforcing rules with respect to fiduciaries. Where fiduciaries breach these standards of conduct, the Secretary of Labor (and participants and beneficiaries of the plan) may bring civil actions to impose liability on the fiduciaries for losses incurred by the plan or profits which they have gained as a result of breach. Civil actions would also be available to enjoin fiduciaries or otherwise remedy a breach of conduct.

The Internal Revenue Service would have primary responsibility for enforcing prohibited transactions with respect to parties-in-interest through an excise tax. The excise tax is at two levels. Initially, parties in interest who participate in a prohibited transaction would be subject to a tax of 5 percent of the amount involved in the transaction per year. A second tax of 100 percent would be imposed if the transaction was not corrected after notice from the Internal Revenue Service that the 5 percent tax was due.

Persons convicted of certain crimes could not serve as an administrator, trustee, or officer of the plan.

All rules governing fiduciary standards except prohibited transactions would be effective on January 1, 1974. The prohibited transaction rules would be effective one year later on January 1, 1975.

REPORTING AND DISCLOSURE

The Welfare and Pension Plans Disclosure Act would also be amended effective January 1, 1974 to require more detailed reporting of financial and plan operations. An annual audit of the fund would be required in accordance with generally accepted standards of auditing. This would include an opinion with respect to the financial information by an independent certified or licensed public accountant.

Financial and operating information would be made available to plan participants and beneficiaries. This would include the furnishing of a summary of the plan's important provisions on enrollment, as well as an up-to-date summary every 3 years written in a manner calculated to be understood by the average participant, as well as a description of the pension benefits available and the circumstances which may result in disqualification or ineligibility. Upon written request, the plan administrator would have to furnish any participant with a statement indicating whether or not he has a nonforfeitable (vested) right to a pension benefit, and the amount of nonforfeitable pension benefits, if any, which have accrued.

The reporting and disclosure requirements apply to all employee benefit plans (regardless of size) although the Secretary of Labor can grant an exemption or provide a variance in the form or manner of reporting or disclosure.

ADMINISTRATION AND MISCELLANEOUS

Coverage under the bill varies with each title but all types of pension plans regardless of tax qualification or size are included under at least one title. Additional provisions would in effect prohibit any private plan not meeting the qualification requirements of the Tax Code.

New authority for both the Internal Revenue Service (IRS) and the Department of Labor (DOL) would result from this bill. Within the IRS a new Office of Employee Plans and Exempt Organizations would be created to enforce the tax law requirements regarding pension plans, charitable foundations, and other tax exempt organizations. To finance the administrative costs for the new office, appropriations are authorized equal to the collections from a new $1 per participant audit-fee-excise tax as well as one-half of the collections from the existing 4% excise tax on the investment income of private foundations.

Additional authority would be granted to the Secretary of Labor to conduct investigations of welfare and pension plans. Any duplication of effort by the Labor and Treasury Departments is to be avoided. The Secretary would also be authorized to develop a comprehensive program of research and analysis regarding the operation of private pension and welfare plans.

Within the Labor Department, an augmented Advisory Council on Employee Welfare and Pension Benefit Plans of twenty-one members would supersede the present Council. Members would be representative of the various interest groups, with six appointed from the general public, and three to represent pension beneficiaries.

The Secretary of Treasury would establish reasonable standards and qualifications for persons performing actuarial services.

All plans would be required to offer a joint and survivor annuity option with respect to any benefit under a qualified retirement plan which is payable as a retirement annuity. The joint and survivor annuity option could not be waived unless the participant affirmatively waives it, within 2 years of normal retirement age, after receiving a written explanation concerning the terms of the annuity. The survivor annuity must be at least half of the amount payable to the participant during the joint lives of the participant and his spouse.

Plans would not be permitted to set a normal retirement age later than age 65. Finally, the pension rights of any employee could not be assigned.

New enforcement procedures and remedies are included affecting both plan administrators and participants. Both employees and employers dissatisfied with IRS rulings on tax qualifications would be permitted to appeal such rulings to the U.S. Tax Court. Employees as well as employers would be allowed to participate in IRS administrative proceedings.

Plans would be required to provide procedures for arbitration to settle disputes involving the application of plan provisions in individual cases. The Secretary of Labor would inform the participants and their beneficiaries of their rights and would be authorized to furnish assistance in obtaining such rights.

The individual employee could not be discharged or disciplined because he has exercised the rights granted him under the new Act or the Welfare and Pension Plans Disclosure Act. Moreover, it would be unlawful for any person to interfere with or prevent an individual's exercising any right under the plan or these two Acts.

The provisions of the Retirement Income Securities for Employees Act and the Welfare and Pension Plans Disclosure Act supersede all State and local laws as they relate to the subject matters regulated by these two Acts (i.e., vesting, funding, insurance, portability, reporting and disclosure, and fiduciary standards). However, this shall not be deemed to prevent any State court from asserting jurisdiction in any action requiring an accounting by a fiduciary or from

asserting jurisdiction in any action by a fiduciary requesting instructions from the court or seeking an interpretation of the trust document.

INDIVIDUAL RETIREMENT ACCOUNTS

The bill permits a special tax deduction for amounts set aside for retirement by employees who are not covered under a qualified plan (including an H.R. 10 plan), a government plan, or a tax exempt organization annuity plan. These individuals are allowed to deduct an amount up to the greater of $1,000 (not in excess of earned income), or 15 percent of earned income up to $1,500. The earnings on this amount will be tax free. The amounts set aside plus the earnings become taxable to the individual generally when he receives benefits from the account. The employer of any individual who establishes such a retirement plan is allowed to make tax deductible contributions to the individual retirement account on behalf of the employee if the sum of the employee and employer contributions does not exceed $1,000.

PROPRIETARY EMPLOYEES

In general, deductible contributions to pension plans on behalf of proprietary employees are made subject to a basic annual limitation of 15 percent of earned income, up to a maximum deduction of $7,500. Only the first $100,000 of the proprietary employee's earned income will be taken into consideration in determining the pension contributions for him.[1] Proprietary employees are defined as individuals owning at least two percent of the total combined voting stock of the corporation or two precent of the total value of the stock of the corporation, if at least 25% of the accrued benefits under the plan are for such employees.

Two alternatives to this general rule for deductible contributions are provided for proprietary employees of corporations other than subchapter S corporations. First, in the case of defined benefit plans, deductions may be taken for contributions on behalf of proprietary employees sufficient to fund a pension amounting to 75 percent of the average salary for the high three earnings years, not to exceed $100,000 average earnings. This limitation permits nondiscriminatory plans to provide proprietary employees with pensions up to $75,000 a year. However, the contributions to fund such pensions will have to be made over a period of at least 10 years prior to retirement.

The second alternative to the 15 percent-$7,500 limitation relates to fixed contribution plans. In this case, the fund which an individual could build up by his deductible contributions cannot exceed an amount which would provide a pension equal to 75 percent of the amount the individual received in his highest three years based on compensation of no more than $100,000. The procedures followed in this situation take into account the contributions accumulated in prior years, and provide that contributions made in the current and subsequent years can provide any additional amounts necessary (together with earnings on those amounts at a standard 6 percent interest rate) to bring the pension benefits up to level referred to above.

SELF-EMPLOYED INDIVIDUALS (H.R. 10 PLANS)

A self-employed individual is allowed to take a deduction on his own behalf for contributions to a qualified retirement plan (H.R. 10 plan) equal to an amount which is the greater of $750 (but not in excess of earned income) or 15 percent of earned income up to $7,500.

A limit of $100,000 is provided for the portion of a self-employed individual's earned income which may be taken into account in determining pension contributions or benefits for himself, as in the case of proprietary employees. The deductible contributions made to the pension plan on behalf of any individual partner is allowed to exceed the 15 percent—$7,500 annual limitation, when there are forfeitures under the plan by other partners, provided that the total amounts contributed on behalf of all partners do not exceed the sum of the allowable deductible contributions under these limits for all partners taken as a group and that the amount of benefits that any one partner could receive is limited to $75,000 annually.

SUBCHAPTER S CORPORATIONS

The bill repeals the present tax treatment of qualified pension plans for shareholder-employees of an electing small business corporation. However, subchapter S corporations would remain subject to limitations under the same rules applicable to other corporations. Thus, if more than 25 percent of the benefits under the plan were for individuals who each held at least 2 percent of the stock in the corporation, these stockholders would be considered to be proprietary employees, and would be subject to the 15 percent—$7,500 limitation. But if less than 25 percent of the benefits were for these individuals, these limitations would not apply.

CORPORATION EMPLOYEES

The bill provides that deductions for contributions on behalf of corporate employees to or under a defined benefit plan or a defined contribution plan shall be subject to the same alternative limitations as those on deductions or benefits for proprietary employees—75 percent of the highest 3 years of earnings, not to exceed $100,000 average earnings.

SALARY REDUCTION PLANS

The bill clarifies present tax treatment of 6 percent salary reduction plans. Until recently, the Internal Revenue Service took the position that amounts contributed to a qualified retirement plan on a salary reduction basis were considered to be the employer's contribution rather than that of the employee and therefore were not includible in the employee's gross income. However, the Service issued proposed regulations in December 1972 which would change this treatment to provide that these amounts will be considered to be employee contributions and thus will be taxable income to the employee. The bill would continue to consider these amounts as employer contributions if contributions were made prior to January 1, 1974. Thereafter, such contributions will be treated as employee contributions and will no longer be excludable from the employee's income. Income earned on amounts contributed under a salary reduction plan prior to 1974 will for the future remain tax exempt as also will the earnings on these amounts.

TAXATION OF LUMP-SUM DISTRIBUTIONS

The bill provides a new method of taxing benefits which are distributed or paid in a lump sum from a qualified plan within one year on account of death or separation from service. That portion of the distribution representing pre-1974 value is to be taxed as capital gain. The post-1973 portion of a distribution is to be taxed as ordinary income but with 15-year forwarding averaging. The ordinary income portion will be taxed under a separate tax rate schedule—the tax schedule applicable to single people. To insure that the tax paid by lower income individuals on their lump-sum distributions will generally not be more than under present law, a special minimum distribution allowance is provided under the separate tax rate schedule. The 15-year averaging is also available to proprietary employees. In cases where a person had accrued some of the value of his lump-sum distribution as a rank-and-file employee while accruing another portion as a self-employed individual, five-year averaging is to be used for the entire distribution if the number of years spent by the person as a self-employed individual exceeds 50 percent of the total time he was a participant in the plan. If not, the 15-year averaging rule is to apply.

[1] The $100,000 maximum amount of earned income is designed to prevent a very highly compensated proprietary employee from obtaining the maximum deduction through the use of a low contribution rate. In applying for the nondiscriminatory rules, a proprietary employee with an income of $500,000, for example, could obtain the maximum deduction of $7,500 at a contribution rate of 1.5 percent, while the contributions for the regular employees under the same nondiscriminatory rate of 1.5 percent would provide a very small contribution on their behalf. The $100,000 ceiling on the earned income rate base means that a proprietary employee with more than $100,000 income will have to contribute at a rate of at least 7.5 percent on behalf of his employees if he wishes to take the full $7,500 deduction on his own behalf (because of nondiscrimination requirements).

TESTIMONY OF SENATOR BUCKLEY BEFORE THE COUNCIL ON ENVIRONMENTAL QUALITY

Mr. BUCKLEY. Mr. President, I ask unanimous consent that testimony which I presented to members of the Council on Environmental Quality at its regional hearing in Mineola, N.Y. on October 3, be printed in the RECORD. My remarks address the energy and environmental issues associated with potential oil and gas exploration on the Atlantic Outer Continental Shelf. This is a matter of great concern to the citizens of the State of New York. I believe this comprehensive study of the potential environmental impact of offshore operations should prove indispensable in providing us with a sound scientific basis for determining whether or not to open the Atlantic Outer Continental Shelf, or portions of it to petroleum exploration.

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

SENATOR JAMES L. BUCKLEY—TESTIMONY AT HEARINGS OF THE COUNCIL ON ENVIRONMENTAL QUALITY

Mr. Chairman, it is a pleasure to welcome you to New York State. This is a state whose appetitie for oil and gas is matched only by its insistence on the protection of its remaining beaches and wetlands. This is as it should be. We on the East Coast have destroyed, through past thoughtlessness, too many of our coastal resources, and we cannot afford to lose more of them.

The Council on Environmental Quality's study of the potential environmental impact of oil and gas exploration on the Atlantic Outer Continental Shelf is as important as it is timely. It is critically important because we need to develop the fullest knowledge of the environmental effects, both short-range and long, direct and indirect, that could result from petroleum exploration and production off the Atlantic Coast. We also need a thorough, up-to-date appraisal of the state of offshore drilling and production technology and of the state of development and effectiveness of pollution control and clean-up techniques.

This study is timely because it is being conducted well in advance of any decision as to whether or not to open up the Atlantic Outer Continental Shelf for petroleum exploration. Had it been scheduled as part of a tentative decision to proceed with drilling subject only to a favorable finding as to environmental risks, there would have been a widespread suspicion that the current study was being conducted for cosmetic purposes

only, and that its conclusions were preordained. Thus *because* it is timely, this inquiry can and ought to proceed in an atmosphere conducive to the systematic accumulation and assessment of all the pertinent facts.

As you may know, Mr. Chairman, I wrote Secretary of Interior Rogers Morton a year ago urging that this kind of comprehensive investigation be undertaken at the earliest time. I would like to read portions of my letter to Secretary Morton, as they reflect my own views of what it is the CEQ study should seek to accomplish:

"I believe that an early public examination of all the relevant data is of the utmost importance. It will provide coastal communities with concrete reassurances that the government will not in fact proceed with OCS leasings until the potential environmental hazards are fully assessed, and until it can be demonstrated that oil and gas exploration and production presents no danger of irreparable damage to our limited wildlife and recreational resources . . .

"The East Coast public" I continued, "is deeply concerned but it is not obstructionist. The prevailing attitude can be summarized in the following sentence from a recent statement by the Committee on Resource Management which is active on Long Island: 'Our fight is to assure adequate demonstrably effective safeguards before Atlantic Coast offshore oil drilling is permitted.' "

Mr. Chairman, I cannot think of a more succinct description of what should be the overall goal of the CEQ's study; namely, to establish a solid, credible scientific basis for determining whether or not "adequate demonstrably effective" environmental safeguards can in fact be established as a precondition to offshore operations. I believe it is particularly fortunate that the study is being conducted under the auspices of the Council on Environmental Quality with the cooperation of the National Academy of Sciences, for this kind of sponsorship is the best assurance that the conclusions reached will have the widest possible acceptance.

Mr. Chairman, I am a member of the Senate Public Works subcommittee on Air and Water Pollution, as well as of the Senate Committee on National Fuels and Energy Policy. In these capacities, I have listened, quite literally, to hundreds of hours of testimony. From this experience, I have been able to draw three general conclusions:

The first of these is that we in this country do, in fact, face a prolonged shortage of domestically produced energy. These shortages are not artificial. They are not the deliberate creation of oil monopolists. There are no hidden spigots or standby technologies that can be turned on or mobilized within the next few years to fill the growing gap between domestic supply and demand; a gap that will require us to import, by 1975, over half of our oil requirements. By 1980 it is estimated that 66 percent of our total oil needs, or 16.4 million barrels per day, will have to be imported, most of it from the Middle East. There are sound economic and political reasons why we must strive to reduce our dependence on external sources for so critical a percentage of our energy needs. Our country cannot afford staggering annual deficits in its balance of payments caused by the need to import ever-larger quantities of foreign oil. Nor can we allow others to try to dictate our foreign policy by threatening to interrupt vital shipments of crude.

During the next ten to fifteen years, the only way we can materially increase our domestic production of energy is by exploiting our still extensive remaining reserves of traditional fossil fuels. According to the U.S. Geological Survey, a substantial portion of these potential reserves may occur on our Outer Continental Shelves. Thus any comprehensive planning for our energy needs during the next decade or two must take into consideration the potential availability of these resources. This does not mean, I want to emphasize that these offshore resources must in fact be exploited if it is determined that other overriding needs exist, such as the protection of critical coastal areas and the marine environment.

A second conclusion I have drawn from my committee work is that there are few issues so fraught with high emotion as that of opening up the Atlantic Outer Continental Shelf to petroleum exploration. There are those who see offshore drilling as a panacea for this country's energy ills. These individuals simply are unwilling to concede or even listen to any argument as to the absolute need to protect our dwindling wetlands from further destruction. On the other hand, many people living along the Atlantic Coast, understandably fear that part of their badly depleted inventory of beaches and wetlands may be destroyed by accidental spills whatever safeguards are employed. The ultimate decision, however, is far too important to be based on a blind insistance on tapping every available source of energy, and hang the environmental consequences. Nor can it be based on fears, however understandable. The ultimate decision on whether or not to proceed with exploration of the Atlantic OCS will have to be founded on a dispassionate examination of all the relevant facts.

And this brings me to the third conclusion I have reached after hearing hours of testimony. There is simply too little hard information available at the present time on the critical questions involved in the offshore drilling controversy. We do not have a body of up-to-date, objectively assembled knowledge of the critical biological and technical data on which the public can place its confidence. Some entity with the appropriate scientific and engineering credentials has to reconcile often conflicting claims, and reach specific conclusions. This, of course, is your task.

But for you to succeed in your task, it is necessary that you cover fully and exhausively all of the questions that must be answered if we are to realize the national imperative of maximizing the development of our domestic energy resources in a manner consistent with our environmental goals. What is more, you must do so to the public's full satisfaction.

To this end, I would like to suggest to the Council today a series of questions concerning the environmental risks involved in offshore drilling and production in the Atlantic region, that I believe must be answered in any comprehensive study.

(1) What is the nature of the primary and secondary risks posed by oil pollution to marine organisms? To what extent, if any, is damage to the marine environment apt to be of long duration?

(2) To what extent, if any does oil pollution create a hazard to human health? If there is a hazard, is it temporary or apt to be of long distance?

(3) What is the specific effect of oil spills on beaches and on wetlands; and to what extent and under what conditions, if any, might the damage be irreparable?

(4) What areas along the Atlantic Coast, if any, are of such critical importance to the survival of wildlife and marine species as to require protection against the possibility of even temporary contamination by oil spills?

(5) What aspects of offshore drilling, in addition to oil spills, have the potential, if any, for damage to marine organisms?

(6) If adequate information is not currently available with which to answer each of the above questions, what would be required in terms of time, money and effort to develop adequate information?

(7) What are the relative environmental risks posed by offshore production and tankers in delivering a given quantity of petroleum to East Coast consumers?

(8) What are the environmental and safety problems associated with the transportation or pipelining of offshore oil and gas to onshore facilities?

(9) What is the state of present technology to control blow-outs and contain spills?

(10) What is the state of present technology for removing oil from the sea and cleaning contaminated beaches and wetlands?

(11) Taking into consideration all environmental and technological factors, and taking into consideration distance from shore, tides, prevailing winds and current, is it possible to designate areas on the Atlantic Outer Continental Shelf where exploration and production could be allowed to proceed with no risk to recreational areas and wetlands? Is it possible to designate areas in which the risk of damage to the environment is remote, and in no event irreparable?

I know that these questions and many others will be studied by the panels of experts being assembled by the CEQ in cooperation with the National Academy of Sciences. I am confident they will make a thorough examination of primary and secondary environmental effects, and of offshore technology and pollution controls. But as I suggested earlier, it is critically important that the public be satisfied that these studies have in fact been conducted in as thorough and objective a manner as possible. To this end, I strongly urge the Council not to close the books on its investigations or freeze its conclusions until preliminary reports have been made available for public examination and comment.

To my mind, this opportunity for final review will be essential if the public is to be fully satisfied that the conclusions reached, whatever they may be, in fact reflect the considered judgment of persons having the highest competence to assess the evidence. Only then can we be assured of the necessary base of public support for whatever decision is finally made on this most sensitive matter.

Mr. Chairman, I have arrived at no final conclusions as to whether, or under what conditions, petroleum exploration should be allowed to proceed off the New York Coast. As one who may have a voice in influencing policy, I look to this study to provide me with the hard, reliable facts on which to make the necessary judgments.

COEUR D'ALENE HEARINGS ON BARRIERS TO HEALTH CARE FOR OLDER AMERICANS

Mr. CHURCH. Mr. President, an adequate income in retirement has been one of the foremost goals of the Senate Committee on Aging, of which I am chairman.

However, true economic security in retirement can never be a reality until we resolve the mounting health care costs which pose an intolerable drain upon the limited incomes of the elderly.

Despite the valuable protection which medicare affords, the threat of costly and catastrophic illness is all too real for millions of older Americans. In fact, medicare covers only about 42 percent of the elderly's health care expenditures. A major reason is because of crucial gaps in coverage, such as reimbursement for essential out-of-hospital prescription drugs.

To help seek out solutions for closing some of these gaps, the Senate Committee on Aging has initiated a compre-

hensive inquiry on "Barriers to Health Care for Older Americans." In addition, the committee has searched for answers on a wide range of other relevant issues for the aged, including:

How spiraling health care costs are crippling medicare and medicaid;

Why adequate alternatives to needless institutionalization are not being developed, and why home health care resources are dwindling;

How fragmentation of medical services is intensifying the health care dilemma, especially in inner cities and rural areas; and

How can medicare and medicaid costs be controlled, while assuring equitable treatment for those served by the programs?

As a part of this inquiry, I had the privilege of chairing hearings in Coeur d'Alene, where the committee heard powerful testimony about the impact of the health care crisis for the rural elderly.

An especially effective presentation was made by George McCourt, who is president of an Idaho club affiliated with the National Council of Senior Citizens.

His statement, which has been reported in the latest edition of Senior Citizen News, provides an excellent summary of some of the health care barriers confronting the elderly.

Mr. President, I commend Mr. McCourt's testimony to Members of the Senate, and ask unanimous consent that the article in Senior Citizen News describing his presentation be printed in the RECORD.

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

SOLONS SEE NEEDS OF IDAHO AGED

COEUR d'ALENE, IDAHO.—As part of its continuing series of hearings on Barriers to Health Care for Older Americans, the Health Subcommittee of the Senate Committee on Aging traveled to Idaho recently to hear from seniors about their health care problems.

Senator Frank Church (D., Idaho), Chairman of the Senate Committee on Aging, presided during this third field trip for the Subcommittee. (Illinois and Maine had also been visited so citizen complaints and suggestions could be received.)

The 300 people who attended the hearings heard Church explain why it is so important for and hear the views of the people.

"I think it is important for the Senate Committee on Aging to get out in the field for first-hand facts. As an example of what can happen when public servants grew remote from the realities of life, I refer you to to the message which accompanied the President's national budget in January.

"The Administration," Church declared, "wanted to raise the co-insurance and deductibles under Medicare, claiming that raising the cost of Medicare would make the elderly more cost conscious and reduce utilization of the program.

"But what worried me more than the specific proposal was the idea behind it . . . that every increase in your Social Security paychecks should always be accompanied by increases in the costs of Medicare. This must reflect a complete lack of understanding of the realities of life for the elderly."

ELDERLY FACE WORRIES

Among the leaders who testified before the Health Subcommittee in Idaho was George McCourt of Coeur d'Alene, President of a club affiliated with the National Council of Senior Citizens.

McCourt told the Subcommittee: "One of the major problems of the elderly is worry—worry about long-term nursing home care, worry about the bookkeeping problems of Medicare co-insurance and overcharges.

There is also the constant fear about aches and pains that develop with old age, especially for those people who live alone and the elderly with no preparation for retirement and with no positive activity to participate in."

McCourt called for legislation allowing for an annual physical checkup under Medicare at no cost to the patient.

McCourt also talked about home health services: "We in Idaho are moving in the right direction in greater use of the home for care of the elderly by an expanded home health service. This will cut the costs imposed upon the elderly who now must pay expensive nursing home care.

"Another factor for better health," the Idaho senior declared, is the opportunity in every community for wholesome recreational activity. The barriers in recreational areas to the elderly are enormous. Often there is no public transportation to recreational areas, and many of the elderly cannot afford private cars. Thus recreational areas are often barred to the older person.

"Inflation is also a worry. What about tomorrow, what will the costs be? This Administration in Washington has done nothing to protect the elderly from inflation. It is now up to Congress to keep the worker and the retiree from being plowed under by big business financial machinery.

"Finally," McCourt explained, "there is the problem of housing for the elderly. Low cost housing projects for the elderly have been stopped by the President, and rumors that we hear about the President's new housing proposals sound to us like they are really meant for the elderly rich . . . but not the elderly poor.

"What we need in housing," he concluded, "are locations close to churches and stores so that the many elderly can walk in safety on errands—so that they will not have to depend upon public transportation or upon their friends with cars."

Following the hearings in Coeur d'Alene, Senator Church announced that, while no definite dates had been set, he expected the Health Subcommittee to continue its hearings on Barriers to Health Care for Older Americans in other States and in Washington.

A LABOR-HEW APPROPRIATIONS BILL THAT THE PRESIDENT COULD SIGN

Mr. PERCY. Mr. President, on Thursday, October 4, when the Senate considered the fiscal year 1974 Labor-HEW appropriations bill, I was, unfortunately, necessarily absent from Washington, D.C. I would, therefore, like to take this opportunity to comment on the bill and congratulate the Appropriations Committee Subcommittee on Labor-HEW, especially its chairman, Senator MAGNUSON, and its ranking Republican, Senator COTTON, for their outstanding accomplishment. For the first time in the history of Labor-HEW appropriation bills, the Senate completed action on the bill in 1 day and at the same figure reported by the committee.

I believe that this unexpected and unprecedented action is indicative of the true spirit of compromise that now exists in the Senate. As in years past, many Senators had wanted to add enlarging amendments to the committee bill. In fact, 152 amendments that would have increased the bill's cost by $4.5 to $5 billion had been proposed. However, my colleagues all restrained themselves commendably and responsibly in the interest of sending the President a Labor-HEW appropriation bill that he could sign.

I firmly believe that the fiscal year 1974 Labor-HEW appropriation bill will be a bill that the President could sign without any fear of busting the budget or contributing to inflation. The Senate version of the bill totals $33.6 billion, an increase of $580 million over the House bill. The final bill, therefore, will be somewhere between $1.2 and $1.8 billion over the President's budget request. Some critics will claim that a $1.2 to $1.8 billion increase is substantial and inflationary. However, it should be pointed out to those critics that the cost of living has gone up by 5.8 percent since the President first proposed his budget request. In order to buy the same amount of services that the administration had requested in January, its budget request must be increased by 5.8 percent or $1.827 billion—almost the exact amount that the Senate has added to the fiscal year 1974 Labor-HEW appropriation bill.

Moreover, the administration has recently indicated that tax receipts for fiscal year 1974 will be $10 billion more than January estimates. Such an increase in expected revenues would make possible upward adjustments in the President's budget without increasing the budgetary deficit.

The President's efforts to curb Federal spending during an inflationary period are commendable. However, fiscal responsibility and spending for domestic needs are not mutually exclusive. I hope fiscal year 1974 will see this country operating on a current Labor-HEW budget, not on outmoded, 2-year-old continuing resolutions.

CHILE

Mr. KENNEDY. Mr. President, the military junta in Chile still has not altered its campaign of repression, nor has it responded fully to the demands of the United Nations and others for strict adherence to the conventions and protocols requiring respect for human rights.

The concern of the Senate was voiced last week with the unanimous adoption of my amendment to the foreign aid bill which urges the President to cut off economic and military assistance, except for humanitarian aid, until the President certifies that human rights are being protected in Chile.

Unfortunately, rather than abide by the spirit of that action, the administration has flouted that spirit by its actions late last week. For the first time since the election of Salvadore Allende as president of Chile 3 years ago, the United States approved an extension of credit under the Commodity Credit Corporation for the purchase of $24 million worth of wheat.

In the Department of Agriculture bulletin accompanying the announcement, the first reason given for the will-

ing extension of credit to Chile was that it would "reestablish the long-term market relationship which U.S. wheat has had in Chile." Apparently, continued denial of human rights, which is described in recent Washington Post editorials, was less important than quickly establishing close commercial relations with the military junta.

The second reason put forward by the administration, the food problems in Chile, may at some point reach the level that humanitarian aid would be justified. But it would be difficult to understand why, when a democratically elected regime was in power that the food problems were not sufficiently important to justify extension of a 3-year $24 million credit but as soon as a military government took control, that situation reached the point of emergency.

I seriously doubt that this action by the United States is in our long-term interest, and I urge the Government to abide by the provisions of the amendment which the Senate adopted unanimously a week ago.

Mr. President, I ask unanimous consent for an editorial in the Washington Post as well as articles concerning the wheat sale, to be printed in the RECORD.

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

[From the Washington Post, Oct. 5, 1973]

HUMAN RIGHTS IN CHILE

A somber numbers game is being played out in Chile over the total of Chileans killed in and since the coup of Sept. 11. The junta tends to minimize the toll—its latest count is 284 deaths nationwide. Others, without the junta's interest in advertising its popular acceptance and control, have produced much larger figures. One journalist who visited the Santiago morgue on two successive days counted some 270 corpses. A CIA estimate made toward the end of September put the total at 3,000 deaths, of which a third were soldiers. A toll of soldiers on this scale would indicate a measure of popular resistance considerably greater than the junta has conceded so far.

The civilian casualties seem to fall in two categories. First, there are officials and followers of the deposed Allende government. The junta has conceded executing some of these people summarily; additional executions have been reported unofficially. Then, there are nameless workers, supporters of Allende, in the slum districts in Santiago and other cities; pitched battles as well as indiscriminate shooting and bombing by the junta have been reported. Some high Allende aides have been stashed away on a remote island, without trial. For others, military trials have begun.

The junta has been at least partially responsive to human rights appeals from the international community. A mission from the International Committee of the Red Cross is currently in Chile; unfortunately, Red Cross reports must be made privately to the host government, which need not reveal the results. The United Nations High Commission for Refugees has set up some 20 havens for the numerous foreigners who were admitted to the country by President Allende but who are now subject to being designated as "criminals"—a status that would make them ineligible for the junta's safe-conduct guarantees. Some of these foreigners have feared to come out of hiding into the "havens." There are disquieting reports that Brazilian police have arrived in Chile to reclaim some Brazilian refugees.

The State Department reported this week that the American ambassador in Chile had expressed to the junta the United States' concern for the protection of human rights. Otherwise, such concern has been largely muffled by a hands-off position concealing evident satisfaction that the Allende government is out of power. If the administration is to keep in this position on human rights, it could at least ensure that no moves are made in unseemly haste to allow development loans to start flowing again to the new Chilean government; the United States had forced a virtual suspension of such loans in order to put pressure on Chile in negotiations over expropriated American firms.

Of immediate effect, we trust, in letting Santiago know that Americans hold Chile to recognized standards in human rights, are actions in Congress. The Senate, by voice vote with no audible objections, has approved a sense-of-Congress resolution, written by Sen. Edward M. Kennedy (D-Mass.), asking the President to deny economic or military aid until he can certify that Chile is fulfilling its human rights obligations. The House is working on its own resolution, which, while it lacks an aid suspension, makes plain the House's concern. Enough legitimate anxiety has been stirred by reports from Chile to make House action essential now.

[From the Washington Star, Oct. 6, 1973]

CHILEAN WHEAT SALE PLAN ASSAILED BY SENATOR KENNEDY

(By Jeremiah O'Leary)

The U.S. decision to underwrite a $24 million emergency wheat sale to the military government of Chile yesterday was assailed by Senator Edward M. Kennedy, D-Mass., as "an affront to the Senate and all those who respect human rights."

Kennedy reacted sharply to announcement by the Department of Agriculture and the State Department that the administration had guaranteed payment for the purchase of 120,000 metric tons for Chile. Kennedy called attention to the fact that the wheat deal was arranged only two days after the Senate approved his sense-of-Congress resolution urging President Nixon to withhold aid, except for humanitarian assistance, until "human rights are respected in Chile."

Administration sources countered that the wheat deal was approved only because of the humanitarian consideration. Chile, these sources said, has barely enough wheat to last through October and the wheat shipment will arrive just in time to avert total disappearance of bread and wheat products from the strife-torn South American country.

The collision between Kennedy and the administration involves an issue that has long troubled the U.S. in its relations with Latin nations. Diplomatic observers note that it is a moral continuing question whether the citizens of a country should have to suffer privation because the U.S. does not approve of the actions of its government.

Officials recalled the dilemma that faced the late President John F. Kennedy in 1963 when the brutal repressions of the regime of Haitian dictator Francois "Papa Doc" Duvalier impelled the U.S. to cut off aid to the Caribbean nation. The question faced by Sen. Kennedy's brother was whether the 5 million Haitian people should have to suffer because of the sins of Duvalier and his handful of henchmen.

The administration view on the military government of Chile appears to be that the 10 million Chileans should not have to suffer because the actions of the junta are repressive. In other words, the administration viewpoint is that the Commodity Credit Corp. underwrote the Chilean wheat deal for humanitarian reasons, well within the meaning of the Kennedy sense-of-Congress resolution.

The first shipment of wheat, now being loaded at a U.S. port will reach Chile in about two and a half weeks. The total sale of 120,000 metric tons will last Chile only until mid-November. It is known that Chile has orders out for a total of 500,000 tons of wheat, some of it from Australian and New Zealand but that these supplies cannot reach South America before the Chilean granaries empty. All sources agree that Chile's food situation will have eased by February and March when the next harvest occurs.

Kennedy said he was "shocked" by the wheat deal. He called it the "latest symbol of our willingness to embrace a dictatorial regime which came to power in a bloody coup and which continues to conduct summary executions, book burnings, imprisonment of political prisoners and denial of the right to emigrate."

He said he could not believe it is in the long-run interest of the U.S. to support a regime that imprisons elected officials and professors, closes newspapers and is guilty of killing and beating.

Kennedy reportedly is considering holding a meeting of his Senate committee on refugees to hear testimony from persons who have left Chile since the coup.

Senate Gale McGee, D-Wyo, Chairman of the Senate Foreign Relations subcommittee for the Western Hemisphere, also is reportedly planning hearings on the Chilean situation next month.

[From the Washington Post, Oct. 6, 1973]

CHILE GETS U.S. LOAN FOR WHEAT

(By Terri Shaw)

The U.S. government has approved a $24 million credit to the new military government of Chile for the purchase of desperately needed wheat, the Department of Agriculture announced.

The decision brought an immediate, angry response from Sen. Edward M. Kennedy (D-Mass.) who sponsored an amendment to the foreign aid bill approved by the Senate Tuesday urging the administration to withhold aid to the new Chilean government until it receives assurances that human rights will be respected in Chile.

Sen. Kennedy said the line of credit, for the purchase of 120,000 tons of wheat, "is eight times the total commodity credit offered to Chile in the past three years when a democratically elected government was in power." The four-man military junta deposed the leftist government of Salvador Allende in a coup Sept. 11.

During the three years of the Allende government, the United States approved very little economic assistance for Chile, and Santiago even had difficulty obtaining commercial credits.

Laurel C. Meade, general sales manager of the Agriculture Department's Export Marketing Service, said the Allende government did receive a $3.2 million commodity credit for the purchase of corn last year. Meade pointed out that agricultural credits are not "concessional aid," since the loan must be paid back in three years with 10.5 per cent interest.

A few days before the coup, an envoy of the Allende government returned to Chile from a buying trip to the United States and reported that Chile would be in "grave difficulties" if the United States did not approve the credits necessary to Chile to purchase 300,000 tons of wheat.

The purchasing agent, Pedro Bosch, said the extension of credits depended on a "political decision of the White House."

News agencies reported the following developments concerning Chile:

Panama criticized the United States for the seizure Wednesday of a Cuban freighter in the Panama Canal at the request of the Chilean junta.

The action, confirmed by the State Department Thursday, was taken because Chile alleged that another Cuban freighter had fled the Chilean port of Valparaiso carrying a load of sugar that Chile had already paid for. Cuba has said that the freighter was bombed and strafed during the coup.

U.S. sources said the attachment of the vessel does not imply U.S. approval of Chile's claim. The case was referred to a U.S. court in the Canal Zone.

In Chile troops were reported to be conducting a house-to-house search of Santiago for Socialist Party leader Carlos Altamirano, one of the 13 fugitives on the junta's "most wanted" list who are still at large.

The military authorities announced another execution of a suspected leftist, accused of hiding weapons in his home in the far northern city of Arica. A statement said he tried to grab a rifle from one of the soldiers searching his house.

The Associated Press said that 33 executions have been announced by the junta since the coup. Eleven men were executed by firing squads Thursday night at Valdivia, 550 miles south of Santiago, on charges of attacking a police outpost, the report said. Critics of the new government have charged that hundreds of its opponents have been killed while unarmed or in custody.

About 5,000 persons remain in a detention camp set up in Santiago's National Stadium. Gen. Oscar Bonilla, the interior minister, said that 1,525 persons have been released from detention since the coup, 600 are being questioned for a second time and 120 others have been sent to jails, apparently to await trial.

Raul Saez, who was finance minister in the government of Allende's predecessor, President Eduardo Frei, was returning from Venezuela to become the junta's economic adviser, news agencies reported from Santiago.

Legislative leaders of 10 Western European countries sent a joint appeal yesterday to the Chilean government to save the life of Chilean Communist leader Luis Corvalan, who was arrested Sept. 27 and is now facing a military treason trial.

A spokesman for French National Assembly President Edgar Faure, who initiated the appeal, said that Selwyn Lloyd, of the British House of Commons, was the only Parliament speaker of the nine European Economic Community countries not to sign the text.

[From the Washington Post, Oct. 4, 1973]

REFUGEES IN CHILE

Our country has a living tradition for offering a haven to victims of social, religious and political upheaval. From the earliest days of our history, Pilgrims, Huguenots, Jews and Catholics were welcomed when persecution in their homelands forced them to emigrate. Hundreds of thousands of political refugees came to our shores after the Revolution of 1848 in Central Europe. More recently, special measures were enacted by the U.S. government for the immigration of large numbers of Hungarians and Cubans.

In the last few months, many leaders of both political parties, in and out of the Congress, have called upon the Soviet Union to allow her citizens freedom to emigrate. Such a call clearly implies an obligation to admit some of these emigres into the United States.

Now in Chile, the democratically elected government has been violently overthrown by the military forces. Large numbers of political refugees from neighboring countries as well as from Chile are in mortal danger.

I call upon the government of the United States, both the President and the Congress, to follow the hallowed tradition symbolized by the Statue of Liberty. We should immediately enact special measures to open our doors to the political refugees in Chile. Not only would we be performing the ultimate humanitarian act of saving lives, but we would also be sending to the peoples of the earth an important signal that one of our most valued traditions still lives.

JEROME GROSSMAN,
Democratic National Committeeman from Massachusetts.
Boston, Mass.

COLUMBUS DAY IN CHICAGO

Mr. PERCY. Mr. President, yesterday the Nation celebrated Columbus Day, commemorating the magnificent achievement of Christopher Columbus. Chicago's observance of Columbus Day included many activities, among them a great parade led by Mayor Daley and Congressman FRANK ANNUNZIO which is always considered one of the city's most important annual events.

This year's parade chairman was Rudolph L. Leone. Mr. Leone and his committee chose "America—A Nation of Immigrants" as the theme of the parade. It is a theme which reminds us of Christopher Columbus' historic discovery which made possible the opening up of this great land to the peoples of the world. It is a theme which reminds us of the richnes all our many traditions have brought to America. By observing Columbus Day we have honored the man who discovered this vast and wonderful land, and the people who have contributed so much to its marvelous growth.

THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, critics of the Genocide Convention have advanced a number of legal arguments against its ratification. It is significant to note that in a comprehensive review of this treaty by the New York State Bar Association in 1970, its committee on international law concluded that these fears were quite groundless. The conclusion to their report stated:

It is plain that the legal arguments previously advanced against ratification of the Convention have not been sustained by the passage of time. As a matter of policy this Committee is of the view that determination of the usefulness of ratification of the Convention to United States foreign policy interests and relations with other nations of the world at the United Nations be left to the appropriate organs of the Executive Department and the Administration. Both President Truman in 1950 and President Nixon in 1970 have asked that the Genocide Convention be ratified. We find no sound legal objection to such ratification and accordingly urge prompt ratification by the Senate of the United States.

This treaty, Mr. President, is in accord with our best traditions. As a leader of nations in the fight for human rights, we cannot afford to continue to delay ratification. We should act during this Congress.

GROWTH WITH ENVIRONMENTAL QUALITY?

Mr. BELLMON. Mr. President, recently, in Tulsa, Okla., a most innovative and important conference was held. It was called the National Forum on Growth With Environmental Quality?—and the question mark at the end of the title symbolized the basic purpose of the meeting, which was to explore the question of whether this country can have growth and at the same time maintain a quality of life for our citizens.

The forum consisted of 3 days of panel discussion sessions focusing on energy, land use, technology, and people and quality of life. Panelists included conservationists and representatives of the academic community, Government, and industry.

This meeting had special meaning for me, because the idea for it originated from a remark by Russell Train, who came to Oklahoma State University at my invitation to be the commencement speaker in May 1972. In his address Train said:

Above all, we need a national debate on growth.

The Midcontinent Environmental Center Association, a consortium of educational, industrial, agricultural, and other interests took the idea and ran with it. Working with the Metropolitan Tulsa Chamber of Commerce and with the help of a National Science Foundation grant, the National Forum took shape.

Train, who is now the Administrator of the Environmental Protection Agency, keynoted the meeting on Monday morning, September 24. It was my pleasure to introduce him. At the conclusion of the conference, Jenkin Lloyd Jones, editor and publisher of the Tulsa Tribune, summarized the remarks which had been made during the 3-day meeting by some 35 speakers and panelists.

Mr. President, because this subject is of vital interest to Members of the Senate, I ask unanimous consent that my introductory remarks and a news release covering the summary by Mr. Jones be printed in the RECORD.

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

REMARKS BY SENATOR HENRY BELLMON, INTRODUCTION OF HON. RUSSELL E. TRAIN

Sixteen months ago, Russell Train stood on the platform at Oklahoma State University delivering the commencement address to the Class of '72. In that address he raised a question of immense proportions—not just for the graduating seniors who heard him, but for every citizen of this country.

The question is whether we should continue to regard growth of population, growth of the economy and growth in technology and increased use of resources as the Primary Measures of our progress. "Is *more* really *better?*" he asked.

He used the forum to call for a national debate on growth, calling it "a challenge worthy of our vast intellectual and moral resources."

This is one time—perhaps the only one I know of—when a challenge of high purpose was not forgotten as soon as the speech ended. A number of individuals, particularly the leadership of the Midcontinent Environmental Center Association, recognized the validity of the issue Russell Train had raised. They took up the challenge to initiate a national debate on growth. They were soon joined by the Tulsa Chamber of Commerce, the University of Tulsa, the National Science Foundation and many other organizations and private industries. The result is the National Forum which we now begin.

The leaders who have contributed so much

in time, talent, financing and plain hard work are due a great deal of appreciation for the splendid program and outstanding lineup of speakers and panelists assembled to hold this national forum on growth.

They have aimed for open, vigorous discussion with no-holds-barred exchanges.

Few meetings which have been 15 months in the planning and formative stage are held in as timely a fashion. Since Russell Train issued his challenge, the nation has faced a myriad of growth-related problems; shortages of fuel, steel, food, fertilizer, and transportation have developed to emphasize that growth is straining our nation's resources.

In my view, it is especially significant that this Forum is being held in Oklahoma. One might expect such an initiative to come from the industrialized East Coast, or from California—areas already plagued by growth problems.

But instead, the impetus is from Oklahoma, a state not yet suffering from any significant growth-related problems; indeed, a state which has a great deal of growth potential still to be realized, a state which still has the major ingredients needed to give its citizens a happy, productive, quality existence.

It also demonstrates the wisdom of the call issued by Russell Train in his OSU commencement address. In the months since that time, the subject of growth has become widespread—not just among environmentalists and not just among citizens of the overpopulated areas of our nation. It is a subject of major concern in the White House and in Congress, and a concern as well for those of us in Oklahoma and other such states whose major growth still lies ahead of us. We have seen elsewhere the results of unmanaged growth, and we don't want to repeat those same mistakes.

As we begin this national debate, it is entirely appropriate to have a keynote address by the man who started the whole thing. Russell Train is one of those unusual men who has served in all three branches of government—first in the legislative branch as Chief Counsel of the House Ways and Means Committee, later in the judicial branch as a Judge of the U.S. Tax Court.

In 1969 he was selected for a major role in the administrative branch as Under Secretary of the Department of Interior. In non-governmental affairs, he founded the African Wildlife Leadership Foundation and was later president of the Conservation Foundation.

When Richard Nixon was elected President, he called upon Russell Train to be the chief advisor on environmental affairs for the incoming administration. And when Congress authorized the establishment of the President's Council on Environmental Quality, it was again Russell Train who was called upon to become Chairman of the Council and chief environmental advisor to the Nation.

His ability and outstanding achievements at CEQ are well known to Congress and throughout the government, as well as to those outside of government who have an interest in environmental quality. His excellent record ultimately led the President just a few weeks ago to nominate Russell Train to become chief enforcer of our Nation's environmental protection laws. And it was just two weeks ago today that the Senate confirmed the nomination and reaffirmed its confidence in Russell Train by a unanimous vote.

It is a genuine pleasure to again welcome to Oklahoma and to introduce for the Keynote Address, my friend and associate, the Administrator of the United States Environmental Protection Agency, the Honorable Russell E. Train.

GROWTH WITH ENVIRONMENTAL QUALITY?

TULSA, OKLA.—Jenkin Lloyd Jones, editor and publisher of The Tulsa Tribune today summarized the National Forum on "Growth with Environmental Quality?" as a "great meeting," which has knocked some of the sharp edges off our preconceptions and smug assumptions of what growth and environmental quality are all about.

He said the meeting which had some 35 top-flight speakers and panelists has likely made more reasonable people of us.

The conference, he said, had "been blessed as the Lord blessed the lightning bug—giving out an astonishing amount of light in a very small space with practically no heat."

Jones capsulized the remarks made here from the beginning speaker, the Hon. Russell E. Train, administrator of the Environmental Protection Agency who spoke Monday, to Chet Huntley, chairman of the board of Big Sky of Montana Inc. Huntley was the last major speaker in the three-day conference which has had some 650 persons attending from 40 states.

Pointing to Train's talk, Jones said it is not a question of should growth be stopped, but one of what direction growth should take.

It is not a matter of more or fewer highways across the nation, but one of deciding which specific highway should be built or not built.

"Societal values can't be offered by fiat from big brother," he said. "They must be widely shared. Abstractions last only until something is done, and then they become hard choices. Everyone is in favor of less traffic until you try to take his car keys away."

Jones stated that "no growth" enthusiasm is simplistic.

"We will have offshore drilling, deep water ports, more power plants, more strip mines and bigger land fills. The trick is to put them in the proper places."

People, said Jones, who buck efforts at sensible ecological action in the belief that that will preserve growth are 100 per cent wrong. He was drawing from Train's talk in the statement and added that the real threat to growth is public desparation brought about by an impossible environment.

Referring to the talk of Dr. Carl Madden, chief economist of the U.S. Chamber of Commerce, Jones said "growth of physical objects is not the same as wealth.

"There are such things as NOODS—negative goods. True wealth is human value, and as output rises, waste and pollution rise faster."

The trick, said Jones, is to bend down the waste and pollution graph while the output graph stays steady or rises. This can be done by more efficient use of energy, he added.

The new enthusiasm and concern for environment may prove to be the most significant development of the century, said Jones. He compared it to the period of the Renaissance.

Jones quoted from Mrs. Joan Flint's talk in which he said U.S. population growth is as 2½ million per year. Mrs. Flint is a member of the President's Commission on Population Growth and the American Future.

Today there are 1.9 million women who are 39 years of age—theoretically past the childbearing age. However, there are 3.9 million girls who are 13 and just beginning the birthgiving age, he pointed out.

While these figures suggest the nation is near the zero population level, the fact is the country faces the possibility of an enormous increase until it can be determined if the 13-year-olds retain the present enthusiasm for lower family size.

Replying to Richard Carpenter, executive secretary, Commission on Natural Resources of the National Academy of Sciences, Jones said "we are still in an early, and naturally confusing era of data-gathering—what do we know, what don't we know, what could we know and what should we know."

Carpenter had said that present anti-pollution laws and environmental regulations sometimes appear to be more rigid than they really are. Congress is already in the process of re-examining the Clean Air Act and others have certain provisions for built-in correctives or mid-course changes.

Jones repeated the statement of Birmingham, Ala., Mayor George G. Seibels Jr., who had said some builders are too close to city hall.

Anti-control people, said Jones, without intending to be, are really antigrowth people, because when a city reaches a certain point of congestion and unpleasantness, it begins to empty.

"The ephemeral, but absolutely essential, matter of civic pride depends on how well the citizens like what they live in," Jones said.

Commenting on the talk of Maynard P. Venema, board chairman, Universal Oil Products Co., Jones said the function of an industrial system is to provide goods which the people think they need and therefore demand.

That America has achieved this better than any other nation while its environmental quality slipped, is not the fault of this aim, but the fact that we have sometimes produced, consumed and discarded less wisely than we should have.

Jules Bergman, American Broadcasting Co.'s science editor said Monday that the nation suffered from a truth famine. The people may not, he said, be getting the truth out of the Atomic Energy Commission about the real impact problems of nuclear power.

Jones said the motor industry has not fully explained either why it is still wedded to internal combustion engines of poor efficiency, and he is convinced the building trades must face the question of why so much of our heat and cooling vanishes because of poor insulation standards.

"The time has come to explore the engineering possibilities of putting waste heat where heat is needed, to develop, in short, a better heat-exchange technology."

Jones called for a breakthrough toward cheaper buildings made largely of plastic, and toward building 100 completely new cities on virgin land.

Repeating the words concerning energy of Dean McGee, chairman of Kerr-McGee Corp., Jones said imported oil may amount to two-thirds of our requirements by 1985. Even if the economic climate makes its profitable for a gigantic new domestic oil search to get underway it will still be years before the impact will be felt.

"Nearly half of our discoverable oil remains to be found, and perhaps 60 per cent of our natural gas.

The theory that we can shift rapidly to solid fuels and still retain environmental quality is doubtful."

Jones declared "we had better go after the oil and gas."

Dr. John J. McKetta, professor chemical engineering, University of Texas, said in a speech that the nation failed to listen to early warnings of the energy problem. Jones, in reply to that, said it is time now to shut down gross polluters along with the absolutely-clean water and air extremists.

Voluntary conservation will not work, said the publisher, as he pointed out that industry, in its own self-interest, is already conserving about five per cent. However, all the propaganda in the world is not going to get the general public to conserve more than another five per cent, he added.

By 1985, this nation could not produce half a billion barrels of shale oil if it started a crash program tomorrow, Jones added.

He echoed the words of Laurence I. Moss, president of the Sierra Club, by saying that energy has been priced too low.

"We should charge energy producers with the full bill for the social and environmental problems which their product have visited upon the public."

Replying to Gene P. Morrell, vice president of the Lone Star Gas Co., Jones said our domestic energy production has been hindered by 64 governmental regulatory agencies, all created when domestic oil and gas was plentiful.

In reference to W. Donham Crawford, president of Edison Electric Institute, Jones noted the prospects of brownouts or worse, continue to grow and new plants are late being built because of court battles.

One thing the industry needs, said Jones, is a one-stop shopping center to gain permission to build.

We won't have much new power if we have to keep waiting for permission from a multitude of regulatory offices, Jones said.

Alluding to the talk of Russell W. Peterson, chairman of the executive committee, Committee for the Third Century, Rockefeller Foundation, Jones said the greatest threat to the world today is population growth. Now standing at 3.9 billion, it is rising two per cent annually.

The United Nations, he said, is going to have to come to terms with population problems in light of the fact that underdeveloped nations with 2.8 billion people are increasing at a rate of 2.6 per cent yearly.

Commenting on a land-use panel at the meeting here, Jones said much land use propanganda is merely a socialist and collectivism effort to lodge the true control of American real estate in the executive department.

Jones feels profits made from selling land should be taxed, not with capital gains benefits, but at full income tax rates.

Turning to conservation, Jones said much of the pressure against growth is based on the assumption of despoliation.

"But growth can mean refinement. It only requires that land be reserved for its best use and that its productivity be maintained or improved."

Jones said the demand for "non-essentials," in today's life style will abate. There will be, he added, more recycling, more land use policies, more international conventions to prevent degradation of the oceans and the atmosphere to protect endangered species.

In the area of energy, Jones said transforming solar energy toward economically feasible electricity requires techniques not yet available, yet solar power is the only power presently conceivable that has no ecological problems.

Jones agreed with Dr. Lester Lees, director of the environmental quality laboratory at the California Institute of Technology, that the country is faced with a time problem as the demand for energy doubles every 15 years.

The energy demands of buildings, Jones pointed out, could be reduced by 30 to 50 per cent by better engineering.

"If we can survive the next 25 years without serious dislocations brought about by the impossibility of maintaining our present energy habits, new technologies are waiting in the wings to make the long-range future much brighter," Jones concluded.

The Forum was in answer to a challenge voiced back in 1972 by EPA Administrator Russell Train, then chairman of the President's Council on Environmental Quality. At that time, he called for a "national debate on growth."

The Forum was sponsored by the Mid-continent Environmental Center Association (MECA), Metropolitan Tulsa Chamber of Commerce, and the National Science Foundation. Joseph H. Williams, president of the Tulsa-based Williams Companies, was general chairman.

MIDDLE EAST CRISIS

Mr. KENNEDY. Mr. President, I stand today to urge a halt to the aggression that broke the cease-fire and the peace in the Middle East.

While all nations must regret the senseless return to violence in the Middle East, the decision by Egypt and Syria to attack on the holiest of all Jewish religious holidays, Yom Kippur, deserves special censure.

There was a growing hope in the world that new initiatives for negotiations between Israel and the Arab countries would take root and that the cease-fire and fragile peace in the Middle East since 1967 would be replaced by a permanent settlement.

That hope was smashed on Saturday when United Nations observers under United Nations Truce Supervision Organization, Commander Maj. Gen. Ensio Siilasvuo reported that Egyptian forces had violated the cease-fire by crossing over the Suez Canal and that Syrian forces simultaneously had moved across the cease-fire lines along their border with Israel.

The announcement of actual violations of the cease-fire culminated days of massing of troops along the Egyptian and Syrian borders, actions which Israel intelligence reported. The Israeli Government consciously decided not to order a preemptive strike.

All nations must share the sense of regret that the restraint demonstrated by the Government of Israel and the efforts of other nations to try and convince Egypt and Syria not to go forward were not successful.

Now we can only urge all nations to end the senseless violence and to adhere once more to the 1970 cease-fire agreement sponsored by the United States.

From that point, one can hopefully begin the difficult task of rekindling the efforts to facilitate negotiations for a permanent settlement in the Middle East.

THE TUSSOCK MOTH

Mr. McCLURE. Mr. President, the October 7 issue of the Washington Post carried a story on a forest pest, the Tussock moth, and the serious damage being done to Northwest forests. In addition to damage cited by the article, this year at least 140,000 acres of forest have sustained damage in northern Idaho.

Congress needs to understand the threat to our forest renewable resources, as the legislative branch may be called upon to debate the subject of alternatives for control of this forest pest. In January 1972, the only known successful chemical, DDT, for use in combating the Tussock moth was declared unavailable, except under emergency conditions, for use in fighting forest and agricultural pests. The U.S. Forest Service recommendation for emergency certification of DDT for control of this Tussock moth outbreak was refused by the Environmental Protection Agency Administrator William Ruckelshaus in late April 1973. Some of the reasoning in the denial for use of DDT was that the outbreak would collapse of its own accord naturally because of a virus attack that builds up in the larvae, according to history of prior outbreaks. The predictions of moth population decline in 1973 were wrong and the serious damage resulting exceeded the most pessimistic predictions. To date, there is no known available, effective, registered chemical control for the Tussock moth. In view of the continuing threat by this pest to our forests, the Environmental Protection Agency must reevaluate its appraisal for emergency use of DDT.

Field crews are now studying the locations and numbers of eggs laid by the Tussock moths this fall which will become the outbreak of 1974. When their reports are in, we must be prepared to decide administratively or through legislation on a course of action that will effectively control this pest.

I urge your careful attention to the attached Washington Post article.

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

MOTHS TRIGGER SUPPORT FOR DDT

(By Joe Frazier)

LA GRANDE, OREG.—Public support for use of the banned pesticide DDT is growing stronger here as hundreds of square miles of prime forest fall victim to an infestation of tussock moth.

It's a bread-and-butter issue in this lumber and farming town of 10,000, whose economy is supported by the wood products industry.

"People around here were against stuff like DDT until the moth got their land. Now they don't care what it takes. They want this thing stopped," said John McGhehey, state regional forester for the La Grande area.

The infestation, which turns woodlands rusty brown, is in its second year and timber industry and forest officials say it covers about 600,000 acres in northeast Oregon and southeast Washington. It covered 200,000 acres a year ago. The federal Environment Protection Agency, which banned use of DDT, rejected the U.S. Forest Service's emergency request to use the pesticide against the tussock moth earlier this year.

The service currently is seeking a DDT substitute and researchers say they expect to have test results in several weeks. If a substitute is not found, the service may renew its request to EPA. Agriculture Secretary Earl L. Butz has promised support if no substitute is found.

But La Grande residents wonder if the forest can stand another year of experimenting while the moth goes unchecked.

In grocery stores, in taverns and on the street, people offer a similar argument: "When the trees are all dead and the forest is gone, all the wildlife they're worried about saving will be gone anyway."

Normally a virus appears in the tussock moth population and kills off the infestation in its third year.

But foresters and pest control specialists say that may not happen this time—that there are several infestations in the area, and as one dies off, others may replace it, continuing the destruction.

The moth is native to the western half of North America, and occasionally, when weather conditions and other factors are right, the population explodes.

Entomologists say the explosion follows several years of inconspicuous buildup and usually is first noticed when the trees start to die, in the second year of the three-year cycle.

McGhehey said the infestation was noticed last summer.

"Right now, in the worst of it, there are up to 500 larvae per 1,000 square inches of foliage . . . that's the way we measure it.

"It only takes 100 per 1,000 inches to defoliate a tree, and 20 is considered an infestation."

He said it would take a kill of from 95 to 99 per cent to stop the infestation.

Insecticides and microbials tested resulted in kills ranging from 60 to 90 per cent, McGhehey said.

"That's just not enough. There are too many of them out there."

Kills of 100 per cent have been reported in other infestations where DDT was used.

McGhehey said effects of the infestation would be felt for years even if the moth were stopped immediately.

Logging companies are hurrying to get tussock-killed timber out of the woods and into the mills before it rots and becomes useless.

Mills are crammed with logs and hundreds of board feet remain to be salvaged. White fir, which makes up about 75 per cent of the kill, must be salvaged within a year and a half. The Douglas firs may last four or five years.

"There's going to be an oversupply, then we'll see a shortage. A slump. Mills could close," McGhehey predicted.

Gary Weiher, a production official for Boise-Cascade Corp., the region's largest employer, said the kill of immature timber has been heavy. The trees had been scheduled for harvest in future decades, and cannot be salvaged, he said.

"In about 30 or 40 years—I think that's when the full weight of this thing is going to hit us."

Boise-Cascade is holding off on reforestation programs until it sees what will happen with the moth.

There are other problems, too.

In August lightning started a forest fire in an area deadened and dried by the moth. Drought conditions made forests even more flammable. Flames ripped through 6,000 acres and threatened the town twice before the fire was controlled a week later.

Logging companies say many men refuse to work in tussock kills in late summer or early fall because particles of skin shed by the moths contain a toxin that causes a reaction similar to a bad case of poison oak or poison ivy.

Butz flew over the infested area Aug. 31 and said he would work to get DDT released if it appeared nothing else would end the infestation.

"We shouldn't let a great natural resource like our timber be wasted away because of a completely inflexible rule, he said.

"We're trying to develop some alternate methods of controlling the tussock moth, and with some promise, but we can't wait much longer and see our forest devastated."

Two bills have been introduced in Congress to relax DDT rules for the gypsy moth in the East. Butz predicted a tough fight for the bills, saying they would be seen as anti-environment by many congressmen.

"There should be a margin for judgment in cases like this," he said.

David Graham, who heads insect and disease control in the Pacific Northwest for the U.S. Forest Service, said four insecticides and two biological agents were tested this summer.

So, far, application of the virus that naturally wipes out the moth infestations seems to have produced the best results.

If tests indicate DDT is needed to stop the moth, the Forest Service will reapply to the EPA in December.

If permission is given to use DDT, the insecticide would be sprayed in May or June.

Graham said they would have to have a decision from the EPA by May 1. The need to use the spray would be reverified right before it was scheduled to be applied.

"We want this on a contingency. We'd like to have it sitting on the shelf, so to speak, in case it is needed," Graham said.

He said the Forest Service opposes use of DDT generally, but has to weigh the effects of it against what the moth will do unchecked.

SUCCESSFUL GEOTHERMAL EXPERIMENTS UNDERSCORE NEED FOR ENERGY R. & D. FUNDS

Mr. CHURCH. Mr. President, the Subcommittee on Water and Power of the Committee on Interior and Insular Affairs has held extensive hearings this summer on the problems and prospects for developing geothermal power resources. During the course of these hearings, committee members heard a wide range of testimony touching on every aspect of geothermal energy development.

One form of geothermal energy which the subcommittee believes may hold great promise for future development is energy from hot dry-rock geothermal systems. These systems are found in regions where heat is contained in impermeable rock of low porosity. To develop the resource, it is necessary to drill a hole and fracture the rock by the detonation of an explosive device or by pressure-driven water. Water is then injected into the voids and cracks in the rock where it is heated, and is brought to the surface and used to drive a turbine.

While this technology is still in the research state, the potential energy recoverable from hot dry-rock resources, according to all estimates, is very large. Although the research and development work which remains to be done is impressive, the subcommittee believes, based upon its hearings, that the problems are not insurmountable. There is an immediate need for funding of research projects on systems like hot dry-rock geothermal energy.

Mr. Allen L. Hammond has written an excellent article on this problem entitled "Dry Geothermal Wells: Promising Experimental Results." This article, which appeared in the October 5, 1973, issue of Science, presents the results of a dry-rock research project undertaken by the Los Alamos Scientific Laboratory, an Atomic Energy Commission facility. Mr. Hammond notes that the experiment has shown that granite can be hydrofractured to create a well and that the resultant well is impermeable enough to hold water tightly. These results have important consequences for the future of hot dry-rock geothermal energy resources.

Mr. President, because this article is relevant to several legislative proposals now before the Senate, I would like to share it with my colleagues. I ask unanimous consent that the article referred to be printed in the RECORD.

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

[From Science, Oct. 5, 1973]

DRY GEOTHERMAL WELLS: PROMISING EXPERIMENTAL RESULTS

(By Allen L. Hammond)

Assessments of the prospects for geothermal energy have tended to put the highest emphasis on hot water deposits such as those now being used to produce electricity at Cerro Prieto, Mexico. Estimates of the amount of electric power that could be generated in the United States with heat from geothermal wells—132,000 megawatts by 1985 and 395,000 megawatts by the year 2000, according to one widely accepted study[1]—are based primarily on the postulated exploitation of such resources. But the development of known hot brine fields in California's Imperial Valley and elsewhere has been delayed pending granting of leases for drilling on federal lands and the establishment of procedures for environmental review of proposed wells. In the meantime, results from a successful hydrofracturing experiment in crystalline rock and new ideas about how to extract energy from hydrofractured geothermal wells appear to have improved the prospects for tapping deposits of dry, hot rock. Since these dry geothermal deposits are believed to constitute a resource at least ten times as large as deposits permeated by groundwater, the potential for geothermal power may be even greater than the estimates above suggest.

The experiment in question was conducted in a test well drilled 780 m into the rock at one edge of a huge volcanic caldera in the Jemez Mountains of northern New Mexico by researchers from the nearby Los Alamos Scientific Laboratory (LASL), an Atomic Energy Commission facility.

Water was pumped under pressure into a section of the well to open cracks in the rock surrounding the borehole. This hydrofracturing technique is widely used in the petroleum industry to increase the permeability of oil-bearing sedimentary rocks and improve oil recovery, but the technique had not been demonstrated in granite and other crystalline rock formations.

According to M. Smith and D. Brown of LASL, the experiment showed not only that crystalline rocks can be hydraulically fractured, but that modest pressures are required. Water in the test well began penetrating the rock when pressures at the wellhead reached 8 to 12 million newtons per square meter, depending on the character of the rock being fractured. Study of the cores obtained from the well showed that, although the rock ranged in composition from granite to more basic materials such as amphibolite, the pressure at which fracturing began depended primarily on the presence or absence of preexisting cracks in the rock. These cracks were found to be cemented closed with minerals—calcite and silica in the granite, chlorite in the amphibolite—deposited over a long period of time, the researchers believe, by circulating groundwater. Hence rock with an abundance of preexisting cracks was only slightly easier to fracture than intact rock.

Perhaps more important for potential geothermal applications, the cracks leaked very little water. As long as the pressure in the well was maintained within a suitable range, the cracks were held open by fluid pressure alone and did not grow with time, nor did measurable amounts of water escape. This result contrasts that subsurface rock would with predictions by many geologists be highly fractured and hence very permeable, making it impossible to circulate water through the cracks to collect heat and transport it to the surface without continually adding water. The results of the LASL experiment thus suggest that crystalline rock geologic formations, at least in this one area, are readily hydrofractured, yet tight enough to make extraction of geothermal energy feasible.

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[1] Panel on Geothermal Energy Resources, *Assessment of Geothermal Energy Resources* (Department of the Interior, Washington, D.C., 1972).

The LASL team had calculated that cracks should form preferentially in the vertical direction, and they found this to be true when pressures were increased gradually during the hydrofracturing process. They were also able to detect seismic signals from the fracturing process at the surface, a result that the experimenters believe will allow the orientation and extent of the crack away from the well bore to be determined in future experiments. Other facets of the experiment were directed toward measuring the minimum principal stress (that which must be overcome to hold the cracks open) and related mechanical parameters of the rock adjacent to the well.

Planning is now under way for a second experimental well 1.5 to 1.8 km in depth. Cores from this well are to be recovered over its entire depth to provide a continuous section of continental rock for geological and petrographic studies, and measurements of temperature, conductivity, and gases given off by pore fluids are to be made every 9 m. If hydrofracturing experiments also prove successful in this well, the LASL experimenters hope to drill a pair of still deeper wells, the second of which would be directed so as to intersect a large crack hydrofractured in the first, and set up a prototype geothermal power system (Fig. 1). Water circulating down one well, through the crack in the hot rock, and up the other well would carry off heat that could be used to run a power turbine at the surface. Unless the rock fractures further as it cools, making additional hot rock available to the system—a phenomenon that has not been demonstrated—the initial crack must be large enough to supply heat for ten or more years in a practical power system. The LASL team believes that such a crack, extending 1.25 km from the borehole (compared with an estimated 40-m crack in their first experiment), is well within the realm of the hydrofracturing technique, although whether problems will be encountered in scaling up to this size remains to be seen.

The LASL experiment appears to have removed two of the principal concerns over the feasibility of tapping dry geothermal deposits in igneous rocks—it has shown that granite can be hydrofractured and that it is, at least in one region, impermeable enough to hold water tightly. (Even drilling in the granite, the most expensive operation in establishing such a geothermal well, turned out to be not as difficult as had been expected.)

Thinking about the optimum method of recovering heat from the earth is only beginning, however. One concept that could greatly increase the economic life of hot rock geothermal systems (and decrease their cost) is that proposed by B. Rayleigh of the Menlo Park, California, research center of the U.S. Geological Survey. Observing that in many regions the stresses in subsurface rock are reasonably constant over large areas, Rayleigh suggests that geothermal wells be drilled at an angle, in a direction perpendicular to the expected orientation of fractures. Then a series of parallel, vertical cracks could be fractured from a single well, possibly spaced as close as every 30 m. Slant drilling techniques are common in the oil industry, although not yet developed for crystalline rock, and Rayleigh's preliminary cost estimates indicate that such a system could be competitive with existing sources of electricity, even with cracks of relatively modest size. Still other ideas may emerge as more hydrofracturing experiments are performed and the design of geothermal systems moves from the feasibility stage to engineering design.

Assessing the extent of dry geothermal resources and drilling to prove out suspected deposits has also barely begun. Preparations for such assessments are going forward at a site in the vicinity of Marysville, Montana, however, at what may turn out to be the "mother lode" of geothermal deposits, at least in this country. The deposit is an apparent remnant of a geologically recent magma intrusion that very nearly became a volcano and that left what is believed to be billions of dollars worth of heat within 1 or 2 km of the surface. The project, directed by D. Stewart of the Battelle Memorial Institute laboratory in Richland, Washington, and funded by the National Science Foundation, will determine, among other things, whether groundwater is present or whether the deposit is dry.

AGE DISCRIMINATION IN EMPLOYMENT PERSISTS

Mr. WILLIAMS. Mr. President, as chairman of the Committee on Labor and Public Welfare, and former chairman of the Special Committee on Aging, I am, indeed, pleased that the Committee on Aging has just issued a report on improving the age discrimination law.

The report states that only about 50 percent of all workers aged 40 to 64 are protected under the provisions of the Age Discrimination in Employment Act. Furthermore, less than $1.5 million is budgeted for enforcement by the Department of Labor. Only 5 percent of the total staff and expenditures of the wage and hour division are devoted to the enforcement of a law which is complex and nationwide in scope.

Thus, not all older workers are covered by the law, and those that are may not be receiving adequate protection.

The Committee on Labor and Public Welfare included in the Fair Labor Standards Amendments of 1973 provisions which would have extended the coverage of the Age Discrimination Act to Federal, State, and local government employees, and to employers of 20 or more employees instead of the current limit of 25 or more. Also included was an increase in the authorization for enforcement of the act from $3 to $5 million. These amendments were lost in conference.

It is my intention, however, that the amendments to the Age Discrimination Act will be reconsidered and enacted. Job bias for older workers is still a very real and serious problem today and the law should be extended at the earliest date possible.

METRO ACCESSIBILITY TO THE HANDICAPPED

Mr. WILLIAMS. Mr. President, passage of the Architectural Barriers Act in 1968 made it national policy that buildings constructed with Federal funds should be accessible to the physically handicapped.

However, a question later arose concerning whether this act applied to the design and construction of Metro subway stations—in large part because of the unique Federal-State-local relationship under the Washington Metropolitan Area Transit Authority compact.

Amendments to the Architectural Barriers Act, were, however, passed in 1970 and resolved this question by making it clear that the subway stations, surface stations, and other structures of Metro are to be accessible for the handicapped.

Metro officials later informed the Congress that additional funds would be necessary because the original plan made no provision for the cost of special facilities for the handicapped.

Mr. President, I cannot fully condone this action because I believe some responsibility for this oversight rests on the shoulders of Metro officials. I do believe, however, that we must provide funds so that this project will be completed.

Mr. President, the recently enacted Federal Aid Highway Act of 1973 includes a provision of vital importance for the elderly and handicapped.

This measure authorizes $65 million in funding for the construction of elevators to make the Metro system of Washington, D.C., accessible to the handicapped.

I wish to congratulate the distinguished chairman of the Public Works Committee (Mr. RANDOLPH) for his able leadership in the adoption of this vital provision.

The 1973 Highway Act provides the authority to insure that Metro will be accessible to the physically handicapped and others who find it impossible or difficult to use escalators, and as originally passed by the Senate, provided full Federal funding for this provision. However, in conference committee the Federal contribution was trimmed back to 80 percent with 20 percent being shouldered by the surrounding communities in Maryland and Virginia, as well as the District of Columbia.

At this point, I wish to announce my intent to support Senator RANDOLPH in any efforts he may later undertake to provide for full Federal funding for this measure.

To my way of thinking, there are strong reasons for taking this action, which the Senate originally supported when it passed the 1973 Federal-Aid Highway Act. The District of Columbia is a city which receives visitors from all over the United States, and the world. It is, furthermore, the seat of the Federal Government, and as such should lead the way in providing an accessible environment for all people. For these reasons, it seems to me that the added costs resulting from these modifications can be assumed by the Federal Government, instead of local authorities.

In terms of dollars and cents, this would amount to about $13 million, or 20 percent of the $65 million authorization.

Additionally, I urge that a provision be incorporated in the first supplemental appropriations bill for fiscal 1974 to provide for funding to make Metro accessible to the handicapped. If future legislation provides authorization of full Federal funding, I would urge the Appropriations Committee to provide the full $65 million as soon as possible. No funding could be provided in the Department of Transportation appropriations bill for fiscal 1974 because the Appropriations Committee had completed actions on this measure before the Federal-Aid Highway Act became law. Consequently, the supplemental appropriations bill offers the most convenient vehicle for taking timely and effective action to implement the Metro accessibility provision.

It is essential that the Metro should be accessible for all persons.

Quite clearly, if we build a system which is "off limits" for the elderly and handicapped, we are, in effect, denying them an opportunity to participate in our society. And the economic—as well as the psychological—effect can be disastrous for the persons affected and their families.

Finally, I strongly believe that the Metro subway system—because it will be located in our Nation's Capital—should be a model for all transit authorities. There is no doubt in my mind that most transit systems can be accessible for the elderly and handicapped, with only modest increases in costs and no loss of functional utility.

What is needed is a strong sense of commitment. And, perhaps the Metro system can provide the model as well as the energizing force for other communities to emulate.

THE CITY OF HOPE STORY

Mr. MUSKIE. Mr. President, last July 14 it was my great pleasure to address the annual convention of the City of Hope Hospital in Los Angeles about the need for continued strong Federal support for health research.

It was a special pleasure for me to be a guest at this convention because the City of Hope has played a unique and outstanding role in seeking to influence medical science everywhere. Since its establishment 60 years ago as a national nonsectarian pilot medical center, the City of Hope has gained worldwide fame for its unsurpassed facilities for free patient care and its pioneering programs in research and education in the major catastrophic diseases of our era—cancer and leukemia, heart and respiratory afflictions, diabetes, and other maladies of metabolism, disorders of the blood and heredity—as well as for its basic studies in genetics and the neurosciences.

In addition, the City of Hope provides a consultation service at no cost to doctors and hospitals throughout the Nation to help them in the diagnosis and treatment of their patients in these diseases. Many hundreds of original findings and discoveries have emerged from its staff and laboratories in recent years in its efforts to relieve pain, prolong life, and effect cures. As a think tank for other hospitals, the City of Hope has had phenomenal success in improving the quality, quantity, economy, and efficiency of health care delivery systems in our country.

Needless to say, the City of Hope, like all medical research centers and hospitals, has a constant budgetary problem in meeting accelerating needs and expanding its research and services. On top of an annual operating budget of $21.5 million, the City of Hope now requires an additional $10,005,000 for new buildings, programs, facilities, and equipment. The executive director of the City of Hope, Ben Horowitz, discussed the economic realities of carrying out the City of Hope's great mission in his 1973 National Biennial Convention Keynote Address, which was delivered on the same night as my address. I ask unanimous consent that Mr. Horowitz' speech be printed in the RECORD.

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

KEYNOTE ADDRESS OF BEN HOROWITZ

Our gathering tonight inaugurates another Biennial Convention of our nationwide family of auxiliaries. That in itself is a landmark event in our progress. Significance is added to the occasion by the fact that we celebrate the Sixtieth Anniversary of our City of Hope.

In a real sense, we are celebrating more than an anniversary. What has motivated our origin, endeavors, and ideology is a celebration of life—life in all its vigor and beauty for every human being—life in all its fullness for the human race.

Commitment of this lofty purpose will certainly permeate every aspect of our deliberations in these three days . . . the evaluation of our course during the past two years; the approval of programs for the next two years; the absorbing of knowledge and inspiration from every session to strengthen us for the challenges which lie ahead.

We meet at a juncture in history when faith and confidence in the institutions of our land have declined substantially. This definitely encompasses those institutions concerned with medical diagnosis and treatment. Many years ago, authorities issued dire warnings about the crisis in the delivery of health care. Alarm signals were given about deteriorating hospital facilities, the shortage of medical and paramedical personnel, skyrocketing costs, and the depersonalization of care.

Logically, recognition of the desperate urgency of these problems should have enlisted the best and brightest talents in our society to formulate and implement a quick solution. Astoundingly enough this did not occur. It is sad to note that, in the presence of such deplorable conditions, the people of America seem to be in a state of drugged lethargy. There has been a meek acceptance of heaped up indignities, the wiping out of monetary savings, and deficiencies in the quantity and quality of care which can only be characterized as incredible.

In the midst of this dark picture, the program of the City of Hope has been a shining beacon lighting the way to what should be, what can be, in a nation which is the richest and most powerful on the face of the globe.

To document this, I will highlight the unique accomplishments made possible by the dedicated efforts of our auxiliary workers, Medical Center personnel, and organizational staff.

OUR UNIQUE HOSPITAL

Our census records the largest number of patients benefitting from inpatient, outpatient, and home health services dispensed:

On a free basis, as a right and not as a handout.

With protection of their dignity and worth.

By top-level medical specialists.

In a highly personalized manner.

With access to the most modern equipment.

Within the finest facilities.

In an atmosphere of loving kindness and hope.

Nothing and nobody was spared in the single-minded approach to relieve pain and prolong life for victims of crippling and killer diseases. Creative contributions were made to concepts of psychosomatic medicine, total patient care, and family-centered services.

We view with mixed emotions the "patient's bill of rights," recently sent to 7,000 hospitals by the American Hospital Association. It was long overdue, but unfortunately contains only a fraction of what the City of Hope has been practicing for six decades.

OUR UNIQUE CONSULTATION SERVICE

In response to ever-increasing requests, the expertise of our medical staff has been available to private physicians and institutions throughout the country. A panel comprising various disciplines of the Medical Center continues to meet regularly and provide supplemental counsel on diagnosis and therapy for patients with difficult medical conditions.

OUR UNIQUE PILOT MEDICAL CENTER

In the process of making the City of Hope an extraordinary phenomenon on the national and international scene, we carved a role for ourselves as a Pilot Medical Center. Daringly we affirmed, as a primary objective, the constant gathering of superb staff, equipment and facilities to give every encouragement to innovative medical research. Our success is indelibly inscribed not only in the annals of medicine and science everywhere, but on the minds and bodies of people.

During the 1971–73 years, invitations to our doctors, scientists, and other staff, to address conferences in this country and overseas were more numerous than ever before. Leading journals reported their work. Appointments to offices and distinguished awards were bestowed upon them by professional societies. Governmental agencies granted millions of dollars a year to advance their investigations.

Most gratifying of all was the flow of discoveries and findings in clinical and basic research which streamed from our laboratories: 165 in 1971, 192 in 1972, and a new high is expected in 1973.

How abstract are statistics! Translate them into new medical instruments, new diagnostic procedures, new surgical and treatment approaches. Even this does not tell the story. To appreciate it, we must grasp the communication channels between our scientists and their peers in every state and nation. The results mean immediate benefits to patients and the laying of foundations upon which other scientists pyramid their original findings. In the final analysis, the impact is felt by millions of fear-ridden and pain-wracked patients—men, women, and children—who will have the chance to breathe, work, play, love, create, and serve their fellowmen, all because you willed it so.

OUR UNIQUE THINK TANK FOR HOSPITALS

To meet the hospital crisis, the City of Hope accepted the challenge of being a think tank for hospitals. Task forces were assigned to study every phase of hospital functioning, with a mandate to improve the quality, quantity, economy, and efficiency of health care delivery. We can point with pride to the contributions we have made in reducing maintenance costs, alleviating personnel shortages, eliminating medication errors, caring for the non-critically ill in out-patient facilities and at home, assuring safety of patients, bringing the family into the hospital environment, and utilizing pooled computer technology.

OUR UNIQUE AUXILIARY MOVEMENT

From the beginning, sixty years ago, the fate of the City of Hope and supporting auxiliary members were intertwined. This was not a happy accident, but a deliberate design.

A basic people-to-people philosophy was involved in this relationship. The founders were determined to avoid the coldness of an institutional setting. No barrier was to exist between donor and beneficiary. The ever-present refrain was to be: "There, but for the grace of God, go I." This sense of identification would assure a humane spirit of care and an insistence that only the best of care was good enough for those in need.

To reinforce this precious concept, organizational safeguards were incorporated in our Constitution and Bylaws. An elected leadership would be responsible to a democratically-based auxiliary structure, to guarantee the maintaining and enrichment of the ideology of this haven of healing.

The aims of the people in our auxiliary movement broadened in the decades which followed. Our resources, in membership and money, had to be commensurate with our aspirations. The family of auxiliaries burgeoned, spreading from coast to coast.

Since the last Convention, we have chartered 67 new auxiliaries, drawing its membership from every element in the population. We come to this anniversary assembly with 449 auxiliaries, in 185 cities, 25 states and Washington, D.C. We have reached an all-time strength: more than one hundred thousand members and active workers and in excess of a million contributors constitute the lifeline of our National Medical Center.

OUR UNIQUE FUNDRAISING ENDEAVORS

In the last two years, we have waged an all-out fundraising effort. Millions of dollars in one-time gifts had to be replaced. Operating costs of all hospitals had skyrocketed, and the free policy of the City of Hope made it vulnerable. New and expanded programs, approved at the 1971 Convention, had to be funded. New Horizons building plans were awaiting implementation.

It can be definitely stated that our income by the end of our fiscal year on September 30th, will be at least $39,600,000, an increase of about $6,100,000 over the preceding two years.

An historical retrospective is in order. It took 53 years—1913 to 1966—for the City of Hope to raise its first $100,000,000. It took only *seven* years—1966 to 1973—to raise our second $100,000,000.

OUR UNIQUE NEW HORIZONS CAMPAIGN

Our capital funds and equipment drive has been conducted at a time when all hospitals were in financial straits because of soaring operating costs. Launched in 1965, and now scheduled to be completed in 1977, this New Horizons campaign entails an expenditure of $30,630,000. Approximately $10,000,000 have been spent, $10,000,000 in cash and pledges have been raised and will be spent in the next two years, and $10,000,000 must still be raised.

You will be touring the grounds of the Medical Center on Sunday. You will see excavations and photos of the Northwest Hospital, the Sunny and Isadore Familian Children's Hospital, and the Clinical Research Complex, to be erected by the end of 1974. Other buildings are now on the drawing boards.

Remember that construction is only the first step. Thereafter, money must be expended for equipment, staff, programs, and maintenance. All this is part of an ambitious perspective to keep the City of Hope in the forefront of medicine and science.

OUR UNIQUE IDEOLOGY

Our words and deeds emerge from the humanistic ideology to which we are committed. The City of Hope is an instrumentality to express our concern for people; better said, it is a demonstration that we care for every person formed in God's image. We affirm that the intelligence, compassion, and courage of human beings can give life a purpose and each day a meaning.

The members of the City of Hope family are oriented to pursue a basic social creed and action: to combat hate, cynicism and indifference; to encourage love, idealism and involvement.

OUR UNIQUE LEADERSHIP

In our modern society, leadership has all too often taken on a distorted form, reflecting the demands of the mass media. Leaders are supposed to look good for television, the movies, and photographs. Convictions are subordinated to so-called charisma, the surface appearance becomes more significant than inner depth.

The City of Hope refuses to be overwhelmed by such criteria. I hasten to add that without question we have more than our share of good looking people. But, in choosing leaders, we have specifications that are far more valid: adherence to our beliefs, a readiness to give of oneself, a capacity for creativity, and a boldness of direction.

You delegates have exemplified such traits in assuming responsibilities in your auxiliaries. In our national organization, we have sought to match your standards of excellence. Percy Solotoy, as President of the City of Hope, the members of the Board of Directors, our Executive Medical Director, Rachmiel Levine, and so many others, have given outstandingly wise and inspiring management to our affairs. The association of Mannie Fineman on a full-time basis has been of immeasurable value in advancing our cause.

I am grateful to you and to them for fortifying and invigorating me in the day-to-day conduct of our work.

OUR UNIQUE FUTURE

It is good that we have a pride in our past and a determination in the present. Further, preparation for the future has always been an essential characteristic of the City of Hope.

We do so with the optimism and confidence natural to us. However, we must soberly assess the difficulties which confront us and the nation. The deterioration of life in the cities at home and the persistence of war abroad, the violations of trust in high places and the uncertainties of our economy, have spread discouragement and disillusionment. The "orders of the day" are—stand still or retreat.

Health care, too, is under attack. The Federal government is withdrawing funds from a whole series of medical programs. Research projects are shrinking as laboratories shut their doors. Proposals in federal and state legislatures, for meeting the health needs of the nation, are being brushed aside. There is not only neglect of the problems of today but a storing up of troubles for tomorrow in this vital area.

I cannot conceive of a single voice in this room or among our multitude of supporters who would urge the City of Hope to follow the example of the government. We would not just be cutting a budget, we would be cutting off human lives. Statistics may be recited in dollars and cents, but what businessmen call the "bottom line" should be calculated in preventible pain and suffering.

The City of Hope in the coming years must reach out, extend itself as never before, for more members and funds, greater ideas and ideals.

All of us realize that dollars will be crucial in the pursuit of our goals. I have referred to the time span it took to raise the first and the second $100,000,000 by our organization—it took 53 years, then 7 years, and now we must raise $100,000,000 in the next 4 years!

In doing so, we are interested in purpose not bigness. We'll need more dollars to offset inflationary inroads in our budget. We'll need more dollars to take care of more patients, to unlock the mysteries of life, to fill the gaps in American medicine. We'll need more dollars to pilot in humanism as well as health.

This should give meaning to your deliberations at the various sessions. Then, indeed, will our Convention theme—"Hope, Health and Happiness"—be both a description of the past sixty years and a prescription for the next sixty years.

Word must go forth from this Convention that the City of Hope refuses to stand still or retreat. Its clarion call, resounding in our own and other lands, must rekindle courage in the hearts and minds and souls of all people. Our vision must mobilize them to go forward to a better day, a better life, for our own generation . . . and as a heritage to future generations of the family of mankind.

TRIBUTE TO THE LATE THOMAS L. C. VAIL

Mr. ALLEN. Mr. President, one of the greatest tributes that can be paid to a man is the recognition that his nation is all the better for having had the benefit of his counsel and service. Such recognition is most certainly due the late Thomas L. C. Vail, former chief counsel of the Senate Committee on Finance, who died unexpectedly on September 18, 1973.

I was saddened by the passing of this man of tremendous ability who expended his energies and talents in dedication to his Nation throughout his entire professional career.

Tom was a son of Alabama. He was born in Bay Minette and received his elementary and secondary education in the public school systems of Baldwin and Mobile Counties. Following the footsteps of his father, the late Bob Vail who served nearly a decade on the staff of former Congressman George Grant of Alabama, Tom went to work on Capitol Hill as a member of the Joint Committee on Internal Revenue Taxation in 1951, where he remained until 1964. During this time, Tom earned a bachelor of arts degree and a law degree at the George Washington University.

In 1964, Tom joined the professional staff of the Senate Committee on Finance and 2 years later was promoted to the position of chief counsel.

For more than two decades, Tom Vail was directly included in almost every piece of tax and revenue legislation passed by the Congress of the United States. I came to the Senate in 1969 and in that year we passed one of the most comprehensive tax reform bills ever to come before the Congress.

I well recall how helpful Tom Vail was to me in connection with several areas of this legislation which were most exacting and complex in their terms. Because of his insight and understanding of our tax structure, Tom no doubt could have engaged in a lucrative law practice, but he chose to serve his Nation as a valued employee of the U.S. Senate.

Tom Vail made a lasting contribution to our Nation with particular regard to matters of taxation and finance. He leaves a record of which his family and friends can be rightfully proud.

We shall greatly miss Tom Vail and the skills which he gave to us. Mrs. Allen joins me in expressing deepest sympathy to Mrs. Vail and the family.

HEALTH MAINTENANCE ORGANIZATIONS A VIABLE ALTERNATIVE

Mr. KENNEDY. Mr. President, this week, House/Senate conferees will meet for the first of a series of conferences to resolve differences between S. 14, the Health Maintenance Organization and Resources Development Act of 1973, and the House amendment to that bill.

The Senate has voted a program which would, over 3 years, provide $805 million in grants, loans, and loan guarantees, to assist health maintenance organizations in meeting the costs incurred in developing and initiating health maintenance services.

Critics of Federal HMO legislation maintain that health maintenance organizations are unproven, and do not deserve full Federal support until adequate "testing" has been carried out. I believe that this position is erroneous. Health maintenance organizations have operated successfully over extended periods of time, have been successful in reducing the costs of providing comprehensive health services, have increased the ease with which consumers can obtain health services, and deserve substantial Federal support in order to stimulate their development as an alternative to the current expensive, inefficient, and inequitable fee-for-service health care system which exists in this country at the present time.

Mr. President, HMO's are of proven merit, and deserve full endorsement and support by the Federal Government as a competitive alternative to fee-for-service health care.

The HMO offers our best hope for controlling the costs and assuring the quality of health care services.

Mr. President, I ask unanimous consent that the following articles about HMO's be printed in the RECORD. The articles are as follows:

"Seattle's HMO: Taking the Profits Out of Illiness" by Natalie Spingarn, the Washington Post, Sunday, October 7, 1973; an excerpt dealing with HMOs from the article "National Health Care Clouds the Benefit Picture" which appeared in the August 27, 1973 issue of Industry Week; "AMA Blocks Progress in Health Care" by Robert J. Havel, the Plain Dealer, October 1, 1973, and "Setback for Health Care Cause," the Plain Dealer, Tuesday, October 2, 1973.

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

[From the Washington Post, Oct. 7, 1973]

SEATTLE'S HMO: TAKING THE PROFITS OUT OF ILLNESS

(By Natalie Davis Spingarn)

SEATTLE.—On a July day three years ago, Leif E. Grefsrud was working by lamplight on his car in the garage of his home 19 miles south of here. Suddenly gasoline began pouring out of the auto.

The 36-year-old Boeing engineer, fearful of fire, crawled out from under the car and pulled out the lamp plug. There was a spark, and the gasoline burst into flames—as did Grefsrud, who ran outside screaming. A neighbor ran to turn a hose on him while Grefsrud rolled in the grass in agony. Seventy-five per cent of his body ended up covered with burns, half of them third degree.

After a few days at a nearby hospital to which he had been rushed, Grefsrud was moved to the hospital of Group Health Cooperative of Puget Sound, where he underwent six months of intensive and extensive care: special nurses round the clock for 2½ months; surgeons performing eight skin grafts, in addition to his regular doctor's treatments; specialists providing physical therapy; laboratory work; drugs; intravenous feedings. After leaving the hospital in December, 1970, moreover, Grefsrud had to return at least half a dozen times for plastic surgery on his fingers, arms and ears.

The normal cost of all this care is estimated by Group Health of Puget Sound at a minimum of $25,000. The cost to Grefsrud: $40 a month at first, $54 a month later. And that included medical coverage for his wife and three children as well.

DIFFERENT ECONOMICS

The reason for the low-cost, high-quality care was Group Health Cooperative of Puget Sound, one of the pace-setters among the nation's growing community of Health Maintenance Organizations, or HMOs. This special breed of health group is sometimes difficult to recognize: Some earn profits, others are nonprofit; some have physicians working in a group, others use doctors with individual practices; and some profit-making ones, which have mushroomed in several states under generous Medicaid laws, could hardly be recognized as the same breed, with a few even having run afoul of the law. But the most distinguishing characteristics of HMOs is that they charge an enrolled population a fixed yearly fee rather than billing members for care each time they are sick.

The result is a switch on the traditional economics of American medicine. HMO doctors do not earn more money by giving more treatment to more patients. Rather, because of their fixed income pool, they are apt to increase the efficiency of medical care, to avoid costly duplication of services, to prevent or minimize the need for expensive hospitalization. As President Nixon put it in 1971: "Like doctors in ancient China, they are paid to keep their patients healthy. For them, economic interests work to reinforce professional interests."

But that statement was made before the administration's desire to foster the spread of HMOs cooled considerably. With the help of some prodding by the American Medical Association, the administration has gone from a 1971 HEW white paper envisioning enough HMOs by 1880 to enroll 90 per cent of the population if it wished to join, to today's weaker support by HEW Secretary Caspar Weinberger for a "time-limited demonstration" approach. Meanwhile, the Senate has passed an HMO bill authorizing $805 million over three years and the House has adopted a more modest version authorizing $240 million stretched over five years. The two versions still must be reconciled at a House-Senate conference expected to start this week.

PROBLEMS OF SUCCESS

A "demonstration" effort, while valid with some programs, is a peculiar approach for HMOs. HMOs are not new. The nonprofit Group Health Cooperative of Puget Sound, founded by 200 Northwestern families with strong labor and co-op ties, for example, is now in its 27th year and it is not the oldest. The nation's 42 HMOs, including the giant Kaiser-Permanente based on the West Coast and HIP in New York, have about 5 million members, and that number climbs to 7 million or 8 million if other HMO-like organizations are included.

At Group Health Cooperative of Puget Sound the problem has not been to demonstrate its value but to cope with its success. The HMO, with 180,000 members at present, had expected Seattle's so-called Boeing recession of the early 1970s to curb its growth, but it didn't; 10,000 people continue to sign up yearly, and Group Health last year had to restrict enrollment.

The majority of enrollees (almost 60 per cent) have joined through industrial, labor and government worker groups under contracts with their employers. The rest sign up on a family basis as "co-op members" who make an initial capital investment and interest-free loan of $200 and have voting privileges. Last year's sign-up restriction closed the rolls to new worker groups; families and new employees of existing group members are still accepted.

Group Health's growth has also resulted in less broad interest in organizational affairs than there was when it was smaller and more tightly knit. One hears rumblings from some members about impersonality and even about a decrease in the quality of care.

SIX HUNDRED DOLLARS A YEAR

HMO advocates have never claimed that HMOs could or should be for everyone. They do have limitations. While Group Health of Puget Sound members pay less than many other HMO enrollees around the country, for example, it still costs the average family of four about $50 a month, or $600 a year, which is not cheap. Thus HMOs generally are not as accessible to the poor as to the middle-income, though the government does "buy in" to HMOs through Medicaid and other programs. At Group Health, nearly 8,000 members are enrolled under contracts covering Model Cities and welfare families and a rural group in southeast King County.

The low-income groups' care costs the government two-thirds of what it pays for others in the same programs, says Dr. Harold F. Newman, director of Group Health. "We save like mad with our program," he adds.

Reaching rural residents is another limitation. HMOs do not aggressively seek patients with special "outreach" workers or transportation systems. Rather, patients must come to their doors. But what Group Health has done here is to increase the number and availability of doors by opening seven satellite medical centers throughout this Puget Sound area.

What those who do belong to Group Health get for their dollar is considerable: as many doctor visits for medical treatment and diagnosis as they wish; pediatric care, including baby checkups and immunizations; X-ray and laboratory services, prescribed medications, eye examinations and emergency care. There are no time or dollar limits on hospital care. There is no charge for ambulance transportation within certain areas, for private room and special-duty nursing ordered by the doctor, for surgery, or physical therapy. If members fall ill or have an accident away from home, Group Health will pay up to $10,000 of their medical costs. They can go 10 times to a psychiatrist—or, more likely, a psychiatric social worker—without charge. After that, a mental health visit costs $5.

There are a variety of health education and mental health groups open to them: The middle-aged can air their problems in "middlescence" group therapy, the very fat in a GOP (Grossly Obese Patients) group. Smokers can learn how to break the habit, and it's hard not to stumble over a young couple in a natural childbirth class.

COUNSELING BY PHONE

Of importance to many mothers, no doubt, is the 24-hour service. On a recent evening at the main diagnostic and treatment center, adjoining Group Health's own 302-bed hospital, two young "nurse consultants" were on the phone steadily.

"Tell me about the rash—what does it look like?" asked Berkeley Lee. "Did your little girl eat strawberries today? Has she been near anyone with chicken pox?"

On the other phone, Virginia Kellmer prescribed treatment for a boy with a severe stomach ache. "It's now 7:20," she said. "I want to hear from you in an hour about how Bobby feels."

If members fall sick at night, there need be no frantic calls answered by an impersonal answering service or a weary voice telling you to come into the office the day after tomorrow. If the "nurse consultant" feels she can't handle the complaint by phone or that it cannot wait until morning, she gets in touch with one of the doctors on duty in the emergency department or with the patient's own doctor, chosen from Group Health's 160 staff physicians.

To be sure, Group Health does not cover every conceivable type of problem. Vitamins, tranquilizers and unusual drugs not in its formulary aren't included, nor are blood or blood derivatives. Most members cannot be treated for illnesses or chronic conditions

they had before joining or for pulmonary tuberculosis (which is now covered by the state of Washington).

CONSUMER CONTROL

Owning its own hospital, controlling the hospital's policies, having a voice in its management and relation to outpatient services is clearly a key to how Group Health of Puget Sound keeps its costs down and efficiency up. But not all HMOs, it should be noted, have their own hospitals. Group Health Association of the District of Columbia, for example, is among those which do not.

Another key is the strong consumer control that has been the hallmark of this HMO from the beginning. If the average American mother has a complaint about her child's schooling, she usually can talk to the child's teacher or principal, get active in the PTA, pressure the school board. If she has a complaint about the way a doctor or nurse or hospital treats her child, she has no such recourse; she and her husband have little or nothing to do with the way the local hospital or health clinic or insurance company are run or the amount of money charged.

By contrast, Group Health Cooperative of Puget Sound is run by an 11-member, elected board of trustees. No doctor serves on this board, which meets monthly to study problems and set policies. Trustees are nominated by their respective Group Health geographical district organizations or run at large for staggered three-year terms. The medical staff serves on numerous working committees, chaired by board members. Says Dr. W. A. (Sandy) MacColl, a Group Health pediatrician, "We move together like chimes in the wind. There's a lot of lateral communication between the board committees, the medical staff, and the administration." Director Newman and his staff deliver medical care to enrollees under contract to the board and are responsible to it.

A Women's Caucus currently is demanding that contraceptive drugs and devices and their fitting be covered, and that vasectomies be paid for. Members, especially women, want more health education programs—in nutrition, for example, or in special women's problems like menopause.

COMPLAINT DEPARTMENT

When patients have something to say about care, they can use an ombudsman system set up for the purpose. In their office near the hospital, Virginia Barrows, member relations chief, and her two-woman staff handled 9,000 "patient contacts" last year—or about 6 for every 100 enrollees. Ninety per cent came in by phone, and 60 per cent were informational questions like "How do I choose a family doctor?" or "Would Dr. Goldberg mind if I send him a Christmas present?"

There were 142 compliments, but there were also more than 1,600 complaints (300 about, not from, patients, largely because they missed appointments). Considerable attention was given the 1,300 complaints from patients—whether they were about overcrowded facilities, including the mini-parking lots at the main center, administrative charges and dues, or, more seriously, about the quality of medical care (320). Half of the medical care complaints had to do with arranging appointments; next came complaints about the services or attitudes of non-physicians (82), and, last, complaints about physicians (56).

Such complaints are taken up with medical section and area chiefs. When there are too many complaints against a doctor, they show up in the stiff system of peer review under which the HMO's doctors periodically evaluate each other's performance. Group Health has little trouble recruiting staff, and 1 out of every 6 physicians does not survive a two-year probation period. The physicians' salaries, while perhaps not what they could earn in private practice, are comfortable, starting at a little over $24,000 a year and averaging $40,000, plus a secure package of retirement and other benefits.

Dr. John R. Kernodle, chairman of the AMA's board of trustees, charged in a Wall Street Journal article in August that an "HMO's desire to avoid a deficit may cause it to undertreat and underhospitalize the patient." But both consumer control and the doctors' peer review act as strong checks against such a possibility. The bigger problem in our society is that doctors are tempted to overtreat.

THE NEED FOR CHOICE

It costs several million dollars to launch an HMO. Though some like Group Health Cooperative of Puget Sound have made it on their own, it is unlikely that the HMO system can be significantly expanded without substantial federal encouragement.

The Senate bill containing $805 million over three years would provide grants, contracts and loans to organizations which are developing HMOs or to existing HMOs wishing to expand. The money would go generally to non-profit groups, though for-profits could get loan guarantees to cover some costs, and $100 million would go exclusively to rural HMOs.

The less ambitious House version, with $240 million spread over five years, includes a revolving loan fund to help new or expanded HMOs defray the costs of their first 36 months of operation. No money could go to construction under the House measure, and many features—such as subsidies for the poor and for high-risk groups, and an override of some state laws that make it difficult to organize HMOs—have been deleted from an earlier House version. The bill, however, does contain a significant multiple-choice feature whereby employers covered by the Fair Labor Standards Act would have to offer HMO coverage to workers where it is available.

Only 10 percent of the population, largely on the East and West coasts, now has access to HMOs. Most patients have no real choice about whether they buy medical care from a private practitioner or an HMO. They should at least be given that choice, argues Dr. Newman of Group Health Cooperative of Puget Sound.

[From Industry Week, Aug. 27, 1973]

NATIONAL HEALTH CARE CLOUDS THE BENEFIT PICTURE

There are many innovative approaches to cost-cutting that managers should investigate. One is the use of a Health Maintenance Organization, or HMO, as it's commonly called.

WHAT IS AN HMO?

"There are several kinds of HMOs. We're involved with two that operate as prepaid group practices," explains Wisconsin Blue Cross' Mr. Suycott. Another HMO approach, he adds, uses a foundation approach to medical care. Under it, a group of doctors sets certain fees for similar services and monitor each other to hold down costs.

This approach has proved to be moderately successful, but Mr. Suycott feels the prepaid group system will prove most successful. "Basically, it's a group of doctors who provide one-stop, one-door medicine," he points out.

As he explains it, a group of doctors sets up a clinic providing a broad range of medical services. As a result, there are immediate administrative savings because the central organization (like Blue Cross) handles billing, records, and other nonmedical services.

"Just think of the savings. Every doctor used to have his or her own nurse, receptionist, billing service, and so many other things. The same thing goes for equipment. When we brought our doctors together into one HMO, we had a surplus of 30 examining tables," explains Joseph E. Voyer, senior vice president, Wisconsin Blue Cross.

When patients need services the HMO doesn't offer, they're sent to affiliated hospitals and care facilities.

What about costs? "HMOs don't save that much during the first few years, but they do provide major savings over the long run," Mr. Suycott argues. "At first, you're usually providing broader benefits than most people have had. However, as you continue in the HMO, the heavy emphasis it places on preventive medicine begins to pay off," he adds.

For one thing, people don't put off care. As a result, hospital stays are shortened. "In our private sector business, we had a hospital admission rate of 1.1 days per person per year. In the HMO, at the end of the second year, the rate was 0.6 per person per year—and that's pretty significant when you realize that hospital care accounts for 65% of the health care dollars," the Wisconsin executive observes.

Best estimate of long term savings: 20%. Best advice to managers: find out if HMO coverage is available in your area. If it isn't, follow the lead of several large firms and start your own HMO.

[From the Cleveland Plain Dealer, Oct. 1, 1973]

AMA BLOCKS PROGRESS IN HEALTH CARE

(By Robert J. Havel)

WASHINGTON.—In a little noted battle between the HMO and the AMA, the latter, the American Medical Association, appears to be the victor.

The losers are likely to be millions of Americans who could be provided better health care at costs they could afford through HMOs—health maintenance organizations.

HMOs are a source of heated debate within the medical community. The AMA sees federal support of this group practice of medicine as a step down the road to socialized medicine. Supporters see HMOs as the medical profession's last chance at self-regulation.

In the course of the wrangle over HMOs in the U.S. House, advocates bent to the will of the AMA. So did President Nixon. Two and a half years ago, he was hellbent for building HMOs all over the country. Today, he views them merely as "promising innovations" worthy only of cautious federal experiment.

During that time the AMA's political arm has contributed millions to the re-election of Nixon and to the campaigns of sitting senators and House members.

True, the House has passed a bill in support of HMOs that was hailed as "landmark." It was hardly that, although it is the only health legislation of any importance that will likely emerge from Congress this year.

What it was was a bill to provide meager one-shot federal assistance to the establishment of health maintenance organizations (HMOs'). Even now it faces an uncertain fate. It was a far cry from a similar measure passed by the Senate, which itself was a retreat from the $5-billion proposal approved overwhelmingly by that body a year ago.

The House bill also backtracked from the Commerce Committee's original proposal, so much so that the American Medical Association (AMA) dropped its ferocious and long-standing opposition in the House to HMO legislation.

Health maintenance organizations are prepaid group medical practices in which an enrollee, for a fixed sum, is provided comprehensive care. Ideally, an HMO is one-stop medical care, sort of a medical supermarket that can be operated non-profit or for profit.

It would eliminate a patient's having to

go to one end of town for treatment of an earache and to the other end of town for a bellyache.

Group practices have operated successfully in the United States for 40 years. An example is the Kaiser program in Cleveland. About 7 million are enrolled in about 800 such operations.

The staff doctors are paid either a salary or a traditional fee-for-service basis.

HMO proponents, who seem to encompass just about everybody but the AMA, cite many advantages to both doctor and patient. Through better organization of health-care delivery, soaring medical costs could be held down, they contend. Those costs amounted to some $80 billion last year or about $365 for every man, woman and child in the nation.

For the doctor, HMOs relieve him of the business end of medical practice. They afford regular hours, give him set vacations. They can encourage doctors to go into rural or urban areas they normally would shun, because they would be guaranteed an income. They would have an incentive for efficiency, because the more efficient they are the more money they can make and the more extensive the care they can give enrollees.

The enrollee is relieved of the worry of unforeseen medical costs. Most medical costs are covered completely by the prepayment, usually with the exception of such things as eyeglasses and routine dental care, which are offered as optional services.

"Group practice prepayment plans by their very nature enable many physicians to use the same expensive equipment," Jerry Voorhis, head of Group Health Association of America, said in a recent speech. "They have no economic incentive to perform needless operations, and they can organize all resources, human and physical, in an efficient manner.

"(They) have as their main objective to keep people ambulatory and out of the hospital."

(Voorhis, incidentally, was the first politician to fall before Richard M. Nixon. He was a California congressman when Nixon beat him in 1946.)

AMA opposes federal assistance to HMOs because it fears they are a step toward socialized medicine. Sen. William B. Saxbe, R-O., who is an ardent booster of HMOs, sees them as the exact opposite.

"The opposition of most doctors to HMO's is discouraging," Saxbe said. "HMOs are the greatest protection they have against socialized medicine. They are short-sighted in not recognizing the tremendous advantage of HMOs. They permit doctors to control their own practices and incomes. They can bite off as much as they want in HMOs. In socialized medicine it's just the opposite. The states sets the hours and wages."

An AMA spokesman said his organization is "on the side of the House bill."

"We believe in pluralistic medicine," he said. "One way is the HMO. It's all right to experiment with this baby to see if it will work. But we don't want to have a massive infusion of federal money into HMOs."

In today's terms, the $805-million authorized over three years for "this baby" is hardly a massive infusion—unless it is compared with the $240-million for planning and startup in the four-year House bill.

During House discussion, not a bad thing was said about HMOs. Why then did the House take such a timid step?

"Why the timidity? Because a lot of guys get money from the AMA," said Rep. William B. Roy, D-Kan., principal author of the House bill. Roy is an obstetrician turned politician who has been ostracized by the AMA.

Nevertheless, Roy defends the House bill as "landmark" because it is "the first federal commitment to better organization of the health-care delivery system."

"It's not great," he admitted, "but it is a commitment."

He believes that HMOs will provide competition for the traditional method of medical practice, "and then everybody else will do things better."

HMOs got their biggest boost from Nixon himself in 1971, when he oversold them somewhat as the savior of the medical system. Even the most enthusiastic supporters of the concept say Nixon was not realistic in setting as a goal to have HMOs available to 90% of the population by 1980.

The 7 million now enrolled in group practices constitute about 3% of the population. Sen. Edward M. Kennedy, D-Mass., author of the Senate bill, says his measure might double the enrollment, and Dr. Philip Caper, a Kennedy aide, estimates that at the maximum only 20% will ever be members of HMOs.

To realize Nixon's goal, Roy said, would have cost as much as $12 billion. Nixon's commitment to HMOs has faded along with his rhetoric in praise of them. Now he supports the House bill, and the AMA openly takes credit for his change of heart.

In his 1971 health message, Nixon hailed HMOs and outlined a broad plan of assistance and a determination to have HMO contracts preempt "archaic" state laws in 22 states that prohibit or limit group practice of medicine. His enthusiasm was undiminished in his 1972 message, when he called the HMO concept a "central feature of my national health strategy."

The AMA admittedly went to work on Nixon and the House Commerce Committee, nine members of which received AMA campaign contributions last year.

The administration's change of position was dramatic. In 1972, the administration planned to have HMOs available to 90% of the population in 1980. In his State of the Union message to Congress last March 1, what he himself proposed last year, was too costly and beyond what was needed. From its lofty position as a cornerstone on his national health strategy, the HMO had tumbled to a "promising innovation."

Meanwhile, every provision that the AMA found distasteful was stricken from the House bill. The main differences in the House bill from the Senate version are a smaller required benefits package to qualify for federal funds as an HMO, no grants to HMOs for care of the poor or persons with high medical insurance risks, no preemption of state laws, which, in effect, give medical societies veto power over HMOs, and no quality control commission.

Dr. Caper described the House bill as "fairly innocuous."

"The AMA succeeded in getting a bill it could live with," he said, "it's non-sense that we need another demonstration program. The House bill 150% stall as far as I'm concerned."

Like Roy, Caper does not find it desirable to have HMOs the "only option," but he believes, also, that "competition will improve all health care."

Saxbe said the House bill is not sufficient to give HMOs a chance to prove what they can do. He supports grants for the poor and for high medical risks because he believes HMOs should be available "not just to those who can plunk their money down." He also supports preemption of state laws, "because it's necessary to have the program applicable nationwide."

"What makes a state law so sacred?" he asked, citing the Occupational Safety and Health Act, which permits federal standards to override state law. "If they can come in and tell a guy what kind of ladder he can climb on, they can tell the states what kind of health care can be permitted."

Nobody wants to make HMOs the only method of health-care delivery. But if HMOs are so good why can't they go it on their own?

Justin McCarthy of Group Health Association of America thinks HMOs ought to stand on their own feet but they need initial seed money. Restrictive state laws have inhibited the growth of HMOs, he said, while granting the medical profession, under Blue Cross-Blue Shield legislation, "provider monopolies."

McCarthy concedes that state restrictions are not without reason, "because if HMOs are not set up right it's easy to rip people off."

"Without controls, a couple of doctors can get together, get an X-ray machine, set up an HMO and start charging people $50 a month," he said.

"HMOs are designed to meet the needs of the middle-income group of America, McCarthy said. "The poor and the rich get taken care of now."

But they are expensive to start up. McCarthy estimates the cost of a community-wide plan to be as much as $5 million.

"New community group-practice plans must provide new facilities, recruit professional staff and weld them into smoothly working teams, win general public support, achieve rapid enrollment of subscribers and in all probability incur operating losses in their early years." Voorhis said. "If the growth of plans assuming full responsibility for the health of large numbers of people is to take place at the rate hoped for, substantial funding from the federal government would appear to be a necessity."

If anything emerges from the House-Senate conference, it is likely to be a measure closely resembling the House bill.

"I have a strong feeling we will reach agreement rather quickly," Roy said. "And it will be something Nixon will sign."

"There's not enough money in the House bill to give HMOs a fair test," McCarthy said. "And the mechanics for a truly objective evaluation are not there."

[From the Cleveland Plain Dealer, Oct. 2, 1973]

SETBACK FOR HEALTH CARE CAUSE

Congress has fumbled an opportunity to pass health care legislation which could be immensely beneficial to vast numbers of Americans. This is a great shame.

The American Medical Association (AMA), following a tradition of resistance to change, has fumbled an opportunity to help improve the availability and delivery of health care service to the public. This is another great shame.

A report this week from Robert J. Havel of The Plain Dealer's Washington Bureau has made those conclusions obvious. Havel traced the progress of legislation to spur growth of health maintenance organizations (HMOs) from a promising start two years ago to a present condition of uncertainty and inadequacy.

An enlarged HMO concept cannot be dismissed simply as a step toward "socialism," as organized medicine alleges. It is a device to encourage group medical practices that enroll subscribers and provide them with comprehensive care for fixed, prepaid sums. No medical professional would be required to join such an organization; no citizen would be denied a right to seek professional advice and service where he pleases.

What is most attractive in the concept is that it might provide a means to deliver health care service more efficiently and less expensively to a greater number of people. President Nixon, who is no advocate of socialism, recognized this in 1971 when he urged a very large HMO program and the considerable funding it would require to get started.

But since then the movement has been backward. The AMA mounted a counter-offensive, Mr. Nixon backed off and Congress weakened legislation to a point of little usefulness. Unfortunately, the House of Repre-

sentatives' view of the HMO issue now is likely to prevail if House-Senate conferees can agree and if Congress is disposed to take final action.

The House measure is insufficient for a number of reasons. To list a few, it provides too little money, it does not pre-empt laws in many states which prohibit or limit group medical practice, and it does not allow HMO grants for care of the poor. Worst of all, it appears to block effectively a possible way to hold down the soaring price of medical care which is mostly paid by average, middle-income Americans.

The dimension of that problem was measured only yesterday in a report from the Conference Board, a fact-finding organization for business and industry. Health care costs in the United States, now at $394.16 per person, will be $757.02 in 1980, the board found. Such a drastic increase would price even more people out of the medical-care market.

Shame on Congress and the AMA for not being alert to that possibility and for not encouraging an HMO idea which could be very much in the public interest.

ADDRESS BY SENATOR HELMS AT THE SENATE PRAYER BREAKFAST

Mr. THURMOND. Mr. President, members of the Senate prayer breakfast meeting October 3, were privileged to hear some very eloquent and provocative remarks by the junior senator from North Carolina (Mr. HELMS).

The observations made by my good friend regarding individual independence and conscience form the basis of Christian judgment.

Knowing JESSE HELMS as I do, I can truthfully say that his speech is a blueprint for his life.

Mr. President, I ask unanimous consent that Senator HELMS' speech at the Senate prayer breakfast, October 3, 1973, be printed in the RECORD at the conclusion of my remarks.

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

PRESENTATION BY JESSE HELMS AT THE SENATE PRAYER BREAKFAST OCTOBER 3, 1973

Congressman John Buchanan of Alabama told the story the other day of three soldiers and an Army Chaplain who were huddled together in a cold, muddy trench in France at dawn one rainy morning near the end of the First World War.

A dense fog hung over the landscape, which was quiet as a tomb after a night of intense fighting. The bodies of dead soldiers were strewn over the battlefield—as far as the eye could see. Nothing was moving—or, at least, the four men could see nothing moving.

So they failed to see a German soldier inching his way, prostrate, across the battlefield. Suddenly there was a thud a few feet away from the four men, huddled together in that trench. Three of them froze in horror as they saw a deadly hand grenade just seconds away from exploding, sending them into eternity.

Three of them froze in horror, Congressman Buchanan emphasized, the fourth one did not. Without a moment's hesitation, the fourth man, whose name the Congressman will never know, flung himself across the grenade—just as it exploded.

That man died, the Congressman contemplates, so that the other three might live. And it so happens that one of the three men who survived was the Army Chaplain, who was to return home after the war and ten years later become the father of a little boy, John Buchanan, who was to serve in the Congress of the United States.

The Congressman tells the story with great emphasis, and he adds that there were two who died that he might live. One—in that muddy, cold trench in France 55 years ago. The other—nearly 2,000 years ago on that cross at Calvery.

I don't know about you, but the Congressman's tribute to that gallant man, whose name he will never know, led me into a bit of agonizing self-appraisal.

I have found myself wondering what I would have done, in that split-second. Of one thing I am sure: That man didn't stop to assess the situation in any self-serving way. I'm quite certain that it didn't cross his mind to say, "It's either one of us, or all of us—so I'm gone one way or another." I think that in that flash of time, there was an instant nobility in that man—a moment when he confronted a challenge to do what had to be done if he was to save the lives of his friends. So he did it!

Would Jesse Helms have done it? I hope I would. I even pray that I would.

But that doesn't get me off the hook, because each of us faces lesser challenges every day of our lives.

I remember John Stennis telling us that he asked himself—not if he wanted to live following that ordeal earlier this year, but why.

Senator Stennis will forever be an inspiration to me because in so many ways, he has taught me the value of living. The same is true with so many of the men who gather here each Wednesday morning.

At the risk of embarrassing Harold Hughes, I will say that this man, by his courage and determination, has supplied a light for my own path. He has given a new dimension to my own awareness of what faith can do—or, to put it another way, what a man can do if he can seize the grace that is constantly extended to every one of us.

I had a friend long ago, once a great member of this Senate in which we serve today. His name was Josiah William Bailey. Senator Bailey took a lot of stands which were highly unpopular in his day. Every time he was up for re-election, it was widely forecast that he would be turned out of office.

He never was. He died, a Member of the United States Senate. He won re-election overwhelmingly, not because the people of my state necessarily agreed with all of his votes and positions in the Senate—they certainly did not—but because they knew that Josiah Bailey was a man of principle and wisdom and courage. Events have proved that he was right in his unpopular positions of the 1930's and 1940's, even though he had a difficulty in achieving anything like unanimity of favorable opinion back when he was *taking* those positions.

In early 1937, a newspaper editor in my state published a front-page editorial condemning Senator Bailey for not going along with public opinion. "The strange part about it " said this editor, "is that Senator Bailey would be popular if he would just listen to the people . . ."

Senator Bailey wrote a letter in response to that editorial which to me will always be a classic.

"But what is my duty," Senator Bailey inquired, "when I think the people are sincerely wrong—sincere though they may be. Am I to discard my own beliefs, and instead seek to be popular?"

It was a long, but eloquent response, that Senator Bailey wrote. Let me share a few paragraphs at random with you:

(NOTE: At the suggestion of several who were present at the Prayer Breakfast, I shall include here the entire letter written by Senator Bailey to W. O. Saunders, newspaper editor at Elizabeth City, N.C.—J.H.)

THE HARD WAY

MY DEAR SAUNDERS: This is a strange picture you paint of me—as a man indifferent to the opinions of his fellows.

On the contrary I know of no one who craves agreement with his fellows more than I do—nor do I know one who more highly esteems their applause and good will; no one enjoys going against the tide of public opinion. It is the hard way. And like all men, I would have myself the easy way.

But there are other considerations: I remember one Pontius Pilate. He pleased his crowd—and let them slay their best friend.

He went the easy way. So he held the governorship. I do not admire him, but he was a smart politician.

I remember one Peter—a fisherman, who declared in response to the people who demanded that he agree with them: We ought to please God rather than men. Peter went the hard way. They tell me he lost his life on a cross. But I admire him.

I remember Christopher Columbus, the majority of whose sailors demanded that he turn back, but who nevertheless pressed on. He went the hard way. He was most unpopular with his crew. But he discovered America. His sailors discovered that they were cowards.

I remember Robert E. Lee, who refused the command of the Union Army, and all the rewards of the national gratitude, to do his duty by his state. He went the hard way. There were some who called him a traitor. And there are those to whom he is an inspiration.

I remember Moses who chose to dwell in the tents of the wandering tribes of Israel rather than the palaces of the Pharaohs. He went the hard way. He died in the wilderness, but God gave him a mountain top to die on; and he is still on the mountain.

I remember Him who said to the Pharisees: "Your fathers stone the prophets and you build monuments to them." He knew the hard way. He died on the instrument of the slave's torture. But all men look to Him on the Cross.

None of these were popular men. They, unlike Pilate, went against the tide of public opinion. None of them was ever governor.

I remember Emerson and his great essay on self-reliance, in which he bade every man speak his own thoughts, do his own duty as he sees it, saying that this was the only way to serve one's fellows; that this is the way, one created in the image of God ought to go.

And many others do I remember, with whom I know I am not worthy to be mentioned.

When I was a young fellow and all the way of life was unknown to me, my teachers urged me to have the courage of my convictions. My Sunday School teachers would tell me to "dare to be a Daniel." Do they yet do this? Or do they teach their pupils to have the courage of somebody else's convictions? I thought then that the way of courage of one's convictions was the easy way. Imagine my surprise upon finding it so invariably difficult these forty years as editor and public man.

Should they have taught me to dodge and duck and squirm and hide behind every bush and get through this life like a serpent gets through the grass? Is that the advice you give your young readers? And would you have the high school set up a department of demagoguery and give diplomas for proficiency in sitting on a ten-rail fence and keeping both ears to the ground?

You say I rely upon the past. It was Patrick Henry who said that he had no light to guide him save the light of the past. If you know of any other, tell me what it is and where to find it. That and that inner light which we are told God kindles within one's soul—these only are known to me. But if there is yet another, tell me the way to find it, for I know I need every possible light.

Do you think that I do not know the easy way. Do you think that I could not choose the easy way. Do not think that I do not see around me men who have successfully made a business of holding office, and who all their lives have held office finding the course that pays best in votes and "Going for it bald-headed." They do not have to work. They do not have to contend. All they have to do is to deceive. But I have deliberately chosen not to go that way. I am determined to do the best I can for the people who have trusted me, whether it pleases them at the time or not. I am thinking of their children no less than of them. I may be wrong, but if I do my duty as I see it, I shall at any rate have the satisfaction of a good conscience.

We all admire Henry Clay for saying that he would rather be right than President. Why do we so often tell public men that it is better to be popular than right? Shall we reverse the story and say that Henry Clay was a fool?

And let me say the same duty falls upon newspapers as upon public men. I was made sick at heart recently when a prominent newspaper man said to me, "You know, we newspaper men are merchants. We have to give the people what they want." He was more interested in making money than in doing right. He was selling opinion as a merchant sells cabbage.

Would you have me conduct a poll on questions of public policy, ascertain on which side the most voters are, study the way to get re-elected? Or would you have me study these questions and do my duty? And if I do this, am I to be portrayed as indifferent to opinion, or obedient to duty? Which is the selfish way? Which is the unselfish way? Am I here to serve the people, shall I seek to do the popular thing and get the popular applause and hold on to my office, or shall I seek to do the right? You cannot answer these questions for me. I have answered them within my soul. I shall do my duty.

I know some history; and I know that the most horrible chapters in the history of mankind were written by subservient judges. I know what a struggle it was to establish an independent judiciary; and I know how blessed have been the fruits of the success of that great struggle. I know that I can render no greater service to my generation than by resisting to the utmost every step to impair that independence. And I am determined to render that service. It will justify my existence.

History also teaches me that second thoughts are more to be trusted than first thoughts; that reason is better than impulse; that the long view is better than the view of apparent immediate self-interest; that the best friends of the people are not those who appeal either to their prejudice or emotions, nor who agree with them just to please, nor those who make the loudest professions of interest in them; that one who would serve them must study measures and seek the right; that men engaged in the tasks of life have but little time for study or meditation, and if some one does not study for them, they will learn only at the cost of bitter experience; and that one honest man who will tell the truth is worth ten thousand who are content with them rather than take their criticism or their curses. And history also tells me that in the long run only the men who are willing to pay the price receive the rewards of a grateful posterity, or the satisfaction of duty done.

So if I have made my choice, you must say that I chose the hard way, that I did not choose it because I was a fool, or willfully; that I chose it unselfishly not for my own ease or interest, but for the people who have trusted me and honored me.

Very truly yours,

JOSIAH W. BAILEY.

Several years ago, I was sent a tape recording of a sermon delivered in 1944 by the late Dr. Peter Marshall.

The tape was a sermon delivered by Dr. Marshall at the end of a hectic political season. Let me share a few of his words with you:

"May I suggest to you that America needs prophets today, men—and women too, because more than once in history a woman's voice has stated the issues clearly—who will set before the nation the essential choices. God, give us men!

"A time like this demands strong minds, great hearts, true faith and ready hands. Men whom the lust of office does not kill. Men whom the spoils of office cannot buy; men who possess opinions and the will; men who have honor; men who will not lie. Men who can stand before a demogogue and damn his treacherous flatteries without winking. Tall men, sun-crowned, who live about the fog in public duty, and in private thinking. For while the rabble with their thumb-worn creeds, their large professions and their little deeds mingle in selfish strife, lo, freedom weeps!

"Wrong rules the land and waiting justice sleeps. Love of power and authority have enslaved the hearts of many Americans. The seeds of hate and intolerance have been sown, and will reap a bitter harvest. Our moral standards have been lowered—our national moral standards—and no nation makes progress in a downward direction. The growth of addiction to alcoholic beverages, for example, by women as well as by men, in great numbers, is of great concern to every patriotic American who loves his country and is anxious about her future. Not all of those who are concerned are cranks, blue noses or killjoys. Perhaps it is unfortunate that those who speak for temperance in the newsreels are not particularly photogenic, to begin with. And they are usually posed and quoted in such a way as to provoke derisive laughter in our theatres. The cause of temperance is not advanced, and we who are concerned about it cannot help wondering just what will happen to a country that apparently is no longer aware of the dangers.

"Illustrations could be multiplied, both of the decay of morals and of the activity of evil forces in our midst. The old time evangelists used to stress the tragedy of men and women individually going to hell. We don't hear very much about that nowadays, because they say people don't believe in hell, but I notice they talk a lot about it in their conversations. But today we are living in a time when enough individuals, choosing to go to hell, will pull the nation down to hell with them.

"The choices you make in moral and religious questions determine the way America will go. We badly need a prophet who will have the ear of America, and who will say "If the Lord be God, follow Him!"

LOWER SOCIAL SECURITY TAX FOR POOR

Mr. CHILES. Mr. President, an article appeared in the Washington Post, October 3, 1973, telling of a little-noticed testimony Secretary Weinberger gave last week before the Senate Finance Committee. The article mentioned that President Nixon asked Mr. Weinberger to "come up with some fresh approaches to welfare reform," and then goes on to explain what some of those "fresh ideas" are.

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

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

HEW SUGGESTS LOWER TAX ON SOCIAL SECURITY FOR POOR

(By Peter Milius)

Health, Education, and Welfare Secretary Caspar W. Weinberger has suggested a lowering of Social Security taxes for the working poor as one possible means of achieving "welfare reform."

The suggestion was made in virtually unnoticed testimony a week ago before the Senate Finance Committee.

President Nixon has asked Weinberger to come up with some fresh approaches to welfare reform. The administration made one reform proposal in 1969. It remained an issue before the Congress for most of Mr. Nixon's first term, but no bill was ever passed.

Weinberger told the Finance Committee last week that the Social Security tax is "a significant payment for low-wage earners." The tax has gone up sharply in recent years—most recently last January—and Weinberger said that this year, for the first time, "more than half the nation's taxpayers will pay more Social Security tax than federal income tax."

The Social Security tax is now the same for all wage-earners—5.85 per cent on the first $12,600 of income.

Critics point out that it takes a larger percentage of a poor man's income than of a rich man's. Some would like to see it made progressive, the rate rising with income as the income tax rates do.

Weinberger's testimony was on a "work bonus" idea before the committee that would also have the effect of lowering net tax burdens on the working poor.

"We see alternative techniques which may be preferable," he said. "In general terms, an alternative might be to reduce or eliminate withholding of the (Social Security) tax for a family with an income below" some agreed-upon level. "As income rises above this level, withholding would gradually phase in."

He was no more specific in his testimony, and aides said yesterday that this was only one of many approaches being explored.

One of the problems in welfare reform is that so many existing federal programs are intended to aid the poor—tax reductions, direct federal payouts, special subsidies for food and housing. Some authorities favor consolidating as many of these as possible into a single program, a kind of merger of the tax and welfare systems. Weinberger's suggestion leans in that direction.

In other developments yesterday:

Congressional tax reformers said they would try to attach a $4 billion tax reform—a tightening of the present minimum income tax—to a bill coming up soon to raise the federal debt ceiling. They have tried this before and failed.

A number of private tax reform organizations said they have tentatively agreed on a single reform package which they will now push in Congress. The package would raise about $10.7 billion a year by closing assorted tax loopholes, and about $6 billion of that would be given back to the taxpayers as tax credits.

The groups include Common Cause, the Tax Action Campaign led by former Sen. Fred R. Harris (D-Okla.), and Ralph Nader's Tax Reform Research Group. Congress is not expected to take up changes in the tax code until next year.

Mr. CHILES. Mr. President, when I first read this article I was reminded of something Emerson wrote in his essay on "Self-Reliance." The great essayist's main point was to encourage his reading audience to trust themselves and their intuition—their ideas and feelings, and follow them through—

Else tomorrow a stranger will say with masterly good sense precisely what we have thought and felt all the time, and we shall be forced to take with shame our own opinion from another.

After much soul-searching last year I voted against the final passage of H.R. 1.

I knew the Finance Committee had studied various proposals at great length. But I thought the committee had been forced to come out with the welfare reform section too quickly because we were fast approaching the end of the session. In addition, there had been differences of opinion within the committee on different proposals—the President's family assistance plan, Senator RIBICOFF'S program giving more guaranteed income than the President's proposal and then there was also Senator LONG'S workfare proposal.

I was against the guaranteed income idea because I felt it would kill incentives for people to work whether it was the Nixon or the Ribicoff plan. The workfare concept to me appeared much better, but the committee never was able to work out provisions that fit together and stood up to careful scrutiny.

But above any of these reasons for objection, I felt absolutely compelled to vote against the bill because of what I felt inside—what my instincts told me. As I campaigned in 1970 I found more and more that the guy who really was not represented was the wage earner of this country, the man making $3,000 to $12,000 a year. I met so many people in the low-income brackets who would express their pride to me over and over again in earning a check instead of being on welfare. For them it was a real point of genuine pride that their income, even though it might be small, was earned and not received as a dole or handout.

I began taking a closer look at the facts and figures regarding welfare and found that the increasing numbers of people on welfare were closely paralleled to the increasingly large benefit payments which placed a greater and greater financial burden on the low and the middle income taxpayer. As this person's relative tax burden—including social security payroll taxes as well as income taxes—increases, it is natural that his incentive to work decreases. If he is on the low end of the income scale, the working taxpayer may find that welfare payments are larger than any after-tax income he or his family can bring in. He might then slide over—in fact he is in a sense "encouraged" by the system's structure to slide over to the growing group of nonworking poor who are supported only by welfare checks. His family may fall apart, an alarming trend encouraged by the current welfare system which often makes it unprofitable for families to stay together. And, yet, though more and more people go on welfare, the truly needy—those who do not have the physical or mental abilities to support themselves—receive relatively less, sometimes less than they need to stay alive.

In November 1971, I introduced an alternative to H.R. 1 and the President's family assistance program, my substitute, S. 2872, contained what I thought—and still think are the best features of both plans, the two most important changes my bill proposed were: First, the limitation of social security taxes to the amount of income taxes a person has to pay; second, the elimination of a minimum social security benefit.

My bill provided for, in fact, the very thing Secretary Weinberger so recently suggested—that social security taxes paid by low-income people shall not exceed the amount they pay, as income tax is.

Under this provision, social security taxes would be deducted from an individual's pay just as they are under the present law. However, at the end of the year the individual could qualify for a refund of the credit toward any unpaid income taxes if his social security taxes exceeded the amount paid in income tax.

The way the present system is set up, a man can pay more in his social security taxes than in his income taxes. For example, a man with a wife and two children who earns $3,000 a year pays no Federal income tax, but pays social security taxes of $156 per year. This rises to $181.50 in 1987. This same man could become entitled to a social security benefit of $154.50 a month at age 65, under H.R. 1. However, a man 65 who never worked could qualify for a monthly payment of up to $150 a month under the welfare provisions of H.R. 1 and, in addition, the man who worked to earn the $3,000 a year would find that as the result of having paid social security taxes his retirement income would disqualify him for medicaid and he, unlike the man on welfare, would have to pay the medicare premium—now $5.60 a month—so that he would actually be left with less money in his pocket than the man who had never worked. Clearly this is a system in need of reform.

The second major point in my proposal was the elimination of the social security minimum benefit. I want to emphasize that I am talking about people who would qualify for minimum benefits in the future. I am not suggesting that anyone who gets benefits now should have these benefits reduced. Anyone receiving the minimum benefit would continue to receive it. However, in the future the monthly payment would bear some relationship to the amount paid in social security taxes.

There would be some income test applied for this amount. And this one change would result in a long-range savings of 3 percent of taxable payroll or an average of about $15 billion annually.

As Mr. Weinberger suggests, it is the low- and lower-middle income workingman who bears the heaviest burden for financing social security benefits. My proposal would have increased the social security tax base from $7,800 a year to $10,200 in 1972 rather than the $9,000 that had been scheduled to go into effect in 1972. I felt this would be a step toward relieving the working man of his portion of the social security burden.

When adopted, the maximum tax base of $7,800 a year was fairly close to the median family income. But that income level has increased and I believe the social security tax base should increase with it. No one pays payroll taxes on earnings over $7,800 under the current system, so naturally people with high salaries pay a smaller proportion of their earnings than people with low salaries. I believe those with higher incomes should bear a greater relative share of the burden. Unfortunately, the very people who can least afford to pay end up, under our system, paying a larger portion of their income than any other group to support the social security system and their fair share of the general revenue welfare systems. These are the people we should be encouraging to work, yet their incentive to do so is reduced by a high tax burden which continues to grow.

Mr. President, when the conference report on H.R. 1 came before the Senate I supported it. Those parts of title IV I had objected to earlier, including the President's family assistance plan, the Ribicoff proposal which went even further and the Finance Committee's test plan, were removed.

While I was still not satisfied with the disproportionate cost which would be financed by an increase in payroll taxes and passed on the workingman the conference committee version of the bill had been improved.

I am delighted to learn that President Nixon has directed his Secretary of Health, Education, and Welfare to work on some new suggestions for welfare reform. I am presently engaged in reworking the essential elements of the bill I introduced last year for early introduction and hope that Mr. Weinberger will give these proposals his careful study. Certainly when I introduced S. 2872 the ideas it contained were not "revolutionary," but they were an innovation from the other plans that were discussed and they were never given the consideration I felt they deserved. What matters in the final analysis is not whose proposal is adopted—or who gets the credit for authorship, but rather will the plan work? Does it help alleviate the heavy burden our low- and lower-middle income citizens are carrying?

All agree our welfare system is in dire need of reform. I see great challenge and opportunity in the welfare "crisis" we now experience. Our opportunity is to help those in need and our challenge is to devise an equitable system—to distribute the burden for the help we give through a fairer system.

Many Americans have begun, unfortunately, to doubt the very ability of their Government to cope with complex, difficult problem such as welfare. Their faith and confidence in our Government can and must be restored. Meeting the welfare challenge would be an excellent beginning.

Our goal is clear—to aid the needy and share the burden for that help fairly. I hope the Congress can work with the administration to achieve that goal as quickly as possible.

What Secretary Weinberger has suggested, according to the Washington Post newspaper article, in the words of Emerson, is a suggestion of "masterly good sense." Taking my own bill of last year, I intend to reintroduce its essential elements, to take, "my own opinion from another." But I will disagree with Emerson—there will be no shame in this; only the sincere hope that there will be a

spirit of cooperation of efforts this time around—and success in achieving the goals we have all set before us.

LEGISLATORS URGED TO PERSEVERE IN MAINTAINING "POWER OF THE PURSE"

Mr. HUMPHREY. Mr. President, the present confrontation between Congress and the President over the "power of the purse" is of the utmost importance to the continuation of constitutional government as we have known it for two centuries in this Nation.

Recently, I had the privilege of discussing this subject with State legislators from around the country at the annual meeting of the National Legislative Conference. In those remarks, I noted that if the President succeeds in stripping the "power of the purse" from Congress, that power will soon be usurped by executives at every level of government.

Mr. President, I believe that if we are to succeed in this confrontation with the Executive we must persevere. We must defend the constitutional authority of the legislative branch in the Congress, in the press, in the courts, and in our communications with the Executive.

I ask unanimous consent that the full text of my speech to the National Legislative Conference be printed in the RECORD.

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

REMARKS OF SENATOR HUBERT H. HUMPHREY

Today I speak to you as a fellow practitioner in the field of legislation. I lay no claim to being an expert. I am a pragmatist. I hope I am practical. I understand, as I am sure you do, the difficulties that we face in legislative chambers. I have spoken to many of our young people to indicate to them that the art of compromise in legislation does not mean the evolution of progress and I hope that we, as individuals in our respective roles, whatever that role may be, would understand that we have some common goals and common purposes.

Three years ago I spoke to some of you in San Juan and two years ago up in Minneapolis. What I said at these places can be said once again. Government is facing its moment of truth. No man or women in public life is immune from the feeling of disenchantment, discouragement, anger and distrust that seems to be growing in this nation of ours because of developments that are shameful and scandalous.

In addition, we continue to face the same old questions. We must ask ourselves: "Can our political institutions respond to unresolved and continuing problems of the mobile, vast, industrialized, urbanized America?" We cannot turn back the clock. We all know the hard facts of life. Nobody needs to list them. We are plagued with problems that only a few years ago we could ignore: air and water pollution, traffic congestion.

Who would have ever *dreamed* of an energy shortage or a food shortage in America? Problems of social services and law enforcement and welfare and health care education. Every one of these is on the front burner and will continue to be there. The cost of paying for all of this is heightened by a cruel and continuing inflation. And yet we are not dealing with these tremendous problems. And you and I know we are not dealing with them. I doubt that the old approaches are enough and surely turning back and pretending it is all over is not enough; you do not solve the urban crises by proclaiming that it is over.

The purpose of government is to secure the blessings of liberty for ourselves and our posterity. The purpose of government is to establish justice, to ensure domestic tranquility, to provide for the common defense and to promote the general welfare. That is what is written in the Constitution. And what the Constitution says is as important as what it doesn't say. There is nothing in the Constitution that protects government from the people. But there is a lot in the Constitution that protects the people from the government. There is nothing in the Constitution that talks about law and order. There is something in the Constitution that talks about law and justice. There is nothing in the Constitution that talks about law and justice. There is nothing in the Constitution that talks about surveillance or secrecy or executive privilege, but there is and there are words in the Constitution that say "we, the people" not "we, the President, not we, the senator, or we, the governor or legislature" but "we, the people". Those who wrote that Constitution placed emphasis on the duly elected representatives of the people. Whenever there is an executive who disdains the legislative branch, that disdain and contempt flows to the people themselves. There is a doctrine of popular sovereignty in this country; and it needs to be remembered.

But the average citizen isn't acquainted with all the political theories. So when we say "Federalism" to him, he doesn't really quite grasp its meaning. All he knows is that taxes are high and not much happens when he has a complaint. To him, government is politics and politics is government, and all the explanations of national, state and local agencies add up to one thing—more politics and more politicians and more government.

We must ask ourselves how do we, who are supposed to be somewhat knowledgeable, make this system work? Well we can't make it work through confrontation. That makes for headlines. We can't make it work by isolation. We can't pretend that there are neat compartments: over here is the Federal government; over there is the state government; and over there is the local government.

We know that Federalism means, above all, cooperation. It functions best as a partnership between governments. No problems are purely Federal or state or local.

Welfare, once a local problem must now be a Federal concern also because variations in payments create mass movements of people;

Local streets connect with a national high speed road system;

Garbage collection, what could be more local? But it is a national problem because no place can be found to dispose of vast accumulations of solid waste;

Education takes on national importance because a nation is great by the number of intelligent, creative people it possesses.

We have got to find a middle ground. Those who insist that categorical grant programs alone can solve these problems are wrong. And those who believe that only revenue sharing will solve these problems are also wrong.

None of us has exclusive jurisdiction. What we need is both a sense of accommodation to each other, as well as a respect for our respective roles.

But I say that the so-called "New Federalism" has become "Neglected Federalism". And I want to document my case. I supported revenue sharing. I was the co-author of it in the United States Senate. Revenue sharing, indeed, has been a boon to state and local government. But I also know what we legislated. And I know what the President said when he signed it. He proclaimed revenue sharing as new money; over and above all other Federal grants. And that is what we in the Congress intended.

But virtually every state found their budgetary process in this session of the legislature in trouble because #1: revenue sharing was stretched and stretched and stretched to cover everything; and #2: the impoundment procedure exercised by the executive branch of the government started to distort the whole budget picture. Now you can't have any New Federalism by impounding funds duly appropriated by the Congress of the United States. That will not work.

The power of a legislative body is the power of the purse. We are not going to be always wise with it. Presidents aren't very wise. Nor are all governors. We are fallible. But the elected representatives of the people are empowered under Constitutions, states and Federal, with the power of the purse. And we are entitled to make mistakes as well as to have strokes of genius. If we make mistakes, we pay for it at the ballot box.

Further, no President of the United States can take that sentence out of the Constitution which says that he "will faithfully execute the laws of the land"; or interpret the word "execute" to mean "kill".

James Madison, in the *Federalist Papers*, put it this way: "This power over the purse may, in fact, be regarded as the most complete and effectual weapon with which any Constitution can arm the immediate representatives of the people, for obtaining a redress of every grievance, and for carrying into effect every just and salutary measure."

So the central issue is whether our nation will be governed by one man rule or by the Constitutionally-established process of representative government—by laws and not by men. It is a tragic irony that our current Constitutional crisis has been precipitated by the over-reaching of a President who is a self-proclaimed constructionist and an exponent of New Federalism.

My views on impoundment are pretty well known. I happen to believe that it's illegal. It can and does alter, change and terminate programs. It revises public policy. It performs the function of an item veto; a device prohibited by our Constitution. The fact that other Presidents have withheld funds from programs approved by the Congress doesn't make it right.

"Policy impoundment", which has been invented by this Administration, withholds funds not merely to effect savings, not merely to prorate the rate of expenditure over a long period of time, not as directed by Congress, nor as Commander-in-Chief, but because the President or the Office of Management and Budget has decided that programs do not reflect Administration priorities. These are impoundments used to change the law, repeal the law and defeat legislative intent. It's a method for substituting "executive will for legislative purpose.

Housing programs are delayed. Rural housing is cancelled. Rural electrification rates are changed. Maybe the Congress was wrong in maintaining a 2% rate on rural electrification loans but we give a better rate to people overseas. We extend them a ten year grace period. The President didn't impound those overseas funds. But when it came to farmers, he said "that's wrong" and impounded all the funds.

Now, if the law's wrong, there's a way to change it. That is in the legislature. Let me warn this legislative assembly, if Presidents can get by with it, governors will try it. It's a precedent that you cannot afford.

Until last fall when we passed the Impoundment Information Act, we didn't even know how much was impounded. It was neither explained, reported or justified. It was simply done. Impoundment violates the separation of powers. I find myself in agreement with the Associate Justice of the Supreme Court, the former Assistant Attorney General, Mr. Rehnquist. While he was As-

sistant Attorney General, he responded to the suggestion that the President has a Constitutional power to decline to spend appropriated funds. He said, "We must conclude the existence of such broad power is supported by neither reason nor precedent."

We in Congress also went to the courts. I am happy to report that since January of this year, the District Courts in seven States and the District of Columbia and the Court of Appeals ruled *20 times* against the President in *21* impoundment cases. They said the impoundment was illegal and unconstitutional.

If the President succeeds in stripping the Congress of the power of the purse, it won't be long before that power (which is the power that belongs to the elected representatives of the people) will soon be appropriated by executives at every level.

But what can we do as legislators to prevent this illegal executive infringement on the rights and responsibilities of the legislative branch of government? We must persevere. We must defend the Constitutional authority of the legislative branch in the Congress, in the press, and in our communications with the executive. And that we must defend Congressional power of the purse in the courts.

In the last eight months the Congress has:

Established minimum levels of accomplishment with appropriated funds;

Included mandatory language in more of our appropriation bills;

Passed legislation in both houses establishing impoundment procedures to affirm or reject any fund withholding;

Gone to court to force the President to use the appropriated funds.

It has been said that state governments are an anachronism. Other studies judge the U.S. Congress to be hopelessly out of date. You have all heard the blistering attacks upon legislative bodies. I don't think we ought to get defensive. We should do what needs to be done. Appropriate the funds that are necessary for proper staffing.

Research, information, communications—the openness which the people deserve in legislative assembly. And we need more budget reform and control at the Congressional level; a job of structural reorganization. We have a job of budget preparation and monitoring of programs. I believe that monitoring is not just a General Accounting Office function. I have also been interested in the budgetary process for a long time.

The Office of Management and Budget is now deciding whether or not programs that we authorize should be carried out. We have huge programs for urban centers—not a mayor is consulted. We have programs relating to state planning—not a state planning agency is consulted. I have yet to find a governor who has been called in by the Bureau of the Budget and asked "What do you think is needed in your state?" No, these budgets are prepared in-house by a group of people who live in a kind of an accountant's catacomb.

They get their information from their district offices and the district office information is filtered up through the departments. The filtering process is very good—all humanity is filtered out by the time it gets to the top.

A budget of the Federal level of government of $268 or $270 billion ought not to be prepared just by a Cabinet and the President and an Office of Management and Budget. It ought to have the input of state legislative bodies. It ought to have the input of mayors and governors. It ought to have the input of people who live in these communities: labor movements, Chambers of Commerce, educators.

Our Federal system is uniquely successful in the world. But I must say we need our creative talents as never before to utilize our Federal system. Let me describe some proposals I have been working on. I need your support.

I want to see us establish a Federal-State Legislative Council. This bill, S. 1099, creates a permanent, 24 member, bi-partisan council. The council will explore and research problems common to the legislative process. It will study legislative management, communication between Congress and the respective state legislatures, substantive program evaluation and issues of Federalism. We need to scrutinize the relationship between legislative and administrative bodies, coordination of program administration, Federal preemption, intergovernmental taxation and budgets.

The Council was never more needed than today. Legislative institutions are being tested and challenged. State and Federal legislators must recognize that they share the same future. We, in Congress, must work with state legislators, most recent Federal programs require active state cooperation. Progress on air and water pollution, better education, cities' programs or the problems of rural America—all depend on what state legislatures are willing to do.

We are fellow policy-makers. We are the only direct representatives of the people. We must be in touch with each other. National legislation must be rather broad in principal, but it also must be adapted to fit the state and the community, and here is where you come in with your advice and with your counsel.

Another proposal I'd like to see is a better way to finance public structures. You've got to come now to the Congress every time you want some extra funds for public works. We've got the World Bank, the Inter-American Development Bank, the Asian Development Bank, the Central American Development Bank, the International Development Association, the U.N. Development Fund. We've got something for everybody except ourselves.

We need, for the financing of many of the public works that are vital to the health of our community, a National Domestic Development Bank. I need your help to get it done. Why the average municipal bond in this country is less than 15 years. If we had to build homes with 15 year mortgages, we would be living in teepees or sod huts.

In Sweden and Germany they have a bank such as I am talking about with loan terms of 100 years. Some have terms for 40 and 50 years. That's why they finance new cities. That's why they finance transit systems. That's why their Mark today is good and their Crown and Kroner is good, because they put some sensibility into public financing. The need for new schools and new housing and new communities requires some new methods of public financing. Our country is privately rich but publicly poor. It is poor because capital is not readily available. We have no program to put capital to work in the public sector.

The National Domestic Development Bank will be a new source of capital for public development, particularly by state and local government. It will cushion the hardships of a fluctuating credit market. Its purpose is to assure that programs of broad social benefit get appropriate economic support. State and local governments now must undertake better social planning and protect the environment on their own. They get no encouragement from the national Administration.

The National Domestic Development Bank will offer long-term loans at low rates of interest. The bank's regional offices will offer planning and technical assistance. State and local government people will help operate these regional offices.

We need the same thing for rural development in America. Rural America—and there's rural America in New Jersey and Connecticut and Delaware and Rhode Island, just as there is in Minnesota, Nebraska, North and South Dakota, and Wisconsin—rural America needs attention. We cannot permit it once to be drained of its manpower and twice of its resources. It needs attention.

Another problem which needs our tireless cooperation for solution is the renewal process in our cities. The Housing Act of 1949 created the urban renewal program. During the 24 years since the passage of that Act, we have learned a good deal. It is clear that the program has not accomplished all that we hoped for it. On the other hand, it has done simply wonderful things in many cities. In the Twin Cities of Minneapolis and St. Paul the renewal program has had impressive results.

We, as a nation, still struggle with the problems of how to eliminate slums—build new housing for poor people without creating slums in the future. It is a constant problem. One that will not go away if we ignore it.

I favor a new program which gives much more flexibility and authority to the local people. But I do not favor merely another special revenue sharing grant. We can give more money by merely expanding the general revenue sharing program we already have.

Instead of urban renewal agencies as we know them, we need something better: a working partnership of all levels of government and private investment and entrepreneurs. I would create a system of urban area development corporations. Present urban renewal agencies would become quasi-public corporations. The private sector would be involved across whole urban areas.

The operative power for these urban area development corporations must come from state law. The corporations must have the support of the Federal government interest subsidies, guarantees, tax incentives and technical assistance. But they will only be effective if state legislatures give corporations the powers which are necessary for rehabilitation and redevelopment work. The power to issue bonds, prepare and execute developments plans, exercise powers of eminent domain to buy and sell property, to rebuild neighborhoods. The bulldozer is not the only instrument that's available. We can rebuild as well as tear down and build anew.

Furthermore, it is necessary to have a Presidential representative for every region in this country to coordinate the programs. We send a Presidential representative to NATO, we send a Presidential representative to OECD. We send a Presidential representative as an ambassador to every country to coordinate all of the same agencies that are out in our respective states. But we have no Presidential representative for our people; that is, someone who speaks for the President and has the power of coordination—who can bump heads together and get some answers for people who need answers.

We need regular meetings between the President and the governors. There must be open and frank opportunity to discuss the problems of policy and administration. Presidential luncheons and dinners are no substitute for planned organized work sessions which modern governmental coordination requires.

Local governmental leaders should meet regularly with the Vice President, the Speaker of the House and the Majority and Minority leadership of the House and Senate.

An Office of Balanced National Growth and Development which will embrace all levels of government as well as private enterprises should be created. We're the only modern industrialized nation on the face of the earth without any planning. We're the only country without any system other than the Office of Management and Budget for setting the priorities and goals of this country. Congress must equip itself, too, to work toward national goals that it has written into law.

Finally, states and localities must work far more diligently at putting their own houses

in order. This involves a searching re-examination of taxing policies, land use and ownership policies and the organization of agencies and departments, Constitutional reform and modernization.

We must encourage the further development of councils of governments. These councils are a way to preserve local autonomy where that is appropriate, and to maximize the use of common facilities and services.

Each state government should create a new department for community development—the functional equivalent at the state level of the Federal government's Department of Housing and Urban Development.

SEVENTY YEARS OF FLIGHT

Mr. GOLDWATER. Mr. President, Mr. Marquis Childs, the distinguished columnist who rarely leaves his favorite field of politics, has done just that and made a great contribution to aviation. Appearing in the Washington Post of Tuesday, October 9, is his recognition of 70 years of flight. During the course of his writing he discusses the Air and Space Museum that is now well under construction at the Smithsonian and in doing that he has performed a service to those of us who have long been pushing for this building.

Recently I visited with Mr. Michael Collins, who heads up the Air and Space Division of the Smithsonian, and I was thrilled with the progress he is making, as thrilled I believe as people will be when they can walk through this new building and be able to trace for themselves the progress man has made in his efforts to learn more about air and space.

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

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

[From the Washington Post, Oct. 9, 1973]

SEVENTY YEARS OF FLIGHT

(By Marquis Childs)

As a measure of the fantastic changes that have occurred in this amazing century take a look at the plane that Charles A. Lindbergh flew in the first flight across the Atlantic. The year was 1927, not so long ago that many of us can still remember the excitement when the lone flyer landed at Le Bourget airport in Paris at the end of his 20 hour solo.

There it hangs in the Smithsonian Institution, a single engine plane, looking incredibly small. There, too, is the Wright brothers' plane from Kitty Hawk in 1903, more nearly a manned kite than an aircraft. The record of America's technological progress has gone forward from those two monuments almost without interruption. The doubters, as Lindbergh doubted in 1941 President Roosevelt's claim to be able to manufacture 50,000 war planes, have always been proved wrong.

Consider the record. Three astronauts have just completed 59 days in space in a Skylab. Another crew will go up on Nov. 11 to spend 56 days in the laboratory, although their stay could be longer depending on circumstances. Work is already in progress on a space shuttle to be operational in the 1980s. This will have a continuing function with a projected use of a hundred round trips between earth and the stratosphere. It will be able to stay aloft from seven to 30 days during which earth-orbiting payloads can be launched. The cost sounds stratospheric—$5.1 billion for the space shuttle—yet put alongside the bill for the weapons of annihilation it is not so large.

As for the scientific benefits, perhaps only a few specialists in the space field can give a proper evaluation. But the cynics who spoke derisively of spending billions to put some clown in the sky are wrong on several scores. Landing on the moon was not so much like the justification for climbing Mt. Everest—because it was there—as an exploration comparable to Columbus' discovery of the New World. What is to be gained from that sterile, dead planet? the scoffers ask. The discoverers of that other era were met with the same doubts and derision.

On the aircraft production side, the record is equally impressive. In 1972, 79 per cent of the planes in operation on the world's airlines were made in America. This does not include the Soviet Union and the Peoples Republic of China, but their inclusion would make little difference. China is about to acquire 10 Boeing 707s.

On military aircraft the figure is difficult to come by. It seems likely, however, that the percentage would be about the same as for civilian sales, although in recent years the French have been pushing their planes in the Mideast and in Africa.

American technology in computers and electronics is unrivaled. That is one reason the Soviet Union is so anxious for a trade deal. Unrivaled, too, is productivity on the farms. With about 4 per cent of the population in agriculture the abundance of food and fiber suffices not only for consumers at home but for sales overseas to help correct the trade imbalance and, as has been shown in the past year, to be dissipated in deals costly to the U.S. taxpayer.

The great achievements in production, in discovery and invention, are in painful contrast to the failures in self-government illustrated by the grim mess in Washington. It may not be too much to say that if we find a way out of the morass, the swamp of intrigue, deceit and doubt, it will be thanks to American productivity.

A painful fact of contemporary life is that social and political understanding have fallen so far behind technological change of an order of magnitude like the discovery of the wheel. The hazards of this gap are dramatized by the individual who has his finger on the nuclear button and his social reflexes back in another age. Aspects of the stone age are a leftover in the mind of computerized 20th century man.

The Smithsonian Institution is building a new Air and Space Museum that is to be dedicated on July 4, 1976. The Wright Brothers' planes and Lindbergh's "Spirit of St. Louis" will be central exhibits illustrating how, in a wink of time, change has come. That no one can predict what manner of man will preside over that occasion is a melancholy commentary on the gap between technology and politics.

TRIBUTE TO TOM VAIL

Mr. CRANSTON. Mr. President, with the death of Tom Vail, the Senate has lost one of its most able staff members. As chief counsel to the Senate Finance Committee, he helped to shape some of the most important legislation in the Congress—legislation that has touched the lives of all Americans. He was respected throughout the Congress for his great ability, integrity, and keen mind. All who consulted Tom Vail received thorough and often enthusiastic assistance.

My staff joins me in extending sincere condolences to Mrs. Vail and her family.

A GUIDE TO SHORT TRIPS FOR AUTUMN DAYS

Mr. BEALL. Mr. President, I would like to take this opportunity to bring to the attention of my colleagues just a few of the points of interest which lure the fall traveler to the State of Maryland. Autumn is an especially spectacular season for sightseeing in the "Free State."

I would like to extend an invitation to all of my colleagues in both the House and the Senate, the members of their staff, and all others who read the RECORD to visit Maryland and enjoy the beauty and tranquility of a State that is truly "America in miniature." I might add, Mr. President, that because of its close proximity to the District of Columbia, my colleagues will find that the points of historical or scenic interest are within easy range of the 1-day trips which are so delightful during this time of year.

Mr. President, an article outlining some of Maryland's scenic highlights was published in the Baltimore News American on Sunday, October 7, 1973. I ask unanimous consent that this article entitled "A Guide to Short Trips for Autumn Days," be printed in the RECORD at the conclusion of my remarks.

I would note, Mr. President, that some of the points of interest mentioned in this article lie just outside of the current boundaries of the State of Maryland. For the sake of historical accuracy, I would point out to all of my colleagues that most of these locations were within the boundaries of Maryland as it was originally constituted. During the ensuing centuries, Maryland was reduced in size by nefarious methods which I will not elaborate on at this time. Mr. President, in spite of our reduced size, Maryland has retained a thoroughly delightful lifestyle which I think will enchant all who visit the "Free State" this fall.

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

[From the (Baltimore) News American, Oct. 7, 1973]

A GUIDE TO SHORT TRIPS FOR AUTUMN DAYS

(By J. William Joynes)

Summer is over, and so are most vacations for another year. The kids are back in school, the man of the house is again anchored to the business of making ends meet, and the distaff side is clubbing and PTAing.

But now that there's a crispness in the fall air, you have a strong hankering to be up and going somewhere. No wonder! The days are still warm, the evenings and early mornings cool. It's autumn, an invigorating, beautiful time of the year, when Mother Nature becomes a Rembrandt for her colorful outdoor art show.

Within a hundred miles of the city limits there are more than enough interesting places to visit to occupy our weekends until the first snow flies. An hour's drive will bring you to a state park, an historic shrine, a river, an old village, a scenic view worth the trip that perhaps you have never seen framed in the colorful glories of Indian summer.

Here are a few short trips we have enjoyed many times:

WEST

Most of Maryland lies west of Baltimore, and autumn unfolds along U.S. 40 like some mammoth panoramic painting. From the western city limits right up to Garrett, Maryland's largest, highest and most remote county, the next two or three weeks will be at their most colorful season. Garrett is a little far for a one-day trip, but in between are many places of interest and beauty.

New Market. Once merely a bottleneck for growing automobile traffic on U.S. 40, it has

become an antique center since it was bypassed with a new road. Favorite Sunday haunt for many shoppers. Surrounding countryside looks westward to the Blue Ridge Mountains.

Sugar Loaf Mountain. For an unsurpassed view of Maryland, make your way up the winding road of this unusual mountain, which sits apart in the southern corner of Frederick County. (Off Md. 28.)

Gambrill, Washington Monument and Gathland. All three State parks offer superb views of the Frederick, Middletown and Hagerstown Valleys, as well as picnic facilities and fireplaces for a fun time.

Antietam Battlefield. Much of this area, despite home encroachments, is still farm land as it was when it was the site of the bloodiest day's battle of the Civil War. Beautiful in the fall. Start a tour at Visitors' Center. (On Md. 65, off U.S. 40 or I-70.)

Cunningham Falls. Down the road from the Presidential Retreat, Camp David, this Maryland park has lots of wooded trails to hike beside a rushing mountain stream and a 40-foot waterfall from which it takes its name. (Four miles west of Thurmont on Md. 77.)

Fort Frederick. Lots of woods and field to roam in this state park around historic 1756 frontier fort, which overlooks the Potomac River on the eastern side of the Alleghanies. (Near Clear Spring on U.S. 40.)

Just across the Potomac River, via several routes, is West Virginia, which is at its loveliest in autumn, especially when the late afternoon sun shines through, the yellow and red leaves on the mountainsides.

Some places worth visiting, if only for the ride going or coming, are Berkeley Springs, Cacapon State Park, Paw Paw and, of course, Harpers Ferry where its "Living History" exhibits will continue through October.

But we cannot mention the glory of autumn time in Maryland, however, without saying something of Garrett County, which has turned this season into a annual festival. With its blue, blue Deep Creek Lake, 2,642 feet above the sea, spread among the hills and valleys of a land with 3,000-foot peaks, it provides the epitome of what we mean when we say it's Autumn Glory Time in Maryland.

SOUTH

George Washington, striding into the hall at Mount Vernon, might have said to Martha, "There's a holiday coming up. What shall we do?" After they discussed the possibilities, they headed for Annapolis. A lot of others have been doing the same for 200 years, and for good reasons.

The capital of Maryland has, besides an air of its own, the oldest State House in continuous use, St. John's College, the Chase-Lloyd, Hammond-Harwood and William Paca houses and, of course, the U.S. Naval Academy, as well as an interesting city dock and market space. Besides, lots goes on in Annapolis during October: Heritage Month, U.S. Sailboat Show, the U.S. Yacht Show and the popular Clam Festival.

A good map will help you find many other interesting places when you head south. Some in Maryland:

St. Mary's City. Landing site of the first settlers and capital of Maryland, 1634–1695, it is at the end of a route through Maryland's tobacco country. Replica of original State House open.

Lundeberg School of Seamanship. The training school for U.S. Merchant Marine has many ships, including President Kennedy's 62-foot racing yawl, open free, the first Sunday of the month, 9 to 5. (Md. 249 off Md. 5, at Piney Point.)

Farmer's Market. Amish farmers in St. Mary's County bring their home-produced products to market in horse-drawn buggies every Wednesday and Saturday, year 'round. (Md. 5 at Charlotte Hall.)

Solomon's Island. Named for a one-time resident, this long-time fishing and boating center is now noted for its Chesapeake Biological Laboratory, which has an aquarium exhibit. Open Monday to Friday, 9–5.

Cove Point Lighthouse. One of the few remaining tower lighthouses anywhere. Coast Guardsmen on duty. (Md. 497 off Md. 2.)

Great Falls. This is a historic as well as one of the most scenic spots in the Old Line State. As long ago as the 1930's, the National Park Service restored 22 miles of the Old Chesapeake and Ohio Canal, where you can take a barge trip in summer and weekends in fall. (Md. 189 from Rockville.)

Fort Washington. Erected after the British burned an earlier fort on this site, this 1808 coastal defense provides a good view of the winding Potomac River from the Maryland side. (16 miles southwest of District of Columbia line on Md. 224.)

Al-Marah Farm. The largest Arabian horse farm in the world, more than 300 of the famous mounts graze over 2,400 acres of a farm within sight of Sugar Loaf Mountain. (In Montgomery County, Md. 109 between Beallsville and Barnesville.)

Red Cross House. Built by Clara Barton from wood salvaged from barracks used after the Johnstown flood of 1884, the interior of this home in Glen Echo resembles a Mississippi River steam boat. Open daily 1 to 5, except Mondays. (Take Glen Echo cutoff from Washington Beltway to Mac Arthur Blvd.)

White's Ferry. The only surviving ferry on the Potomac River, Gen. Jubal Early used this one to escape into Virginia after a Civil War raid on Washington. (South of Frederick, off U.S. 15.)

EAST

Eastward from Baltimore lies the Eastern Shore of Maryland, two counties of Virginia, Delaware and eastern Pennsylvania.

To begin, there is Ocean City, Maryland's oldest and until recently only seaside playground, which in recent years has begun to have its fall and winter devotees as well as summer. Autumn has its own charms along the ocean beaches, whether the wild, uninhabited shores of Assateague Island Seashore National Park, or along the Ocean City stretches where boarded up apartments and hotels cling like barnacles.

But do not overlook these for "short-term" visits:

Elk Neck State Park. Between the Northeast and Elk Rivers at the head of Chesapeake Bay, it's fun to stroll along the beach, and the view down the Bay is superb on a clear autumn day. (10 miles south of Northeast on Md. 272, off U.S. 40 or I-95.)

Hagley Museum. Along Brandywine Creek, this is where Eleuthere Irenee du Pont built his black powder mill in 1802 and established a company town. (An outdoor museum as well as indoor, its walkways are planted in all kinds of trees. (One mile north of Wilmington off Del. 141.)

Winterthur Museum. The former home of Henry Francis du Pont, it contains the largest and richest assemblage of 1640–1840 decorative arts in any private collection. Ten of its more than 100 rooms are open daily except Monday. Gardens alone are worth a visit. (On Del. 52, six miles northwest of Wilmington.)

New Castle. A beautiful preserved old Delaware town with an old State House and a large, central green and market place.

Longwood Gardens. The former estate of Pierre S. duPont, with its acres and acres of flowers and boxwood, pools and fountains, arboretum and a conservatory with flowers from all over the world, is spectacular any time of the year. (Off U.S. 1 near Kenneth Square, Pa.)

Chesapeake City. If you would like to see big freighters from all over the world, it can be done close hand here beside the Chesapeake and Delaware Canal, which shortens the route from Baltimore to Philadelphia by 286 miles. (On U.S. 213.)

Georgetown, Fredericktown. These two communities, which the British raided in 1813, face each other across what many consider the prettiest river in Maryland, the Sassafras. Several good dining spots available, while you watch a veritable yacht show pass by. (On U.S. 213.)

St. Michaels. Besides being an interesting Eastern Shore town surrounded by water, it has become a focal point in recent years for visitors to the Chesapeake Bay Maritime Museum. Open 10 to 4, adults, $1, children 25 cents.

Oxford. This is one terminus of the oldest continuous ferry in the nation, which has made the 15-minute crossing of the Tred Avon River since 1760. Auto and driver $1, passengers 15 cents. Lots of old homes and interesting boat yards.

Blackwater National Wildlife Refuge. Sometimes the Black ducks, blue-winged teals, mallards and Canada geese are so numerous on this "Atlantic Flyway" stop it is difficult to drive along the roads of the 11,200-acre refuge. (Off Md. 16 and 335, 11 miles south of Cambridge.)

NORTH

Drive north 50 miles, take or give a little, and you'll soon notice the barns look different, the farms are different and even some of the people appear differently. You're in America's Rhineland, heart of the Pennsylvania Dutch country.

Lancaster County, reached by U.S. 1 and U.S. 222, is the heart of this land of contrasts—a land of small, well-kept farms and clean, industrious towns; of bustling automobile traffic and horse and buggies, of girls in shorts and halters and "plain people" in bonnets and long dresses.

As we go up and down and around ridges and valleys once roamed by the fierce, warring Susquehannock Indians, the region is delightful at this time of year. Always a treat in Lancaster are the markets, open Tuesday, Fridays and Saturdays, where delicacies hard to find anywhere else are for sale.

Get off the main highway occasionally and you'll also discover, besides the rich, neat-as-a-pin farms, some of Pennsylvania's 200 covered bridges, those quaint, fast-disappearing structures of which no one really knows the origin.

Some other points of interest:

Wheatland, President James Buchanan's charming 19th century mansion in Lancaster, is open from 9 to 5 with a small admission. Three miles north of the city on U.S. 222 is the Landis Valley Museum (open free, daily except Sunday), containing more than 200,000 items used by the Pennsylvania German farmer.

Bird-in-Hand. You may have to share the parking space with a horse and an Amish spring wagon at the local stores, but it is an interesting drive to this little Dutch village that has changed very little over the years. (On Pa. 340 east of Lancaster.)

Lititz. An old Moravian settlement, it is still a pleasant town noted for its pretzels and one company teaches tourists how to be a pretzel twister. (Ten miles north of Lancaster on Pa. 501.)

Strasburg Railroad. The oldest short-line railroad in the country, this one makes a four-mile trip through the scenic Pennsylvania Dutch country from Strasburg to Paradise. Founded in 1832, one of its coaches was used in the M-G-M movie "Raintree County." (On Pa. 741, off U.S. 222, southeast of Lancaster.)

Hershey. Besides tours of the chocolate factory, there is a zoo, museum of clocks, Pennsylvania Dutch and Indian relics and rose garden. (U.S. 422 east of Harrisburg.)

Hanover. The heart of the harness racing world is located here in the Hanover Shoe Farms, the largest standard-bred breeding farm in the world devoted to trotters and pacers. Visitors are free to roam over its 3,500 acres of lush, rolling countryside past yellow

barns and miles of yellow fences, the Farms trademark.

Gettysburg, where the fate of the nation was decided in three days of July, 1863. This is one of the best known small towns in the U.S. and the battlefield is a real treat for children. The electric map and Cyclorama are worth indoor visits. (On U.S. 140 from Baltimore.)

Caledonia. One of Pennsylvania's best-known parks, it is a 2,000-acre scenic preserve that has all kinds of picnic and camp facilities. (15 miles west of Gettysburg on U.S. 30.)

Carroll County Farm Museum. There is something special about a farm around harvest time. This 1850 Maryland farm is less than an hour's drive from the city, and you can see a blacksmith at work and women weaving, quilting, candle making and boiling apple butter. Open year 'round, Saturdays and Sundays, 10 to 4 (Md. 32 at Westminster.)

THE LEGACY OF THE 100TH INFANTRY BATTALION

Mr. INOUYE. Mr. President, it was my privilege to attend the 28th annual memorial service honoring the men of the 100th Infantry Battalion who gave their lives in service to our country during World War II.

On that occasion a most thought provoking memorial address was delivered by the Honorable SPARK M. MATSUNAGA. The words of Congressman MATSUNAGA paid tribute to their sacrifice and dwelt on the future as seen by these men. It is clear that our Nation presently falls short of providing the life which they wanted for their families and friends though we have made much progress.

Congressman MATSUNAGA'S words should inspire us to continue the struggle for the ideals and goals for which these men gave their lives.

Mr. President, I ask unanimous consent that the words of Congressman SPARK M. MATSUNAGA to the 28th annual memorial service of the Club One Hundred at the National Memorial Cemetery of the Pacific on September 30, 1973, be printed in the RECORD.

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

THE LEGACY OF THE 100TH

(By the Honorable SPARK M. MATSUNAGA)

Mr. Ono, President Taoka, Reverend Clergy, Senator Inouye, Consul General Kora, Senator McClung, General Fielder, General Mooney, General Seiferman, Gold Star Parents and relatives of our fallen comrades, other distinguished guests, members of the Club One Hundred, ladies and gentlemen:

It is with a sense of honor and deep humility that I assume my role as your speaker at this 28th Annual Memorial Service today.

William Blackstone, the great English jurist and legal historian once remarked, "show me the manner in which a Nation or a community cares for its dead, and I will measure exactly the sympathies of its people, their respect for the laws of the land, and their loyalty to high ideals."

If Mr. Blackstone were living today and able to see the meticulous care with which the people of Hawaii have cared for those who are buried here, I am sure he would say that this cemetery measures well our sympathies, our respect for the laws of the land and our loyalty to high ideals.

We are assembled here today in remembrance of our sons, fathers, neighbors and friends who served in the Armed Forces of the United States and who laid down their lives to preserve our American heritage. We honor especially the memory of 100th Infantry Battalion soldiers who are interred here and elsewhere.

These Americans, one and all, to paraphrase the words of Abraham Lincoln, "gave their last full measure of devotion." They paid the highest price of citizenship.

In the quiet of this day, solemn in its meaning and purpose, let us pause for a moment and ask ourselves this one simple question, "What are we doing here today?" "Honor the dead," you say. The next question, then, is, "How do you honor the dead?" "By placing flags and flowers on their graves; by burning incense; by saying a *prayer;* by participating in these Memorial ceremonies," you say.

All well and good, but isn't there more we can do to honor our fallen heroes?

Indeed, there is. All we need to do to realize this is to look about us and face the hard facts:

In this land of affluence 25 million Americans still hover in poverty.

Nearly 4½ million Americans who need work are without jobs.

10 million American children in poverty households go to bed hungry every night.

Serious crimes in America rose to the astronomical total of 5.9 million in 1972, over 800,000 of them being violent crimes.

What these figures do not reveal is the alarming increase over the last decade of apathy, cynicism, and mistrust of government among citizens of all ages, classes, and income levels. Parents are advising their children not to run for elective office—and even to stay away from politics and government service.

As if we were not in deep enough trouble, along came Watergate, and the Senate hearings with its revelations of bugging, spying, illegal campaign contributions, secret funds, and "dirty tricks" employed to discredit candidates to elective office. Compounding these reprehensible activities, grand jury indictments have been, and still are being returned against Government officials even in the highest places, based on such charges as perjury, bribery, criminal conspiracy and obstructing the administration of justice.

It cannot be denied that this is a dismal picture indeed. The question then could well be asked: Is this the America which men of the 100th Battalion and other units fought, and in too many cases gave their lives, to preserve?

The answer is obviously "No!" We fought for a better life in a greater America, just as did Private First Class Yasuo Kawano of Company "D" who told me in effect just before he was killed in the attack on Hill 600 in Italy: "I have a funny feeling that I'm going to be the next to go, but I don't mind because I know that our sacrifices will mean a better life for our folks back home."

To give real meaning to these Memorial Services, then, we must look upon the example of our fallen comrades not as the end of a story, not as a passing episode in American history, but as a continuing inspiration in our own lives today and in the lives of those who will come after us.

In remembering the wartime courage and loyalty of the men of the 100th, both those who are with us today and those who have passed from this life, we must let their example give us the determination and strength to be good citizens and good people in an age when there are all too many discouragements and temptations to divert us from our set course. Even as they engaged the enemy in the heat of battle, the men of the 100th Infantry Battalion knew of America's flaws and injustices. They knew of the Oriental Exclusion Act of 1924, which barred their parents from becoming American citizens. They knew of the detention in America's concentration camps of 110,000 Japanese Americans and their parents for no reason other than that they were of Japanese ancestry. They knew of the discriminatory land ownership laws and employment practices of the various States. Knowing all this they fought and died to preserve the American system and its ideals.

That their faith was not misplaced, is evidenced by the fact that the Oriental Exclusion Act, the Emergency Detention Act, the discriminatory land laws and employment practices have all been repealed or abolished. But the fight for justice and equality is a never-ending one. Eternal vigilance is the price we must pay. In our own community, in our own way, however modest:

We must help our children to appreciate the enduring validity, integrity, and strength of our American political institutions.

We must help them to understand that men may betray the public trust, but they are eventually brought to justice, and our institutions remain strong and viable.

We must support programs designed to help those who live in poverty and despair, and lift them to a level of decency, hope, and self-respect.

We must support both government and private efforts to find or create jobs for all who wish to work.

We must help to see that all American children are assured of sufficient food and proper nutrition and education.

We must help to obliterate the root causes of crime so that we can once again walk the streets of America—unafraid.

We must, each and everyone of us, do our part to advance the cause of good government by participating in political activities, within or without political parties, and helping to elect honest persons to public office.

In these and in many more ways, we can help to achieve those goals for which our comrades gave their last full measure of devotion. As we lend our individual effort toward the achievement of these goals, we must also seek to involve Americans of every race, creed, religious and ethnic background, every level of education and income, to join in our effort to revitalize our established democratic institutions.

Upon us who are the survivors of the wartime 100th Infantry Battalion rests a double responsibility, for we must work not only for ourselves, but also for our muted comrades.

The road will not be easy for us the living; it was not easy for them, the dead.

Our fallen comrades were convinced they were making the supreme sacrifice for their Country at war in order that America would be a greater Nation and a better place in which to live after the peace was won. This is the legacy of the 100th Infantry Battalion. It is a sacred trust we cannot and must not betray.

When Americans everywhere unite to answer their country's call for help to solve our peacetime problems and to strive toward our timeless national ideals, it is then, and only then, that we can say to our fallen comrades of the 100th:

Rest in peace. Your sacrifices—your hopes—your dreams—will be remembered and carried on forever in the finest American tradition.

Thank you very much.

SENATOR WILLIAMS RECEIVES "MAN OF THE YEAR" AWARD FROM SENIOR CITIZENS

Mr. CHURCH. Mr. President, recently our colleague, Senator HARRISON A. WILLIAMS, Jr., the distinguished chairman of the Senate Committee on Labor and Public Welfare, received the "man of the year" award at the Ms. Senior Citizen Pageant in Asbury Park, N.J.

The Senator, as we know, is the former chairman of the Special Committee on Aging and now serves as its ranking majority member and chairman of its Subcommittee on Housing.

I do not think that a more appropriate recipient could have been chosen for the "man of the year" award because he has been in the forefront of every effort to aid America's senior citizens. He was the author of the legislation which created the historic White House Conference on Aging that took place in 1971.

Senator WILLIAMS continues to wage the fight to improve the quality of life for the elderly. On the Aging Committee, he is trying to bring about desperately needed new housing programs to improve the physical security of residents in existing housing units.

Mr. President, I know all of us appreciate what the chairman has done for America's senior citizens. The "man of the year" award, added to Chairman WILLIAMS' long list of honors, shows that our Nation's senior citizens share our appreciation of his most dedicated efforts.

GIVE ISRAEL THE TOOLS

Mr. CHURCH. Mr. President, in view of the rapid replenishment of weaponry being furnished Egypt and Syria by their Arab neighbors, we must see to it that Israel is promptly supplied with such replacement of equipment as she may need to defend herself.

We should remember that Israel has never called for a single American soldier to engage in battle on her behalf. She asks only for the tools with which to fend off this attack.

PRESIDENT URGED TO MOUNT ENERGY CONSERVATION EFFORT

Mr. HUMPHREY. Mr. President, as supplies of energy become increasingly inadequate to meet ever growing demand in our Nation, we must assure that what we have is used for priority purposes. For this reason I have been a strong advocate of mandatory allocation of our limited energy resources.

However, we must also move aggressively to derive every possible benefit from every unit of energy that is available. An all out effort to reduce, and ultimately eliminate, energy waste is called for.

Recent statements by energy conservation experts in and out of the administration indicate that tremendous waste of energy—25–40 percent of total supply—exists in America today and that some fairly easy steps, if taken, could result in savings that would be adequate to carry us through the winter, regardless of the weather.

For such savings to be realized, however, a major commitment must be made by the President and a public information effort must be undertaken on a priority basis. Therefore, I have written to the President urging him to ask the Director of the Energy Policy Office to compile a practical guide for consumers of energy conservation measures that they might take and to mount an immediate public education effort, via the mass media, on this subject. I have also suggested that the President call an immediate conference of State Governors and other appropriate officials to inform them of what can be done to save energy supplies and how to do it. This effort would be carried out with the cooperation of the National League of Cities, the U.S. Conference of Mayors and other similar groups.

I urge the President to act quickly to implement these recommendations and reduce the tragic waste of our valuable energy resources.

Mr. President, I ask unanimous consent that a copy of my letter to President Nixon be printed in the RECORD.

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

U.S. SENATE,
Washington, D.C., October 3, 1973.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: As you know, a strong conservation effort in the uses of energy is essential to overcome the fuel shortages facing the Nation. Conservation is wholly up to the initiative and good sense of Americans, while expanding future supplies of energy involves foreign governments and business, as well as complex and expensive private and public programs at home. I feel that not enough public emphasis has been placed on conservation.

It has been estimated that 25 to 40 percent of America's current energy consumption is wasted and that 2 or 3 million barrels of oil, about 20% of our daily consumption, could be saved each day by appropriate conservation measures. In fact, a Treasury Department energy consultant found that eight relatively easy, uncostly and quick conservation measures could save at least 2 million barrels of oil a day, about 15% of daily requirements. Another expert in the Office of Energy Policy has stated that at about zero cost, 40% of annual industry energy consumption could be saved.

Last week, the Director of the Office of Oil and Gas testified before a subcommittee of the Joint Economic Committee that "a national determination to conserve fuels could quickly eradicate the potential shortfall of fuel" for the coming winter. Of course, savings of this magnitude would avert the entire heating oil shortage foreseen for the coming winter, under virtually any weather conditions.

Although not everyone will adopt every conservation proposal, we saw during last summer's gasoline shortage that many people will try to save when instructed on how best to do it. In the meantime, many Federal agencies are developing valuable knowledge on methods of fuel conservation for home, work and public institutions, but this information has not been effectively disseminated.

Let me urge you, therefore, to ask the Director of the Energy Policy Office to compile a practical guide on energy conservation for the public and to publicize it via the media. Furthermore, I urge you to call an immediate conference of State Governors and appropriate State officials to inform them of what needs to be done and how to do it. Similar conferences should be conducted subsequently for county and municipal officials. These could be conducted in cooperation with the National League of Cities, the U.S. Conference of Mayors and the National Association of County Officials. Each State, county and community should have a fuel conservation office to formulate government actions to save fuel and to distribute pertinent information to the public.

I am convinced that these steps are needed and will be effective in substantially reducing energy waste in our Nation. I thank you, in advance, for giving them your careful consideration.

Sincerely,

HUBERT H. HUMPHREY.

YOUTH CONSERVATION CORPS

Mr. HUMPHREY. Mr. President, I commend highly the action of the Senate in passing S. 1871, a bill to amend the Youth Conservation Corps Act of 1972, to expand and make permanent the Youth Conservation Corps.

I am a cosponsor of this legislation, because I strongly support the continued provision of solid work and education opportunities for youth under this vital program.

Sixteen years ago I introduced initial legislation to launch a youth conservation corps program—an effort which I continued in several subsequent Congresses, and which resulted in the establishment of the Job Corps under the Economic Opportunity Act of 1964.

I have been deeply concerned that everything possible be done to expand job and career opportunities for youth, out of my sustained interest in combating the forces of poverty that can cripple young lives. It was for this reason that this year I again worked in opposition to administration cutbacks in funding for the Neighborhood Youth Corps and Job Corps programs.

During committee hearings last July on S. 1871, I submitted a statement to Senator HENRY M. JACKSON, chairman of the Senate Committee on Interior and Insular Affairs, in which I stated that:

The opportunity can and must be seized to respond simultaneously to a nationwide concern for the protection of the environment and to the urgent need to provide opportunities for meaningful work in a time of critically high unemployment among American youth.

I believe that by placing the 3-year YCC pilot program on a permanent footing with an annual authorization of $100 million, and jointly administered by the Departments of Agriculture and Interior to provide employment for up to 150,000 young men and women, a major step can now be taken toward achieving these dual objectives.

The present legislation also would establish a new program of Federal assistance for conservation activities on State public lands, where a serious need for resource management has not been adequately met due to limited financing. Moreover, by authorizing the year-round use of Youth Corps facilities in connection with courses offered by educational institutions, the bill rightly places increased emphasis upon environmental studies for youth.

In my statement of July 25, 1973, I noted important accomplishments in Minnesota under the YCC pilot program, both in the improvement of recreational areas and public lands, and in the development of environmental education programs in the schools, using videotapes.

Mr. President, I ask unanimous consent that this statement be printed in the RECORD.

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

JULY 25, 1973.

HON. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I am submitting this statement in connection with current hearings by the Senate Committee on Interior and Insular Affairs on S. 1871, legislation to expand and make permanent the Youth Conservation Corps. I strongly support this legislation and highly commend your initiative in securing the enactment of the 1970 law for the launching of this vital program, and of the 1972 act for its continuation on a pilot basis.

As a cosponsor of S. 1871, I want to take this opportunity to explain my long-term interest in securing Federal support for programs to provide work experience opportunities for youth in community and area improvement—challenging work that can lead to a better physical and social environment, and in which young people can gain valuable new job skills.

As you know, in 1957 I introduced legislation to create a youth conservation corps, which ultimately led to the establishment of the Job Corps with the enactment of the Economic Opportunity Act eight years later. The Job Corps has achieved excellent results in serving low-income young men and women, aged 14 to 21, who need further training, education, or counselling to secure meaningful employment and to pursue their education. Nevertheless, this program has suffered cutbacks under the present Administration. I am hopeful that the Administration will carry out the intent of my amendment to the latest continuing appropriations legislation, as expressed in the final conference report, that the level of funding for the Job Corps for Fiscal 1974 be continued at $183.4 million.

The extensive first-hand knowledge I gained of young lives crippled by poverty, in the course of my work with governors and mayors while Vice President and chairman of the President's Council on Youth Opportunity, deeply impressed me with the vital necessity for new initiatives by the Federal Government in promoting work experience opportunities for the youth of America. Among such initiatives, which I outlined in testimony before the Senate Subcommittee on Employment, Manpower, and Poverty in April, 1971, and in a statement in the Senate on May 9, 1972, would be a substantial expansion of the Neighborhood Youth Corps programs to include the provision of 250,000 job opportunities for youth to be involved in work at a fair wage in essential projects of community improvement and public services.

These efforts and concerns explain my strong support for the Youth Conservation Corps Act and for the present legislation to significantly expand its programs of demonstrated accomplishment. Impressive results include the fact that last year 3,500 young people accomplished $2.7 million worth of improvements to our natural resources.

Among some 100 camps operated last summer were a pilot training program for about 20 youth at the Sherburne Wildlife Refuge, near St. Cloud, Minnesota, and another program at the Chippewa Forest. The Sherburne project, under careful supervision, has provided these young people with an excellent first-hand education in the basic principles of ecology and conservation. Videotapes of the YCC on the Sherburne Refuge, well known for its deer herds and flocks of Canada geese, have been used in environmental education programs in schools around Minnesota. The enthusiasm of the young people both in performing hard work and enjoying various recreation activities, has also been evident in a rate of applications far in excess of the number that can be accepted. And notable public lands improvements have been achieved under this program, including the construction of a nature trail, a contact station overlooking the refuge, and the clearing of a waterway for canoeing.

The fact remains, however, that so much more could be done by and on behalf of our young people of all socio-economic backgrounds if the Youth Conservation Corps could be substantially expanded and operated on a permanent basis. There is a job that needs to be done, and there is a love and understanding of life and nature that can and should be gained. The opportunity can and must be seized to respond simultaneously to a nationwide concern for the protection of the environment and to the urgent need to provide opportunities for meaningful work in a time of critically high unemployment among American youth.

I would appreciate your incorporating this statement of my views in the hearing record on this important legislation.

Sincerely,

HUBERT H. HUMPHREY.

NATIONAL FUELS AND ENERGY CONSERVATION ACT OF 1973

Mr. DOMENICI. Mr. President, at the outset, let me compliment the Committee on Interior and Insular Affairs for addressing the very serious national problem which we commonly refer to as the "energy crisis." While there are some who might argue with the precision of the word "crisis" to describe the situation, I doubt that there are any among us who would not recognize that we are faced with a very serious and growing problem in connection with our fuel and energy supply.

What particularly fascinates me about this problem is that so much of it is avoidable; that such a large component is pure waste. In an article in the October 3 Washington Post, on page A4, it is speculated that Americans may be wasting some 40 percent of our energy resources. That, of course, is scandalous, but at the same time it gives us reason for optimism that we can do something about it. I request uanimous consent that this article be printed in its entirety in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. DOMENICI. I am pleased that S. 2176 addresses itself directly to some of the chief sources of energy waste such as inefficient appliances and construction methods that ignore the principles of energy conservation. I think the idea of using various Government units, such as the Bureau of Standards, General Services Administration, National Science Foundation, and the Federal Housing Administration, to conduct research and to establish minimum standards is a good one. I think the labeling idea to let the public know what it is buying in terms of energy conservation has merit. All of these, as well as other provisions of the bill, are steps in the right direction, but do they go far enough? Is there nothing more we can do?

I think there is a great deal more that we can do and I believe that we can do it at very minimal cost to the Government. In our American system, I believe there is nothing so effective as economic incentives to get something done. And you can go a lot further with them because they are voluntary. Let me cite an example:

Section 9(c) of the bill says that within 5 years of enactment, all vehicles in the Nation will have to conform to certain minimum standards of gasoline consumption. We all recognize that those standards will have to be relatively minimal or else we will be placing our selves in the position of denying Americans their inalienable and cherished right to buy foolishly if they so choose. On the other hand, if we were to establish a set of tax incentives for good energy conservation, there is no telling how much we can accomplish. What kind of incentives? Certain obvious ones immediately come to mind:

Since EPA has just told us that gasoline mileage relates directly to weight and it also seems reasonable to me that an engine of half the size would burn half as much fuel and—as a bonus—omit half as much pollutants, so perhaps we should consider a tax or tax rebate related to engine size.

Since we are told that about half of our air pollution, and more in some urban areas, comes from automotive emissions, imagine what we could do about our air pollution problem if we could substantially reduce the size of our automotive engines—and that is without any further fancy design changes, emission control equipment, or anything else—just reduce engine size.

I think it is noteworthy, Mr. President, that whenever we accomplish a reduction in fuel or energy consumption, we are directly affecting our air and water pollution problem, since most power generation involves a pollutant by-product.

I want to make it clear that the economic incentives I am contemplating need not necessarily take the form of a tax, which some people may regard as a disincentive. Let us consider the problem of housing construction methods that ignore principles of energy conservation. I am told that the difference in cost between a well-insulated house and a poorly insulated one is a matter of only a few hundred dollars. Yet there are many houses being built today with insufficient insulation. Now how do we handle that? I think in this case, we can do it with a positive incentive. Section 7(b) and (c) call for the development of model building codes for various classes of building to promote efficient energy use and for review and revision of minimum property standards for FHA loans.

I think we can do something here similar to what we do with low-cost flood insurance. Just as we require communities to accept certain zoning and building standards in order to be eligible for flood insurance, there is no reason why we cannot ask them to accept higher energy conservation standards to quality for, let us say, a new class of FHA loans with perhaps higher limits or some other economic incentive. I can see builders meticulously conforming to the higher standards to qualify their houses for the loans—thus making the houses easier to sell. I can see potential buyers demanding conformance to the higher standards

even if it costs a little more because the new loans make it easier for them to finance their purchase. At the same time, I think the program can be designed to hold the cost to the Government to a very minimal level.

I have mentioned only two examples and two different approaches to providing economic incentives to achieve energy conservation goals, but there are many. Consider, for example, an investment tax credit to businesses that incur costs in the process of adopting energy conservation procedures. Similar tax credits could be offered to existing homeowners who add insulation or convert to fluorescent lighting systems thus reducing their electricity consumption. And certainly we should be able to devise some incentives to encourage the greater use of carpools where possible. I will shortly be introducing legislation for that purpose because I believe there are many opportunities to further the important goal of energy conservation by providing the American public and the American businessman with real economic incentives to do common, ordinary things in a manner calculated to conserve energy.

Our wasteful habits, acquired through generations of energy abundance, require more than education and concern to overcome. Therefore, significant conservation practices will require careful study and consultation by the appropriate units of Federal, State, and local governments and by all citizens. It is a difficult task, but I believe it is certainly an opportunity worth pursuing, particularly in view of the alternatives. I urge my colleagues to concentrate their legislative skills to the development of legislation to facilitate the conservation of energy by means of economic and tax incentives in addition to the fine provisions of S. 2176.

EXHIBIT 1

[From the Washington Post, Oct. 3, 1973]

AMERICANS MIGHT BE SQUANDERING 40 PERCENT OF ENERGY RESOURCES

(By Tim O'Brien)

The American energy crisis, experts say, is caused by many things—dwindling domestic supplies, pressure from those who want to breathe clean air, population increases, the insatiable appetites of new machines, political tensions with nations that produce the raw materials of energy.

In the mix, however, one variable remains almost an afterthought: Simple waste. Extravagance. Inefficiency. Squandering. Unnecessary guzzling of what fuel there is.

While it is not fair to say the waste of energy is overlooked—environmentalists have been pointing it out for years—it is true that energy conservation is viewed by most observers as a mere palliative. A drop in the bucket of remedies.

It is virtually impossible to measure with even rough accuracy the amount of fuel wasted in a given year. But that has not kept people from guessing. Sen. Jennings Randolph (D–W. Va.) estimates that the nation is squandering from 30 to 40 per cent of its basic energy resources.

Another estimate puts the waste at 25 per cent a year.

John Muller, a researcher in the Interior Department's Office of Energy Conservation, says that "if this were a dictatorship and we could somehow control how people waste energy, we could save from two to three million barrels of oil a day."

That would be a fifth of the 15 million barrels Americans consume each day.

There are anecdotes aplenty to illustrate the wastes. The New York City World Trade Center, for example, uses more energy for its heating, lighting and cooling than is needed for the entire upstate city of Schenectady, with 100,000 residents.

Beyond anecdotes, however, where is little in the way of official data to suggest what the magnitude of the waste is or where fuels are being wasted. The President's new Office of Energy Policy, created to coordinate the nation's response to the crisis, has no comprehensive numbers on the subject. The Office of Energy Conservation, where prime responsibility in the area resides, has only an admittedly tentative set of estimates.

Perhaps the single best index of where and how much fuel is being unnecessarily burned is a recent study conducted by an independent energy consultant for the Treasury Department. The department requested a list of emergency actions that could be quickly taken to reduce significantly fuel consumption.

The study found that through eight relatively easy, uncostly and quick conservation measures, about 2 million barrels of oil a day could be saved.

The eight emergency measures are:

Reducing speed limits to 50 miles per hour for passenger cars—150,000 barrels a day.

Increasing load factors on commercial aircraft from 50 per cent to 70 per cent—80,000 barrels a day.

Setting home thermostats two degrees lower than average—50,000 barrels a day.

Conservation measures in industry—500,000 barrels a day.

Cease hot water laundering of clothes—300,000 barrels a day.

Mandatory car tune-ups every six months—200,000 barrels a day.

Conservation measures in commercial buildings (fans off at night, air conditioning only during office hours, installation of proper window insulation)—200,000 barrels a day.

Increasing car pools for job commuting from 1.3 to 2.3 persons per car)—200,000 barrels a day.

The figures attached to each of the conservation measures are the lowest estimated savings. In fact, the study found that about 2 million barrels a day could be saved and, possibly, another million barrels a day beyond that.

These eight steps are but the tip of the potential conservation iceberg, according to energy researcher Muller. He keeps a notebook filled with some 250 energy conservation measures, which he says are the "product of just one man's thinking. If five or six of us sat down, we could come up with a much larger list."

In the field of agriculture, he suggests slowing down the speed of tractor engines when they are not running and requiring farmers to adopt reduced tillage farming. In industry, where over 41 per cent of America's energy is consumed, he thinks energy consumption can be reduced by 10 per cent through "improved operating practices and minor changes in plants, involving little or no cost."

Dr. Jack Rafuse, a staffer in the new Office of Energy Policy, considers that estimate conservative. He says energy conservation teams have found that "though almost zero-cost kinds of things, industries can save 40 per cent of their plant fuel without affecting energy output at all."

If the 40 per cent savings could be taken as an industry-wide average and if every industry in the nation were to undertake similar measures, simple mathematics would show an astounding result: About 16 per cent of all the energy expended in America each year could be saved. This is in the industrial sector alone—and at "almost zero-cost."

If one were to list the villains of energy waste, three would probably stand out as most notorious: Automobiles, commercial America and the homes we live in.

Today's standard American car travels between 11 and 12 miles on a gallon of gasoline, not as far as it did 50 years ago. The nation's 1974 model autos average about 4,400 pounds—35 per cent more than the foreign makes tested in a recent Environmental Protection Agency (EPA) study.

Weight, the EPA says, is the single best index of expected miles per gallon, and it is not surprising that foreign makes averaged about six miles per gallon or nearly 37 per cent more than American autos tested by the EPA.

One study, conducted for the U.S. Army Tank-Automotive Command last year, estimated a 30 per cent potential fuel savings through a shift to smaller cars.

Although the law of diminishing returns begins to set in at a certain point, energy watchers say that by requiring tune-ups, imposing 50 or 55 mile-per-hour speed limits, putting fewer horses under the hoods and eliminating gas-eating extras like air conditioners, we could cut gasoline consumption in half.

Aside from these savings, a panel of General Motors, Ford and International Harvester engineers has reported that by requiring radial tires on all autos, fuel consumption could be cut by 10 per cent; by installing engine turbo-chargers it could drop another 10 to 15 per cent.

Conservation hurts most when it hits a person's home. And it is in the home where much of the waste is happening.

Energy specialist Muller estimates, for example, that if we threw away our dishwashers—or were required to wash dishes by hand—we could save 35,000 barrels of fuel a day. If during the summer we were to dry clothes on a line instead of in an automatic dryer, the savings would amount to 130,000 barrels a day.

"The little things," he says, "add up. But the little things hurt most."

A big drop in the conservation bucket, he says, would be to insulate the attics of those existing homes that are without it—Savings of perhaps 250,000 barrels of fuel a day.

The Michigan Consolidate Gas Co., in an effort to promote conservation of natural gas, has offered its customers loans to insulate their homes. The result, said President Hugh C. Daly, could be a savings of six billion cubic feet of gas annually if 200,000 customers sign up. "That's $9 million . . . that our customers won't have to pay," he said.

Other home energy savings in the Muller conservation notebook: Get rid of decorative outside lighting; weather strip and caulk all houses; service inefficient burners and furnaces; promote cold water washing of clothes; shut off furnace pilots in the summer.

"These are things that ought to be done as course," an environmentalist says. "They save money, they save fuel. Americans, unfortunately, are energy hogs."

Aside from hoggishness, however, is the problem of outright inefficiency. Six per cent of electricity produced in the United States in 1970, for example, was used to heat homes, despite the fact that electric heat is half as productive as oil or gas heat. Still, electric heat is a growing trend. About 25 per cent of the 40,000 buildings constructed in 1969 were heated electrically. It is cheap to install, it is clean, it is considered modern and esthetically pleasing—but it is wasteful.

Commercial America, with its glittering neon billboards and lighted shop windows, is a third major waster of now-precious energy. Mueller's notebook lists some 28 methods of conservation that could be applied at low cost to the nation's commerce:

Rescheduling night sporting events for daylight hours; installation of a second set of doors at lobby entrances to help keep out outside air; shutting down 24-hour-a-day electric advertising signs; turning off air-

conditioners at 3 p.m.; putting an immediate stop to the construction of glass walled skyscrapers that lose heat nearly as fast as it can be pumped in.

Yet in the end, what is waste and what is "necessary luxury" is the key to conservation. What an energy conservationist sees as waste, housewife with a stack of dishes and a crying baby and a new dishwasher sees as necessity. Until these attitudes change—until the fuel crisis leaves a gash on the American consciousness—the potential savings are likely to remain largely theoretical.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is concluded.

SURFACE MINING RECLAMATION ACT OF 1973

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume the consideration of the unfinished business, S. 425, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 425) 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.

The ACTING PRESIDENT pro tempore. The pending question is on agreeing to the amendment of the Senator from Kentucky.

Mr. COOK. Mr. President, do we have a time limitation?

Mr. METCALF. There is no time limitation. The Senator can have as much time as he wants.

Mr. COOK. It will be my intention to ask for the yeas and nays on the amendment at the appropriate time. I hope that we will be able later to have a sufficient number of Senators present so that we can secure the yeas and nays.

Mr. President, I will send a modification of my amendment to the desk and say to the manager of the bill, the distinguished Senator from Montana, that all the modification would do would be to change it to conform to the technical changes required by the Mansfield amendment. With the inclusion of the Mansfield amendment we had to make verbiage changes, but only as to the location in the bill.

Mr. METCALF. Mr. President, in the course of the discussion on the Mansfield amendment, many of us were concerned about where we had granted permission to go on to public lands. The Mansfield amendment completely withdraws the public lands from any further surface mining. However, does the Senator's amendment as modified apply at all to public lands?

Mr. COOK. It does not.

Mr. METCALF. I thank the Senator very much.

Mr. COOK. Mr. President, I send the modification of my amendment to the desk.

The PRESIDING OFFICER. The clerk will report the modification.

The assistant legislative clerk read as follows:

On page 134, line 6, insert a period after the word "land" and strike all through line 17.

Mr. METCALF. Mr. President, on behalf of the Senator from West Virginia (Mr. RANDOLPH) I ask unanimous consent that Mr. James Harris and Mr. Philip McGance, of the Senate Public Works Committee, be granted the privilege of the floor during the discussion and votes on S. 425.

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

Mr. COOK. Mr. President, if it has not already been granted, I ask unanimous consent that Mr. Joseph O'Leary, of my staff, be extended the privilege of the floor during the debate on S. 425 and the votes thereon.

Mr. METCALF. Mr. President, as the Senator knows, yesterday I asked and was granted unanimous consent that all members of the staff who had the floor privileges on yesterday continue to have the privilege of the floor today.

Mr. COOK. I thank the Senator.

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

Mr. COOK. Mr. President, I call up my amendment No. 616, as amended. This amendment would require that in those instances in which the surface owner is not the owner of the mineral rights that the written consent of or a waiver by the owner or owners of surface lands must be obtained before a permit can be issued for the land to be surface mined.

The bill as it was proposed would provide exceptions to this requirement by permitting the applicant to execute a bond to the United States or the State whichever is applicable, to secure the payment to the surface owners of any damages to the surface estate, crops, or tangible improvements of the surface owner. This bond would be in addition to the performance bond required by the act.

Mr. President, I just do not think it is the American way to give the legal permission to one man to destroy another man's home or other property without proper recourse. While under existing law if an individual owns the mineral rights for coal under a piece of ground, he may strip the land to surface mine the coal, regardless of the value of the land itself.

What concerns me most is that many of these mineral rights were signed away before the technology of surface mining existed. Individuals involved in both sides had no intention of either having their land destroyed or taking part in such destruction. Here we have a good example of the law lagging technology, and I think it is time to correct that discrepancy.

It is not my intention to alter in any way the Mansfield amendment we passed yesterday which would prevent coal surface mining on Federal lands where the United States does not own the surface, but has only the reserved mineral interest. For this reason I request that the final drafting of the bill contain the necessary language to reflect this desired change.

Let me tell the Senate of the situation we have in the eastern part of Kentucky, in fact, all over Kentucky. We may be the only State that utilizes the broad form deed; 100 years ago, when most of these rights were acquired, or 70 or 80 years ago, people moved into the coalfields of the Commonwealth of Kentucky and acquired a broad form deed to surface rights for 75 or 80 cents an acre.

No one knew anything about the present day mining technology. These rights were purchased for deep mining. They purchased them for no other reason. There was not any technology known then to take the surface of the ground down to 2 feet, 5 feet, or 6 feet and uncover a 14-, 15-, or 10-inch vein of coal and take it out. They did not know anything about that at the time.

May I say that in many counties in eastern and western Kentucky these rights are not owned by property owners in the State of Kentucky. They are owned by absentee ownership all over the United States. As a matter of fact, I suspect that many of the people who own the subsurface rights to many thousands of acres of land are people who led the vanguard because they are extremely rich people. They destroyed the land in eastern and western Kentucky. They had this right.

If a miner in eastern Kentucky has acquired 10 or 20 acres of land by virtue of his hard-earned money, after he has acquired that piece of land, all of a sudden he would find one day at the edge of his property three bulldozers and a couple of shovels. Then a group of workmen would tear his fence down and move in and destroy his pasture and his property. Some of his outbuildings would go over the hill and down the side of the mountain. The people were able to do this, because they have a broad form deed, and they have the right to strip the coal regardless of what happens to the surface.

This has been going on for years.

Mr. President, it has been debated many, many times in the legislature of the Commonwealth of Kentucky. The good operators do not worry about a broad form deed. The good operators always in the State of Kentucky deal directly with the owner. They pay him a percentage on a tonnage basis. And they pay him for the damages to his fields and buildings. They do the right thing by the owner and deal with the owner. However, we have a tremendous number of absentee owners. In eastern Kentucky we have 30, 40, or 50 percent of the subsurface rights that do not belong to anyone who has ever been in the State of Kentucky. Those people are not aware of what is going on except that they are aware of their dividend checks. They are aware of the tremendous profit they make off the tons of coal that are brought from under the surface or 10 or 20 feet down.

My amendment would strike this section from the bill and would provide that the mere consent or waiver by a former owner of the surface lands involved is not sufficient to allow someone to come upon the land surface and mine that land.

That is mere equity, Mr. President.

Under the Mansfield amendment, we did better by all of the people who live in the West, all of the people who live in the Powder River area with which the Senator is familiar. We said that the U.S. Government that owns the subsurface rights would give up those rights.

We are not asking for that kind of an exemption because that would be a complete destruction of property rights. We have control of property rights in this body. We could do that. However, all I say is that if the subsurface is gone and the fee to the subsurface is owned by an individual are we really saying under section (b) that he has to, if he refuses to negotiate, post bond with the State or the Federal Government.

This little individual who lives on social security or on a minimum income in the eastern part of the United States has to hire a lawyer and bring an action in the State or the Federal courts to do anything and then try to the best of his ability to receive compensation.

All I am saying is, let them deal at arm's length with the man who owns the subsurface. He never bought that subsurface, in its original purchase, to strip coal. He had no comprehension that he would ever strip coal. He had no comprehension that you could ever take a whole mountainside off and never deep mine for coal. He acquired those rights, whether it be 50, 75, or 100 years ago, because he was going to deep mine the coal. That is what he bought it for. Now, all of a sudden we have come into a new era and a new technology, and the technology in many instances has destroyed a man's home, destroyed his land, destroyed his pasture, and torn down his fences, all without his consent.

If we felt compelled by a vote of 53 to 30 yesterday to protect the farmer in the West, and say that the U.S. Government, in retaining the subsurface, retained it for the purpose of deep mining, then why can we not say the same thing here?

We are not really saying that, though. We are saying that in this instance, if the subsurface is owned by an individual and he wants to strip that coal within all of the qualifications of this bill, let him negotiate with and get a waiver from the owner of the surface. Do not let him summarily destroy his land, and then expect that the individual shall be compelled to file a suit in Federal court or State court so that he can be compensated for his damage. Let them deal at arm's length.

That is the intent of the amendment, Mr. President. I yield to the Senator from Tennessee.

Mr. BAKER. Mr. President, I thank the distinguished Senator from Kentucky for yielding so that I may rise to commend him for the introduction of this amendment, and to associate myself with his most eloquent remarks and his accurate appraisal of the situation as he find it in the Commonwealth of Kentucky, and I expect, in one degree or another, in other parts of the country.

Fortunately, we do not have the broad form deed and that exact situation in my State of Tennessee. We have always had a situation where, in order to surface mine coal, it was essential and necessary to first neogtiate with the surface owner if there was divided ownership, and come to a satisfactory arrangement and accord on how that would be undertaken, if at all.

The situation in Kentucky is very different. It is really a monstrous thing, it seems to me, to permit the owner of the mineral to, in effect, deprive the surface owner of his use and enjoyment of that estate without his consent, without compensation, and in many cases without his prior knowledge.

I really am sorry that the Federal legislature, the Congress, has to deal with this matter. I would hope that rights in property—and this is essentially a matter of rights in property—could be dealt with at the local and State levels and by the courts in the interpretation of the broad form deed; but it has not been, or at least not satisfactorily, in my judgment.

In the absence of that, I think this is the appropriate measure and an appropriate amendment for the Federal Government to establish criteria for the filing of acceptable State plans under this bill. I think it is a good step in the right direction for humanitarian reasons, that it will not diminish our ability and our practical authority to recover coal which we badly need for the energy requirements of this Nation, but it will inject a note of compassion and humanitarian concern into a very difficult and grievous situation.

Mr. President, yesterday I voted against the Mansfield amendment, and I did so in anticipation that this amendment would be adopted, which requires, overall, the consent of the surface owner before the mineral can be stripped.

Mr. METCALF. Mr. President, will the Senator from Tennessee yield at that point?

Mr. BAKER. I am happy to yield.

Mr. METCALF. It seems to me that there is a great deal of difference between the provision where the subsurface owner is the U.S. Government and we, Congress, control the subsurface rights, and a situation where we say that we shall control the rights as between two separate individuals.

We can say that we will dispose of our land in any way we want, and yesterday in the Mansfield amendment we said that we are going to withdraw all that subsurface land that has dual ownership from any surface mining.

This goes a little farther; so it is not the same amendment, and I want us to be very careful that we do not, by the adoption, rejection, or any refusal of this amendment change the position that was taken yesterday, whereby the Congress of the United States would say that when there is this double ownership, we are just not going to surface mine that land.

Mr. BAKER. Mr. President, I entirely agree with the Senator from Montana. This does not vitiate the effect of the Mansfield amendment. It will have no effect whatever on the Mansfield amendment. I prefer this concept to that of the Mansfield amendment, but I lost, and having lost, I do not intend to cry about it. That point is won, and this amendment is not calculated to change that situation.

They are two different situations. In the case of the Mansfield amendment, Congress, hopefully—the Senate at this point—made a value judgment that federally owned mineral and fee surface lands would not be available for surface mining. We owned that land, and decided we were not going to make it available for stripping, regardless of what the surface owner said. The colloquy yesterday indicated that even if the surface owner wanted it stripped, it still could not be stripped under the Mansfield amendment.

I personally would have preferred the Cook approach, which would not remove that coal from possible production by surface mining, but would require the consent of the surface owner. But that battle, as I say, is over, and I lost.

The adoption of the Mansfield amendment is a good step forward, and will not curtail my enthusiasm for what I think the Senate is about to do. But the Cook amendment is necessary. It is necessary for humanitarian reasons. I shall not further prolong the debate, except to say that I shall vote for it for humanitarian reasons, and in behalf of the people in southern and eastern Kentucky, so that we may take cognizance of the fact that a bulldozer cannot push their homes into the valley without their consent or knowledge.

Mr. COOK. I thank the Senator.

I know the Senator from Montana has serious doubts about the constitutionality of this provision, but I say to the Senator what we are doing is saying to the individual that, first of all, he has got to get a permit to strip it in the first place, which may be refused him, and thereby we have diminished his right of ownership, because he owns the subsurface, but if we decide that he cannot logically do it within the framework of this bill, we will deny him the right, a property right that he already has.

Certainly the manager of the bill would not deny that for all the subsurface that is now owned in eastern Kentucky, if in fact we decide, under the terms of this bill, that that area cannot be stripped, we are not denying the owners a right of property, because we are.

Suppose the Mathias amendment passes—I hope it will not—which says that no coal can be strip-mined if it is on a slope of more than 20 degrees. I would point out to the manager of the bill that we would be depriving the owner of the subsurface of a property right in that case, and doing it here on this floor.

May I have the Senator's attention? I just finished saying to the manager of the bill that under this bill there are going to be imposed restrictions by which an individual can and by which an individual cannot strip coal. I do not believe that anyone denies that. We are saying to a subowner who has a lease and a right to the minerals that we have made a determination in this body that if he does not meet the criteria, he cannot mine it. So are we not in fact taking away a property right of his? We certainly are. And as I said a moment ago if the Mathias amendment were to pass,

that no one can strip beyond a slope of 20 degrees and we say that is the law of the land, are we not denying a subowner who has held the land for years and years a property right? We certainly are.

So why is there a constitutional question here, when we wish to impose not an abolition of his availability to strip coal, but merely to say that he must deal with, or get a waiver from the surface owner? As a matter of fact, we are protecting his right, because we are giving him the opportunity to negotiate. In 99 percent of the cases, may I say to the manager of the bill that is negotiated in my part of the country. They are paid a royalty on the coal. They are paid a percentage. They are reimbursed.

So the point I am trying to make, in all fairness, is that I am talking about the little people, the woman who goes out and lies down in front of a bulldozer so that she can protect what she bought and paid for.

A small coal operator is not going to be able to post a bond, which will leave only those who can afford to do it, because they have the money and the resources. Such operators will just sit back and say, "If you want to recover on this bond, you file your lawsuit."

Why should we say to a surface owner who owns his land, his field, plants his garden, and raises his cattle, or whatever he can in the mountains, why do we say to him that there is a broad form deed, issued 100 years ago, and which allows the operator to come in right through the field, and if they want to recover damages, to file a suit against the bond.

That is no way to treat an individual. That is no way to do it. May I give you an example, Mr. President, and then I shall be through. Let us suppose in my State there are some Federal lands that have been owned by the Federal Government ad infinitum, that they have owned the subsurface and there is a farmer there and he bought his land. Let us say it is down at Mammoth Cave or in the Daniel Boone National Forest and the Federal Government owns the subsurface. We have taken care of that farmer on the surface. We took care of him yesterday. But right at that fence line the Federal Government's property stops, and right there is a man who owns his farm and the subsurface belongs to an absentee owner in New York, California, Florida, or elsewhere, and 1 day out of a clear blue sky, here comes the bulldozer, here come the shovels, right across his field.

Cannot we, at least, say to that man that we have done the best job we could possibly do under the law to understand the rights of property under the Constitution, and to understand the rights of property under a State constitution? Cannot we require that if he wants it directly under the surface rather than deep mining, even though we know he has the right to deep mine, but if he wants it on the surface, cannot we require him to deal at arm's length with the individual that owns it? That is all this amendment says.

I yield to the floor.

Mr. METCALF. Mr. President, I want to correct the Senator from Kentucky. There is a good deal of land out West that is owned just as the land in Kentucky is, by private individuals, where one private individual owns the surface and another private individual owns the subsurface. I regret that the large coal companies of America—Peabody, Westmoreland, and others—have come up and bought tremendous areas of subsurface rights all over the West and are ready to exercise those rights. I have the same sort of constituents as the Senator from Kentucky has, that is, little old ladies who own a 160-acre homestead and are concerned about someone coming in and mining the coal under that land, cutting the land apart, digging a trench a hundred feet deep, and destroying the entire surface.

I must say, however, to the Senator from Kentucky, that we did look into this and, uniformly over the years, it has been unconstitutional to take away that subsurface right. I am not quite sure, and I know the Senator from Kentucky is not quite sure, and the courts have not delineated the areas where we do take away rights and where we do not take away rights.

I own a lot here on First Street and cannot build a 12-story apartment on it. So, that means that a zoning right has been taken away from me. In the public interest we can say to the people that one cannot build in an industrial complex or in a residential area. So a property right, in effect, has been taken away there.

We had the land use bill recently passed which is quite a complex area and where, as the Senator from Kentucky suggests, it would take away the property rights of an individual or deny certain land uses, just as we are doing in this bill.

We are saying that certain land uses not in the public interest and which cannot be justified, because of the degradation of the area will be prohibited but others will be granted under certain circumstances. I suppose all I could do is shrug my shoulders and say, "Well, we agreed to that amendment of the Senator from Kentucky and let the courts straighten it out."

Mr. COOK. With reference to the property the Senator from Montana owns downtown they cannot come in and use a bulldozer and tear it all up without his permission. They may restrict him building on it, but if they want to do something of that nature, they have to condemn it and pay him.

Mr. METCALF. That is right, because I own the surface and the subsurface.

Mr. COOK. Therefore you no longer have title to it——

Mr. METCALF. But if I own the subsurface, they cannot come in. But out West, for example, in the grazing——

Mr. COOK. How much of the subsurface of a lot is there if they take everything off? What do you own?

Mr. METCALF. I get compensation under this bill. I get compensation under the general law. In the State of Florida, for instance, which is not in your area and not in mine, the phosphate producers can go in and bulldoze the orange groves off and mine for phosphate, and they can mine it because the subsurface right has a prior right. Out West where we have locatable minerals in the grazing homestead if a man owns the rights to uranium, he can come onto the man's land and drill for uranium and if he finds it he can make a location and mine that land and bulldoze the house down and bulldoze the barn down.

Let me point out for the Senator from Kentucky that a long time ago, when the grazing homestead bill was adopted, the Federal Government reserved the mineral rights. No one thought uranium was going to be of any value whatever then, and no one ever knew about the value of uranium at that time. Nevertheless, today, the subsurface owner can use that uranium, or gold, or whatever mineral there, is and take away the surface rights. That is the constant law that has been applied all over the United States and is applied now from Florida to Alaska.

Mr. COOK. May I ask the Senator, what is the law in Montana relative to the rights of subsurface owners?

Mr. METCALF. The subsurface owner can come in and mine—he can come in and exercise all exploratory rights. He can do anything necessary to develop the rights and that is a prior tenement to the rights of the surface owner.

Mr. COOK. In other words, you have the broad form——

Mr. METCALF. He compensates the surface owner for the damage that is done.

Mr. COOK. Is it provided in the State of Montana, for example, that he just post a bond, or does it say in the law that he must deal with the owner relative to compensation? That is all I want to say here.

Mr. METCALF. We want to protect the owner by saying that he has to post the bond. But in the State of Montana—and it probably is so in the State of Kentucky—he does not have to do anything to exercise his subsurface rights. We are trying to get the surface owner a little additional right that he does not have, and we think that in the public interest we can do that. But we do not think we can say to the surface owner: "Look, you can deny the subsurface owner all his rights. You can just say, 'I am going to sit here and I am not going to give you subsurface rights. I am not going to let you exercise any of your rights.' "

Mr. COOK. The Senator knows as well as I do that if (a) is left in—"the written consent of, or a waiver by, the owner or owners of the surface lands involved to enter and commence surface mining operations on such land"—and (b) is excluded, rather than have a Federal action, if the State refuses to do it, you then have a State court action. You have a State court action in his own circuit court, in his own county, because they are going to bring an action on the subsurface deed; they are going to say they are entitled to compensate him, and they are going to ask a jury to set that compensation. A cause of action is created by (a) if in fact there is a denial.

All I am saying is that he should be given that option, so he can do it in the

framework of his own bailiwick and not file a suit in the Franklin Circuit Court, if the bond is posted in the State, or in a Federal district court, if the bond has to be posted with a Federal agency. All I am saying is that we are not denying the owner of the subsurface the right to bring an action. We know he has a property right. If the owner of the surface refuses to negotiate, he obviously has a cause of action; but that cause of action is determined in the circuit court where the individual lives, and this he can handle. The Senator knows as well as I do that that right would prevail—unless we abolish strip mining all over the United States. Certainly, the Senator from Montana would say that Congress has a right to do that.

Mr. METCALF. As the Senator from Kentucky knows, I am trying to support a bill that will permit strip mining in America, under limitations that will provide for restoration and reclamation. I think the Senator from Kentucky agrees with that position.

I have long insisted that people should have a right of action in their local courts. It seems to me that if this bill is passed and the State of Kentucky has an approved plan, one can go into the local court, just as one goes into the local court for any other provision under an approved plan. This is a States' rights bill, but this provides that in the event there is no provision for a local plan approved, one can go into the Federal court. I do not think we can just take away all the surface owners' rights.

I am completely in sympathy with the Senator from Kentucky, and he knows that. He knows that all over America there is a conflict with respect to people who have farmed or lived on land for generations. Suddenly, a mining company comes in and destroys their land, removes their buildings, severs their cattle from their barnyards, and so forth.

As a responsible Member of Congress, I feel that I cannot agree to go as far as the Senator from Kentucky wants to go.

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

Mr. COOK. I have the floor.

Mr. PASTORE. I should like to ask a question and make an observation.

Mr. COOK. I yield.

Mr. PASTORE. For the benefit of those who come from States where this is not a problem one way or the other, including my own State, and want some enlightenment to do the right thing in the public interest, the one thing that is perplexing at this moment is the fact that this bill was reported without the Mansfield amendment, and the Mansfield amendment was put in there more or less as a protection of the surface owner as against subsurface rights on the part of the U.S. Government.

Mr. METCALF. On the Federal land?

Mr. PASTORE. Yes. We want to say that in that particular case there shall be no mining—strip mining—of Federal subsurface rights. Does not the Senator from Montana feel at this moment, having done that, that there should be a little something for the person who is not the owner of subsurface land that is owned privately? Does not that leave a hiatus? I realize the constitutional question, but I am talking about public policy.

Mr. METCALF. There are two different propositions. In the first place, if we are the owners of public land, we can say that we will dispose of our land as we choose. Congress is the arbitrator there, so we have said in the Mansfield amendment that insofar as the land belonging to the people of the United States is concerned, we are going to surface mine.

But now we go to the amendment of the Senator from Kentucky, and we say that we are going to take the private subsurface land, and we are going to dispose of it in the same way that we dispose of the public land. We just cannot do that.

Mr. PASTORE. Maybe we cannot do that, but the Senator is not answering my question on all fours. The point is this. I realize that where the Government owns the Federal land, the Government can do anything it pleases. But the fact still remains that that does not protect the surface owner.

Mr. METCALF. When the Federal Government owns the land?

Mr. PASTORE. That is correct. Now we are saying that because the Federal Government owns the land, we will not strip mine or injure the rights of surface holders. But when the subsurface is owned by a private individual, he is left out in the cold.

Mr. METCALF. He is not left out in the cold. He is completely provided for with respect to the damage that has been done to the surface. The law, then, is that in the one case it is our land, and we can say we will do what we want with the surface rights. In the other case, it is the one individual's land, and we say we will give his land away, but the surface owner cannot do that.

Mr. COOK. The Senator from Rhode Island hits the point very much on the head. The surface owner today has, first of all, to sit by if he does not care and they do not come to an agreement. He does not establish the value of his land in a hearing, so that an adequate bond can be posted by the State. Somebody in Frankfort, in Harrisburg, or in Nashville—whatever State capital it is—sets the bond. He sits by while bond is posted. The owner of the land sits by, and if they cannot come to an agreement, the language of the bill provides for:

> The execution of a bond or undertaking to the United States or the State, whichever is applicable, for the use and benefit of the surface owner or owners of the land, to secure the payment of any damages to the surface estate, to the crops, or to the tangible improvements of the surface owner as may be determined by the parties involved or as determined and fixed in an action brought against the permitee or upon the bond in a court of competent jurisdiction.

Mr. PASTORE. What does the Senator's amendment do?

Mr. COOK. My amendment would merely provide that a permit shall include "the written consent of, or a waiver by, the owner or owners of the surface lands involved to enter and commence surface mining operations on such land."

Mr. PASTORE. What if they do not get consent?

Mr. COOK. Then, he brings an action in his circuit court on his deed to the subsurface and the jury determines his damages ahead of time and not after the fact.

Mr. METCALF. I am not sure he is not putting the owner in a worse position.

Mr. PASTORE. The Senator's point is to go to court and let that poor farmer answer a suit in court?

Mr. COOK. But he is paid in advance, and in most instances——

Mr. PASTORE. Who establishes the price?

Mr. COOK. A jury of his peers.

Mr. PASTORE. How do we get the jury established without going to court?

Mr. COOK. The point is that under the bill it is after the fact, after his land has been destroyed. Maybe he is involved for 2 years, and he is not out of there in 2 years.

Mr. PASTORE. Let me understand this correctly. The Senator's procedure is somewhat like condemnation proceedings. Is that correct?

Mr. COOK. Yes, sir.

Mr. PASTORE. In other words, you have to put up a bond before you start strip mining, and a jury has to establish the fair market value of the surface land.

Mr. COOK. That is correct.

Mr. PASTORE. What is wrong with that?

Mr. COOK. The only point I am making to the Senator from Rhode Island is that under the terms of this bill we are compensating the owner of the land after it has been destroyed.

Mr. PASTORE. The manager of the bill has just said that is exactly what the bill provides.

Mr. COOK. What?

Mr. METCALF. That it is analogous to condemnation proceedings.

Mr. COOK. I wish it were. Under condemnation procedures, a person is entitled to be paid. They have to make a deposit with the court and if he wants to take that money, he can take it. If a person feels that the land is worth more, he may not take it and bring an action. In this instance, the bond is posted with the State or Federal agency and after he is through, the individual can bring a suit and have a determination of damages.

Mr. METCALF. That is exactly the same procedure as in condemnation. You go to the man and he says, "I am not going to sell my land. I am not going to sell my land to let the road go through. I am not going to sell my land to let the electric system go through. I am not going to sell my land to let the powerline go through." You go into court and deposit in the court.

Mr. COOK. What you consider to be the fair market value?

Mr. METCALF. Yes. And who accepts that? Commissioners appointed by the court, not a jury, but commissioners appointed by the court, and they make a fair determination of the fair market value, and it stays there until you take it or go to a jury and get a jury decision.

Mr. COOK. May I say to the Senator that nothing here provides that the landowner can come in and take the amount of bond posted by the State. There is nothing that states that the commis-

sioners establish the value. This states that the bond shall be posted and then he shall negotiate with the permittee or bring an action in court. The Senator is not saying he is entitled to the amount deposited. There is not a bonding company in the United States that would make such a bond, if that is what the Senator says.

All I am saying is this: This is just the reverse of a condemnation. If the Senator wants to write in here condemnation language, I would agree to that; that a determination would be made by three commissioners. They are certified to the master commissioner. It is approved for the amount they consider the land is worth, and the amount is deposited with the court. If the individual wants to take his money, then he can take the money and walk out the door. But that is not what the Senator provides in this situation.

Mr. METCALF. I do not want to put that language anywhere. I do not agree to the position that a commissioner should determine the value. I want the jury to determine the value.

Mr. COOK. Give the man the option. What I am saying is to give the option of taking the money on the front end before the bulldozer pushes his barn and his house over the hill.

What I am saying is that the Senator is saying the only way he can recover is on his bond, not before.

Mr. METCALF. No, we are saying we hope they will negotiate.

Mr. COOK. I would like to negotiate this with the Senator because we may be able to work something out, but the way it is now, the Senator is saying "after the fact." If the Senator wants to provide before the fact——

Mr. METCALF. Will the Senator withdraw his amendment? Maybe we can reach an agreement.

Mr. COOK. Mr. President, I suggest the absence of a quorum.

Mr. PASTORE. Mr. President, will the Senator withhold his request?

Mr. COOK. Mr. President, I withdraw the request.

Mr. DOMENICI. Mr. President, there are a number of specific aspects of this bill that concerns me, and I will discuss them, but more importantly I am most disturbed about what I perceive to be an overall lack of flexibility in this bill and its sharp restrictions on the ability of States to demonstrate initiative, originality, and perhaps ingenuity in dealing with this issue.

I am especially concerned about this because my home State of New Mexico has been in the forefront of the Nation in developing effective, environmentally sound strip mining legislation. Some years ago, we convened a group of environmentalists, mine operators and other interested parties and asked them to develop an appropriate piece of strip mining legislation for us. The result was the New Mexico Coal Surface Mining Act, which since has been praised nationwide and has been hailed as a model for the Nation. I still think that is a pretty good idea.

The problem is that the New Mexico law does not spell out details. In fact, that is part of the genius of the law. Under the act, a seven-member commission composed of the State engineer, the director of the State environmental agency, the director of the bureau of mines and mineral resources, the head of the State game and fish department and three others, develops its own requirements for mining projects on an individual basis. It reviews applications for mining permits, applications which must contain detailed descriptions of proposed reclamation plans, and the commission issues permits accordingly. If the commission feels that land cannot physically or economically be reclaimed, no permit is issued. The commission can even close down mining operations that fail at reclamation.

This law is flexible. For example, it does not bind reclamation to so-called "original contour" as S. 425 seems to do. Suppose we were to strip mine a barren desert. Should we be bound to restoring a barren desert? Under New Mexico law, we could accomplish reclamation with an attractive lake and greenery. Could we do that under section 213 of this bill? I am not sure, and no one has been able to give me an answer.

I am concerned that S. 425 might preempt our fine New Mexico law and possibly the laws of other States as well. Yesterday, when we were discussing section 213, the Senator from Montana (Mr. METCALF) said that the bill contemplates that any State that has a more stringent requirement than is written into this law will have its law apply. But what is meant by more stringent? Is the flexible New Mexico law more stringent? I asked yesterday about the status of the New Mexico law and no one was able to give me an answer.

I am concerned also by section 216 which prohibits strip mining in "areas of critical environmental concern." What is that? The section lists some obvious types of such areas, but it does not limit the prohibition to just those areas. It can be argued that virtually any area is an area of critical environmental concern. This section is too vague.

Mr. President, I think we have a legitimate concern here with regard to States' rights. In the sense I have discussed rights here. Have we taken that question into consideration? Have we offered the States sufficient flexibility to use their own initiative in this matter as New Mexico has done? Are we going to reward New Mexicans for their foresightedness and imagination by striking down the product of that foresightedness? Can we do that in good conscience?

Mr. President, we need some answers. I think that before we move ahead on this bill, we need to get those answers. If they already are in the bill, let someone point them out. If they are not now in the bill, let us put them in. But we need them. Thank you.

ORDER OF BUSINESS

Mr. PASTORE. Mr. President, due to the fact that we are waiting for a compromise to be effected, I would like to take a moment or two and discuss another matter and to make an observation. This has nothing to do with the bill; and there is a slight hiatus in the progress on the bill at this time.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

REDSKIN-DALLAS FOOTBALL GAME

Mr. PASTORE. Mr. President, I, together with thousands upon thousands of people within the Metropolitan Washington area last night, had the opportunity of watching the Dallas Cowboys and the Washington Redskins play that fabulous game. I wish to take this opportunity to congratulate the Redskins for a brilliant, brilliant performance.

But at the same time I have an observation to make and this is for the benefit of all the doubting Thomases who are apprehensive of what opening up the television screen might do to professional football when the house is sold out.

I watched very closely for that reason. That stadium was jam packed. As far as I could see, there was not a single seat vacant. Enthusiasm ran high.

I want to say to Mr. Rozelle and to the owners of all the clubs in the National Football League that this law, in all probability, is going to be a boon for them because it is going to open up a brand-new market for them. By opening up that television screen, the advertisers will broaden their spectrum of advertising and for that reason revenues will rise accordingly.

Before we make up our minds as to whether that is a good law or a bad law, let us give this matter a fair test. All of us in the Senate, and I have repeated this many, many times, are not out to injure professional football in any way. We appreciate beyond measure the great entertainment that has been provided to the fans of football in this country by television and the cooperation of the National Football League.

Let us not make any mistake; last night was a fair example that whenever two fine teams meet and there is a sell-out, the "no shows" disappear.

As I have stated before, apparently the scalpers unloaded their tickets last night before that game.

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

Mr. PASTORE. I yield to the Senator from Kentucky.

Mr. COOK. Mr. President, I could not agree more. As the Senator from Rhode Island knows, he and I worked extensively on this matter and managed the bill on the floor of the Senate.

I wish to observe that one of the problems they are going to have to overcome in the front office is this: They have sold tremendous blocks of tickets, blocks of 10, 15, 20, and 25 tickets to this corporation and that corporation, to that office and to this office, and they have not had to worry because they had all the tickets sold in good years and bad years. People in those organizations took their customers.

I have had more invitations to go to Redskin football games, and I have had tickets since that law went into effect, from various organizations and groups. Maybe now they are letting go of some

of those tickets, so that people who have been wanting them for 20 years can buy them.

Some of those vacancies come about from people with blocks of tickets, and they end up with six or eight seats the day before the game, and now it is on television.

Mr. PASTORE. Did the Senator say that he saw the game last night?

Mr. COOK. I was there.

Mr. PASTORE. Did the Senator see any empty seats?

Mr. COOK. I did remark to my wife that in the last 30 seconds three people below me got up. I turned to her and said, "There are three empty seats that Pete Rozelle will talk about."

Mr. PASTORE. Were the people buying hot dogs?

Mr. COOK. There were so many people there one could not get to buy those things.

Mr. PASTORE. So let that be a lesson.

SURFACE MINING RECLAMATION ACT OF 1973

The Senate continued with the consideration of the bill (S. 425) 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.

Mr. FANNIN. Mr. President, I want to say to the distinguished Senator from Kentucky that I certainly sympathize with the people he is talking about. I realize that predicaments exist in some cases, but I do not think we can take this step of changing national policy and saying a subsurface resource should be locked up if the surface owner requires it. I know the distinguished Senator has stated they have actions that they can take, but this is a windfall for the surface owner when he can veto the rights of the subsurface owner.

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

Mr. FANNIN. May I complete my argument? Then I shall be pleased to yield to the Senator from Kentucky. I am vitally concerned about this question from the standpoint of the entire country, and not just one part of the country. We are talking about protecting the surface owner. He is protected by this legislation, by the bonding provisions. If he is damaged, he must be made whole by this bond.

Under this bill, there is a requirement that the land be rehabilitated and be made capable of carrying the load it did before the mining took place. Capability is an issue, as far as that is concerned, and it must be provided. The surface owner, as I say, is protected.

I feel it is unconstitutional to deprive the mineral owner of the rights to his property just because the surface owner says so. What kind of chaos are we going to create in the courts because we have invalidated State laws? This country cannot deny either the owner of minerals his rights, nor the minerals that this Nation needs to keep its lights burning and furnaces going. We are in a critical situation, and I feel at this time we cannot afford to place barriers in the way of developing our natural resources. We are dependent on coal. We will be more dependent on it as time goes on. I feel what is happening in the Middle East brings this problem to the forefront more than ever. We can talk about other sources of energy, but we still have to fall back on our need for development of power from coal.

So I say to the distinguished Senator from Kentucky that, notwithstanding all the arguments he has made for his people—and I certainly commend him for that—I do not feel, in good faith, I could support the amendment, which would be so devastating to this country.

I yield to the Senator now, if he has a question or a statement to make.

Mr. COOK. Mr. President, may I say to the Senator from Arizona that he ought to come and see how devastating it has been to the country the way it has operated. May I also say to him that while we should not give the right to the surface owner to deny the subsurface owner his rights, we give the right to the subsurface owner to deny the surface owner his rights. We dig a trench——

Mr. FANNIN. Does the surface owner purchase or acquire that land with that understanding?

Mr. COOK. May I say that many of these deeds—and I hope I made it clear before—for the subsurface rights and many of the deeds for the surface rights are held in families that have been there for generations. When that deed was given strip mining was not known in the United States or anywhere else in the world. It was to deep mine. Then they received a boon. They found coal 100 feet below the surface. They knew it was there before, but they could not get it. Then they got the equipment to get it. They build shovels big enough to put a high school band in them. They build them so big that five automobiles can be put in them. They come along and take scoops of many, many cubic yards of dirt. All of a sudden, the surface owner found that whereas heretofore he had been protected, everything was being destroyed. He saw fields disappear, that were put back 100 feet, and which would not grow anything but dust.

Mr. FANNIN. If the people of Kentucky desire to have more stringent laws, the bill provides that they can have more stringent laws. I was born in Kentucky. I have been in Kentucky many times. I have visited the areas the Senator is talking about. I certainly agree that we need laws to protect the lands of Kentucky. This is a reclamation law we are talking about. The land cannot be mined unless it can be reclaimed. So the surface owner is protected in the bill. I cannot understand why the Senator is so insistent on applying completely across the country something that may be of only local interest.

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

Mr. COOK. Yes, but first may I say to the Senator from Arizona that, as long as he has been in the political arena, and I also say to the Senator from Montana and to the Senator from Wyoming that as long as they have been in the political arena, if they are not aware of the broad form deed in their States, the law in their States is the same as any other except mine, and that is that one must get a waiver from the surface owner.

Mr. HANSEN. Mr. President, if the Senator will yield, let me say the concern of the Senator from Montana is not misplaced. It reflects a very great interest and obvious concern on the part of many people to do something about it.

I am happy to report that when the Surface Mining Reclamation Act of 1973 was being considered, provision was made in the bill to deal specifically with the broad form deed. I would like to read from the report of the Committee on Interior and Insular Affairs of the U.S. Senate accompanying S. 425. I turn to page 78 of that report, reading:

SECTION 511. PROTECTION OF THE SURFACE OWNER

Where the surface owner is not the owner of the mineral estate Section 511 provides the following protection:

(1) The applicant for a surface mining permit must include in his application the written consent of the surface owner or owners to surface mining; or

(2) The applicant must execute a bond or an undertaking to the United States or the State, whichever is applicable, to secure the payment to the surface owner or owners of any damages to the surface estate, crops, or tangible improvements of the surface owner or owners. This bond is in addition to the performance bond required by the Act.

The Committee understands that the damages for which the surface owner would be compensated would include the loss of the use of the surface from the time mining began until reclamation was completed.

This provision is of special importance in those States where broad form deeds, often signed—

As the Senator from Kentucky has pointed out—

Before the technology of surface mining existed, have been interpreted to give the mineral rights owners complete rights to fully destroy the surface and thus deprive the surface owner of any use of his property. It is based on the rule which has been applied to Federally-owned mineral rights for many years.

I thank the Senator for yielding. I thought he would be pleased to know the committee did indeed consider the plight of land and surface owners in Kentucky and around other parts of the country as well.

Mr. METCALF. Mr. President, will the Senator yield to me?

Mr. COOK. I yield.

Mr. FANNIN. Mr. President, I have the floor.

Mr. METCALF. Will the Senator yield?

Mr. FANNIN. I yield.

Mr. METCALF. During the course of the hearings we heard from witnesses from all over the United States, who told us about the divided rights, the subsurface and surface rights. It is not only a Western problem, it is not only a Kentucky problem; it is a problem in Pennsylvania, it is a problem in Southern States, it is a problem in California. And we really considered it, I say to the Senator from Kentucky, as a national problem.

Mr. COOK. Mr. President, may I say to the Senator from Wyoming that I agree

with everything he said. Really my only objection is that unfortunately in this system of ours, on too many occasions somehow or other, the posting of a bond is an easy way to forestall the inevitable. And in the interim period it puts the individual in a terrible position. He really cannot bring his action until the damage has been done.

If he is a farmer who is trying to make a living and if he is growing tobacco or trying to grow corn, he loses all of his income. And in the interim the only recourse he has is to ultimately present that bond.

Mr. President, we have worked out some language with the Senator from Montana. I would like to show this to the Senator from Wyoming and the Senator from Arizona.

I therefore suggest the absence of a quorum so that we may work the matter out.

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

The legislative clerk proceeded to call the roll.

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

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

Mr. COOK. Mr. President, I offer a substitute for amendment No. 616 as modified.

The ACTING PRESIDENT pro tempore. The clerk will report the amendment.

The assistant legislative clerk proceeded to state the amendments.

Mr. COOK. Mr. President, I ask unanimous consent that further reading of the amendments be dispensed with and I will explain them in a few minutes.

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

The substitute amendment reads as follows:

On page 134, line 11, insert the word "immediate" between the words "the payment."

Line 11, after the word "payment" insert the words "equal to."

Line 12, after the word "estate" insert "which the operation will cause."

Line 15, between "a court" insert the word "local".

Mr. COOK. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. COOK. Mr. President, the yeas and nays not having been asked for, I have a right to amend my own amendment.

The ACTING PRESIDENT pro tempore. The Senator is correct. The Senator has a right to modify his amendment.

Mr. COOK. Mr. President, with the language that, I hope, we have agreed on, the section would read:

(2) the execution of a bond or undertaking to the United States or the State, whichever is applicable, for the use and benefit of the surface owner or owners of the land, to secure the immediate payment equal to any damages to the surface estate which the operation will cause to the crops, or to the tangible improvements of the surface owner as may be determined by the parties involved or as determined and fixed in an action brought against the permittee or upon the bond in a local court of competent jurisdiction. This bond is in addition to the performance bond required for reclamation by this Act.

Mr. METCALF. Mr. President, I think that the amendment that has been offered by the Senator from Kentucky as a result of the debate and dialog has improved the bill and has certainly given a surface owner an opportunity to have immediate restitution for damages incurred.

I not only concur in the amendment, but I also agree with the amendment and applaud the Senator from Kentucky for bringing up this matter and working it out.

Mr. COOK. Mr. President, I thank the Senator from Montana. I also thank the Senator from Wyoming and the Senator from Arizona.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the substitute amendment of the Senator from Kentucky.

The amendment was agreed to.

Mr. COOK. Mr. President, I move that the vote by which the amendment was agreed to be reconsidered.

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

The motion to lay on the table was agreed to.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of the amendments offered by the Senator from Tennessee (Mr. BAKER).

Mr. METCALF. Mr. President, I ask unanimous consent that prior to proceeding to the consideration of the amendments of the Senator from Tennessee, I may be permitted on behalf of the Senator from Arizona (Mr. FANNIN) and myself to offer two amendments.

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

Mr. METCALF. Mr. President, I send to the desk two amendments and ask unanimous consent that they be considered en bloc.

The ACTING PRESIDENT pro tempore. The amendments will be read.

Mr. METCALF. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

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

The amendments are as follows:

On page 103, line 5, insert the following:

After the colon insert the following:

"And provided further, That prior to any designation pursuant to subsection (a)(2)(C), the regulatory authority shall prepare a detailed statement on (i) the potential coal resources of the area, (ii) the demand for coal resources, and (iii) the impact of such designation on the environment, the economy and the supply of coal:"

On page 75, line 1, following the period insert the following: If a Federal Program is implemented for a state, Section 216 shall not apply for a period of one year following the date of such implementation.

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

Mr. METCALF. Mr. President, in the bill, in section 216, there is a provision that provides that certain areas may be designated as areas unsuitable for strip mining. There are certain provisions and certain criteria provided for in the designation of such areas. Some of them are, of course, obvious. We leave out the national parks and national wildlife refuges. Some areas are not so obvious. And one is of environmental concern. Some of the people are very much concerned and very much interested in the bill. These people are bothered by the designation of such areas.

The amendments provide that the matter has to be carefully studied and there has to be a report. There also has to be a study of the various criteria as established for the designation of such an area as an area of environmental concern, whether it is on the State basis or on the Federal basis.

Further, the second amendment provides that any Federal program designating such areas shall be postponed for 1 year. This is offered on behalf of the Senator from Arizona and myself. We worked out an agreement that we feel adjusts to the necessary needs of protecting the environment and at the same time protecting mining activity.

Mr. President, I urge adoption of the amendments.

Mr. FANNIN. Mr. President, I agree with the distinguished Senator from Montana, the manager of the bill. This language is very helpful. As usual, the Senator is desirous of assisting in making it possible for us to go forward with mining, which is so essential to our Nation, and still take care of and protect the environment.

The Senator from Montana should be commended for that. The amendments are helpful in many ways, and I feel that they add to the bill. I support the amendments wholeheartedly.

Mr. HANSEN. Mr. President, I would like to ask my distinguished colleague, the floor manager of the bill, whether this language is correct?

On page 103, line 5, insert the following:

After the colon insert the following:

"And provided further, That prior to any designation pursuant to subsection (a)(2)(C), the regulatory authority shall prepare a detailed statement on (i) the potential coal resources of the area, (ii) the demand for coal resources to meet the Nation's energy requirements, and (iii) the impact of such designation on the environment, the economy and the supply of coal:"

Mr. METCALF. Mr. President, the words "to meet the Nation's energy requirements" have been deleted.

Mr. HANSEN. I see. So, it would read then, as follows:

On page 103, line 5, insert the following:

After the colon insert the following:

"And provided further, That prior to any designation pursuant to subsection (a)(2)(C), the regulatory authority shall prepare a detailed statement on (i) the potential coal resources of the area, (ii) the demand

for coal resources, and (iii) the impact of such designation on the environment, the economy and the supply of coal:"

Mr. METCALF. The Senator is correct.

Mr. HANSEN. "And the impact of such designation on the environment, the economy, and the supply of coal."

Mr. METCALF. That is right.

Mr. HANSEN. It is the intent of this amendment, as I understand it, to make certain that we do not callously write off important areas of this country which may be coal-bearing, but at the same time could have an environmental impact if they were to be mined. In other words, what this amendment says is that we will look, not only at the environment, but also at the energy supply in this country, and make certain that we have the whole picture before us.

I think the amendment is well intentioned, and will go a long way toward assuring that we do not forget any of those values that are important to the country. Am I correct in that?

Mr. METCALF. The Senator from Wyoming is, as usual, completely correct. Here we are trying to say that we are not going to permit the State regulatory agency or the Federal Government, whichever is involved, to just arbitrarily go out and say, "This section will be closed." They have to make a study. They have to make a determination, and the criteria, of course, are set out.

The reason we put "to meet the Nation's energy requirements" in, is that some of us felt that as originally proposed, it would be difficult for the State of Wyoming or the State of Montana to make a determination of the Nation's energy resources, but the extent of coal resources in our own area——

Mr. HANSEN. Is measurable.

Mr. METCALF. Yes. But this makes it mandatory that there be an adequate study.

Mr. HANSEN. I thank my colleague. I ask unanimous consent that my name be included as a cosponsor of his amendment.

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

Mr. METCALF. I thank the Senator very much.

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

Mr. METCALF. Do I have the floor? If so, I yield to the Senator from Idaho.

Mr. McCLURE. I thank the Senator for yielding. I, too, am glad to add my name as a cosponsor of this amendment, because I think it does substantially what most of us have been concerned about, in determining what kind of criteria would go into the decision that must be made under subsection (c) that we refer to.

I am constrained only to remark again, as I have several times in the committee and once or twice on the floor, that we have a little confusion apparent in this amendment also, where we talk about the impact of such designation on the environment and the economy, as though they were two separate things. I think we need to reaffirm on every possible instance that when we are talking about the environment, we are talking about the totality of a person's environment, which includes the economy in which he lives. I think the environmental impact statements required under NEPA also require an evaluation of the impact upon the economy, as well as other surroundings.

That is not an objection to the amendment. I just think we need to, whenever we can, stress the fact that the environment is not simply a narrow definition, but a broad definition, and I applaud the efforts to include those factors in this amendment.

Mr. METCALF. Mr. President, I ask unanimous consent that the name of the Senator from Idaho be added as a cosponsor of the amendment. I am proud to have him as a cosponsor, because all during the hearings and discussion of the bill, he has demonstrated a very knowledgeable position on all of these matters, and his cosponsorship is a matter of great pride.

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

Mr. METCALF. Mr. President, may we have the question put?

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendments, en bloc, of the Senator from Montana (Mr. METCALF).

The amendments were agreed to.

Mr. RANDOLPH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. Does the Senator ask unanimous consent to have it considered at this time?

Mr. RANDOLPH. Yes. I ask unanimous consent to have my amendment considered at this time, notwithstanding the arrangement to recognize the Senator from Tennessee.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 135, after line 12, add the following new section:

"SEC. 516. It is the sense of the Congress that the Department of the Interior, the Cost of Living Council, the Office of Preparedness, and the Office of Energy Policy shall take immediate action to increase the supply of fabricated steel available for the manufacture of coal mine roof bolts and roof plates essential to maintaining the operation of coal mines at the level necessary to provide adequate supplies of coal in the immediate future. If necessary, such action shall include granting increases in the price of fabricated steel to a level which will insure the manufacture of sufficient supplies of roof bolts and roof plates."

Mr. RANDOLPH. Mr. President, the coal industry is confronted with a critical shortage of underground coal mine roofing materials—namely, roof bolts and roof bolt plates. Roof bolts are used to strengthen the ceilings and walls of underground coal mines. The bolts are usually made of high strength steel. Roof bolting is the practice of driving long, threaded steel rods into the top of mine passages for roof and wall support.

Steel mills have reduced production of these rods because they are a low-profit item and the mills are concentrating on more profitable items. Thus, the fabricators of roof bolts cannot obtain the necessary supply of rods.

Major suppliers of mine roof bolts and plates in the West Virginia area are Bethlehem Steel Corp.; Union Forge Co. of Pittsburgh; Harmony Industries of Mingo Junction, Ohio; Penn-Birmingham of Scenery Hill, Pa. Harmony Industries' steel quotas have been cut in half for the next 3 months and they are operating at about one-third capacity. Harmony normally produced 800,000 to 900,000 roof bolts a month and could produce four times that amount in terms of demand and capacity if steel were available. Republic Steel has stopped making steel plates. It is my understanding that H. K. Porter, a major supplier in Huntington, W. Va.—supplying bolts and plates to southern West Virginia mines—is going out of business. Penn-Birmingham is in short supply and has placed its major customer, Consolidation Coal Co., on an allocation basis. Pennsylvania-West Virginia Supply Co. of Triadelphia, subsidiary of Valley Camp Coal Co., could shut down its mines any day. Eastern Kentucky coal mines will be hurt with a possibility of 20 percent of the mines in that area being closed.

Even though the major coal companies might not be hurt since they can afford a high price for the bolts and plates and receive their allotment as regular customers from the suppliers, they still might find that the supply is not sufficient to meet their needs. This would especially hurt the independent coal operator.

I wrote to President Nixon calling attention to these facts and the growing shortage of coal mine roof bolts and roof bolt plates. The U.S. Bureau of Mines has confirmed the reports which have been coming to me from the coalfields of West Virginia. It is my belief that this shortage creates a dangerous condition in that it involves possible unsafe working conditions for men in underground mines. It could mean that more and more coal mines will have to cease production. Such cessation of production of coal in underground mines at this time and in the period immediately ahead, when heating oil shortages are additional threats, would further complicate already serious energy supply deficiencies.

In my letter to President Nixon, I urged him to order appropriate agencies in the executive branch to begin prompt corrective actions toward alleviating the roof bolt shortage. I suggested that the White House's energy adviser, the Office of Preparedness, the Cost of Living Council, and the Department of the Interior could work with industry to restore the normal supply.

Mr. President, the appropriate Federal agencies have been provided with copies of my communication to the President of the United States and have been

urged by me to develop a coordinated and cooperative effort to resolve this situation which is becoming increasingly critical to the future production of coal. After numerous contacts by my staff with all of the Federal offices that would be involved in the attempt to resolve the shortage of roof bolts and roof bolt plates, I am concerned that the urgency of the situation has not been impressed upon those who need to take affirmative action.

Because of this concern, I am introducing a Sense of the Congress provision as an amendment to the pending measure which stresses the urgency of this problem and directs the appropriate Federal agencies to work together toward a solution. Initially, I felt that it might be possible to insert a cost pass-through provision to help alleviate this shortage. However, after thorough consideration it appears that a cost pass-through would be extremely difficult to formulate and it is not definite that short-term profitability of the materials used in the manufacture of roof bolts and roof bolt plates is the key underlying issue. For this reason, I am proposing a Sense of the Congress provision as opposed to a mandatory cost pass-through amendment.

I hope there can be an agreement by the table managers of the bill on this amendment, and I ask unanimous consent that the name of the Senator from Kentucky (Mr. COOK) be added as a cosponsor of the amendment.

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

Mr. METCALF. Mr. President, I certainly approve of the amendment. One thrust of the bill is for increased underground mining. This enhances the purposes of the bill.

I am pleased that the Senator from West Virginia, who is so knowledgeable about underground mining and soft-coal mining, is aware of the necessity for putting this amendment into the bill. With the concurrence of the Senator from Arizona, I am prepared to accept the amendment.

Mr. FANNIN. Mr. President, I am very pleased to concur with the distinguished Senator from Montana and the distinguished Senator from West Virginia. I do feel that, from the standpoint of intent, this bill is a reclamation bill; and I would not like the Senate to consider it just a bill to promote underground mining. It is a bill to assist both surface mining and underground mining, the overall mining of coal.

Mr. METCALF. The Senator is correct.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from West Virginia.

The amendment was agreed to.

Mr. METCALF. Mr. President, I move to reconsider the votes by which the two previous amendments were agreed to.

The ACTING PRESIDENT pro tempore. It would require unanimous consent to reconsider them both together.

Mr. METCALF. I ask unanimous consent that it be in order to move to reconsider the vote by which the two previous amendments were agreed to.

The ACTING PRESIDENT pro tempore. Is there objection to the request of the Senator from Montana? Without objection, it is so ordered.

Mr. METCALF. I move to reconsider the votes.

Mr. FANNIN. I move to lay that motion on the table.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion to lay on the table.

The motion to lay on the table was agreed to.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Tennessee (Mr. BAKER) is recognized to call up an amendment.

AMENDMENT NO. 609

Mr. BAKER. Mr. President, I call up my amendment No. 609, and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 96, after line 15, insert the following subsection and renumber the following sections:

"(12) insure the construction, maintenance, and postmining conditions of access roads into and across the site of operations will control or prevent erosion and siltation, pollution of water, damage to fish or wildlife or their habitat, or public or private property: *Provided*, That the regulatory authority may permit the retention after mining of certain access roads where consistent with State and local land use plans and programs and where necessary may permit a limited exception to the restoration of approximate original contour for that purpose;".

Mr. BAKER. Mr. President, under the provisions of the bill we have before us, roads used in mining are deemed to be a part of the area of mining operations. Thus the standards for operations and reclamation in the bill would be applicable to roads.

However, there is no specific authority requiring direct control of construction or maintenance of these access roads. If improperly constructed, roads can be a major contributor to erosion, landslides, and siltation. They are an important aspect of mining and should be the subject of careful controls.

This amendment would require such control and would additionally establish authority for the retention of certain access roads. In Appalachia, where most contour operations are found in inaccessible mountainous areas, retention of access roads for postmining inspections and for fire protection is often desirable.

I know firsthand the difficulties we have with improperly constructed roadways in conjunction with strip mining operations. I have seen estimates and heard of estimates which state that the siltation burden on the roads may be a substantial portion of the total siltation burden. The bill in its form as reported by the committee contemplates control of these roads. This is necessary to make sure that initial construction, maintenance, and retention of the roads is clearly considered to be an integral part of the mining operation for reclamation purposes.

I have discussed this amendment with the distinguished manager of the bill and the distinguished ranking Republican Member. I would hope they might agree with me that this would be a useful addition to the bill and that we might adopt the amendment on a voice vote.

Mr. McCLURE. Mr. President, will the Senator from Tennessee yield?

Mr. BAKER. I yield.

Mr. McCLURE. I would understand the purpose of the amendment to be to cover the roads which are appurtenanced to or a part of the mining operations, that it would not be the intention of the sponsor of the amendment to extend the control mechanisms under the act to roads which are public roads and not associated directly with mining operations; is that not correct?

Mr. BAKER. That, I believe, would accord fully with my understanding. Let me make one or two limitations on that, though. If, as is sometimes the case, a public road is chosen to be used as an access road to a strip mining operation, the maintenance and retention of that road would be supervised by reclamation techniques; that is, if it is a public road and still used for mining operations it would be.

Mr. McCLURE. If the maintenance operation of a public road became the obligation of the mining owner under local or State regulations that would be correct, right?

Mr. BAKER. That is correct. It would not put any additional burden of responsibility on the part of the Government.

Mr. McCLURE. But if the road were not taken over as part of the mining operation under local operations, then it would not cause that fall over the public road to extend the reclamation and criteria control under this to all such roads that might be traversed.

Mr. BAKER. That is correct. I would point out that the bill itself has applications to mining operations which in no way deal with the responsibility of units of the Government. If for that reason, and no other, it could not affect the roads the Senator describes, only in a case where a public road was taken over by a strip mining operation would it be.

Mr. McCLURE. One of the causes of my concern is the public lands in the West—there is no coal in my State—but nevertheless we have a great deal of public land, part of which is under the control of the Forest Service and part of which is under the control of the Bureau of Land Management. If an operator goes into an area and starts a mining operation in which he would substantially increase the burden on the road, the Forest Service may require of him certain stipulated acts to be taken with respect to construction or maintenance of that road. This amendment would not be intended to supplant or take away from the authority of the Management Agency the right to establish such rules and regulations as they would wish and

would not extend that to that situation; is that correct?

Mr. BAKER. That is correct.

Mr. McCLURE. I thank the Senator very much.

Mr. FANNIN. Mr. President, will the Senator from Tennessee yield?

Mr. BAKER. I yield.

Mr. FANNIN. I am wondering whether the provision will control or prevent erosion, siltation or pollution of water. Is it not covered in other parts of the bill? I would refer the Senator to page 90, line 24, where there is control of water drains and drainage and on line 26, soil stabilization. I am wondering whether the Senator feels that since this construction and maintenance is a part of the mining operation, the bill would not already fully protect that?

Mr. BAKER. As I said in my initial remarks, the intention of the bill was to do what I hope we will strengthen by this amendment. The only point concerning me, and which I sought to cure by this amendment, is that while the bill does in fact designate the roads which are used as part of a mining operation, there is no specific authority, as I read the bill, requiring direct control of construction and maintenance of the roads. If it is redundant and does no damage and is subject to the interpretation suggested, I think it is important and significant. At the very best, it is not in conflict with either the language or the intent of the bill.

Mr. FANIN. I am sure the Senator will agree that this is the minimum that must be required. Much more can be done. But it does not exclude other actions that would be considered either essential or required. I just question whether the Senator would feel that the present language gives ample protection.

Mr. BAKER. It does not, in my view, make it absolutely certain that the road network should be considered in this way. I reiterate what I said a moment ago, that it could be interpreted two different ways, but the amendment is not in conflict with the interpretation of the bill that the Senator from Arizona recites. But, at the very least, it affects the specific result that I seek. I do not think it does violence to the contention the Senator from Arizona suggests.

Mr. FANNIN. I understood the Senator to say that it does violence to the bill. That is not the intent. I believe I did not quite understand the Senator's last remark.

Mr. BAKER. What I said was that it did not do any violence to the interpretation of the bill.

Mr. FANNIN. I thank the Senator very much.

Mr. BAKER. I do not mean it does violence to the bill. It is a good bill. Like the Senator and other members of the committee, they are to be commended for handling a very thorny issue in a good way. But this tightens up the provision which I know to be of much concern in the mountains of eastern Tennessee and southeastern Kentucky.

Mr. METCALF. Mr. President, we all recognize that access roads may be an important provision for transportation after a certain activity is over. Maybe such roads are useful and that is the purpose of the amendment. Unregulated access roads, improperly graded, roads just graded only for access to the mine and not handled for regular transportation, might cause serious erosion, slides, and other hazards.

I certainly concur with the purpose of the amendment. I think that we went through the bill and tried, as the Senator from Arizona has suggested, to provide for these various proposals.

I am not prepared to resist the amendment at this time, but I want to raise a flag that persaps if the roads are not properly instituted in the first place and properly maintained after the abandonment of the subsurface mining, a serious environmental situation could occur or this may be in conflict with the high wall provision or the contour provision in another part of the bill. But, I am not going to resist the amendment.

Mr. BAKER. I think the bill serves the purpose the Senator from Montana has described. If a road is not properly built, or if it is not properly maintained, then you have a potential environmental hazard that may be as great as the high wall itself.

The only purpose of this amendment is to make sure that the road network is included as an integral part of the mining operation.

Mr. METCALF. And it is understood that they have to be maintained in accordance with environmental protection.

Mr. BAKER. This amendment specifically and categorically so provides.

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

Mr. BAKER. I yield.

Mr. McCLURE. Mr. President, I support the amendment. I think it is necessary that the roads be included as a part of the mining operation, as a matter of definition.

I want to point out one thing which we should understand when we do that—that the mining haul roads will be under a much stricter requirement for environmental protection and reclamation than will be any other road built by any other authority in the United States.

Mr. BAKER. The point is well taken. Once again, I draw on my own personal experience. I live in a mountainous area of east Tennessee, where the road network, especially the county road network, is not noted for the premium quality of its construction. They are built in convenient and economical locations, unlike strip mine roads, which are built up the side of a mountain, perhaps 3,000 feet.

Mr. McCLURE. Would not the Senator agree, however, that even in the build ing of the roads to which he refers—and he knows them better than I—they put some of the spoil down the bank?

Mr. BAKER. Strip mine roads?

Mr. McCLURE. No. In the ordinary road building, in building a bank or building up the road, a new surface is created on the side of a mountain which includes some spoil down the bank. In the strip mining roads, we are going to say that they cannot put any spoil down the bank, if the provisions of this bill apply to those haulage roads.

Mr. BAKER. That is right.

Mr. McCLURE. So that the roadbuilding requirement we are making here is much more strict than any county, State, or Federal highway project has to comply with, so far as that aspect is concerned.

Mr. BAKER. That is so. The danger of siltation from the roads is much greater than even with the haphazard construction of public roads, because it simply goes up the side of a hill, and water comes gushing down at a high rate of speed and picks up silt.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Tennessee.

The amendment was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 606

Mr. BAKER. Mr. President, I call up my amendment No. 606.

The PRESIDING OFFICER. The amendment will be stated.

Mr. BAKER. Mr. President, I ask unanimous consent that 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 118, after line 9, insert a new section and renumber following sections accordingly:

SEC. 402. STUDY OF IMPACT OF FEDERAL CONTROL ON CONTOUR SURFACE MINING.—(a) The Chairman of the Council on Environmental Quality is further directed, in conjunction and consultation with the National Academy of Sciences—National Academy of Engineering and such Federal agencies as he shall deem appropriate, to undertake an indepth review of the success and impact of the reclamation and environmental protection standards of this Act as they pertain to contour coal surface mining. The study shall—

(1) assess the impact of contour coal surface mining pursuant to the Act upon water quality;

(2) assess the impact of contour coal surface mining pursuant to the Act upon land value, productivity, and other economic factors in regions where such mining is conducted;

(3) assess the impact of the Act upon and the general development of alternative production techniques, including deep mining, and their relative impact upon the items in (a)(1) and (a)(2).

(b) It shall be the purpose of the study based upon the above data and other available information to evaluate the impact of a ban of all coal contour surface mining upon energy supply, the economy, and the environment.

(c) The study together with specific legislative recommendations shall be submitted to the President and the Congress no later than thirty-six months after the date of enactment of this Act.

(d) There are hereby authorized to be appropriated for the purpose of this section $500,000.

Mr. BAKER. Mr. President, this amendment would direct the Chairman of the Council on Environmental Quality to conduct a study of the impact of the Federal Surface Mining Reclamation Act upon coal contour surface mining, to assess the continuing impact of this type of mining upon water quality, land values and productivity, and to assess the development of alternative mining techniques and their relative impact upon the ecology. The purpose of this study would be to evaluate the impact of a ban of contour surface mining of coal and a conversion at some point in the future to other methods of coal production.

What this amendment would do, in effect, would be to put in place a mechanism by which Congress, after a reasonable period of time, would be able to assess the effectiveness of this bill and to consider carefully the alternatives that should be available to us after a reasonable time of experience. It has no legislative impact except to mandate that study, and it leaves the Council with the full range of opportunities and responsibility to report to Congress.

I wish we did this more often—that is, put in place a mechanism that required us to take a look, say, 3 years down the road at what we did and successful or how much of a failure that legislation has been. That is the sole purpose of this study. I think it is important that we now flag what we are going to do for another look at some point in the future.

I understand that this amendment has been discussed with the distinguished manager of the bill. I hope there will be no substantial controversy about it, and if there is not, I am prepared to submit the amendment on a voice vote.

Mr. METCALF. I understand that this amendment provides for a 3-year study.

Mr. BAKER. That is right.

Mr. METCALF. Of a ban on contour surface mining on mountain slopes.

The Senate committee previously considered this matter and had a good deal of discussion and deliberation on it. Before action on this bill is completed, I look forward to several amendments on contours, but certainly this amendment would not conflict with any of those provisions. I think that a continued study, no matter what we do with contours today or what the provision is, is certainly warranted, because we have various geographical areas and climatic conditions in the United States.

I approve of the amendment, and I congratulate the Senator from Tennessee for thinking about it and offering it.

Mr. BAKER. I thank the Senator.

Mr. METCALF. If the Senator from Arizona concurs, I certainly would be glad to vote on the amendment at this time.

Mr. FANNIN. I am very pleased to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 610

Mr. BAKER. Mr. President, I call up my amendment No. 610.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. BAKER. 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 94, in line 12, after the semicolon insert the following: "*Provided*, That spoil material not required for the reconstruction of the approximate original contour on any site shall be permanently stored at such spoil storage areas as the regulatory authority shall designate and for the purposes of this Act such areas shall be deemed in all respects to be a part of the lands affected by mining operations;".

Mr. BAKER. Mr. President, this amendment is directed to section 213(b) of the bill (S. 425) which is the section specifying criteria for the permanent disposition of spoil material after surface mining. Under the provisions of the bill the management of overburden both during and after operations must insure that no permanent placement of spoil material will be made on outslopes except for certain exceptions in the case of "initial cuts" at new operations in order to establish a working bench. The bulk of the overburden from any operation will be used for restoration of the contour as required in section 204(b)(2) of the bill. But excavated earth expands as it becomes fractured and less dense; so that spoil material will have a volume 20 percent to 40 percent greater than the overburden prior to mining. In many cases the volume of mineral extracted or an increase in the density of the spoil when compacted will diminish this swell and permit permanent storage of the overburden totally on the bench. In most new operations, especially contour mining in Appalachia, however, a portion of the spoil will be excess to reclamation needs. The bill makes no provision for such permanent off-bench storage of spoil material.

If uncontrolled, disposition of spoil material out of the permit area could become a serious hazard to water quality.

This amendment requires that storage of such material be made at areas designated and monitored by the regulatory authority. And additionally that such areas be stabilized and revegetated as required for other lands affected by the mining operation.

By thus requiring the States to integrate this aspect of reclamation into their regulatory program a potentially serious environmental problem will be avoided; and further, the States by designating as storage areas orphaned mines, especially those targeted for reclamation under title III of the act, can utilize this authority to address in some part the problem of abandoned lands reclamation.

Mr. METCALF. Mr. President, I believe that the bill as written and the amendments as agreed to take care of the matter of off-site storage of soil. But if the Senator from Tennessee desires clarification—and certainly his amendment would clarify the position taken—I certainly would agree that it should be clarified. His amendment would strengthen the bill insofar as the situation is concerned and would make clear exactly what the intent is.

Mr. BAKER. I thank the distinguished manager of the bill.

Mr. McCLURE. Mr. President, will the Senator from Tennessee yield for a question?

Mr. BAKER. I yield.

Mr. McCLURE. I note in the Senator's amendment on line 4 it states that the material shall be permanently stored. I wonder if there might be instances where their spoil material would not be permanently stored at the spoil storage area so that perhaps that word should be "may" instead of "shall."

Mr. BAKER. The point is well taken. I think the word "shall" as it appears subsequently on line 5 and line 6 is essential to the meaning.

Mr. McCLURE. I agree to that.

Mr. BAKER. But I think the suggestion of "may" to be substituted for the word "shall" in the fourth line, is a worthy suggestion. I so modify the amendment.

The PRESIDING OFFICER. The amendment is so modified.

Mr. BAKER. I thank the Senator.

The amendment as modified is as follows:

On page 94, in line 12, after the semicolon, insert the following: "*Provided*, That spoil material not required for the reconstruction of the approximate original contour on any site may be permanently stored at such spoil storage areas as the regulatory authortiy shall designate and for the purposes of this Act such areas shall be deemed in all respects to be a part of the lands affected by mining operations;".

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Tennessee, as modified.

The amendment was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HANSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I call up my amendment No. 607, as modified.

The PRESIDING OFFICER. The amendment will be stated.

Mr. BAKER. Mr. President, I ask unanimous consent that 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 67, after line 23 insert the following new subsection and renumber the following subsections accordingly;

"(c) Such regulations shall not be promulgated as final regulations until the Secretary has first obtained the written concurrence of the Administrator of the Environmental Protection Agency with regard to portions or parts thereof which affect air and water quality.".

On page 72, in line 23, after the word "and" insert the following: "obtained the written concurrence of the Administrator of the Environmental Protection Agency with regard to portions or parts of the State's proposed program which affect air and water quality," and".

Mr. BAKER. Mr. President, this is a modified amendment. It differs in two respects from the printed amendment at the desk. I understand it is acceptable to the manager of the bill and the distinguished minority floor manager of the bill. The amendment has two parts.

The PRESIDING OFFICER. Does the Senator ask unanimous consent that the amendments be considered en bloc? It has two points.

Mr. BAKER. Mr. President, it is not in two parts in a generic sense that would relate to the Parliamentarian's concern. It deals with the subject matter in two different ways. If that is necessary I will ask that that be done.

The PRESIDING OFFICER. There are two parts of the bill.

Mr. BAKER. I will not make a point of order or appeal the ruling of the Chair. I ask unanimous consent that the amendments be considered en bloc.

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

Mr. BAKER. Mr. President, this amendment is in two parts. The first part amends section 201—Grant of Authority: Promulgation of Federal Regulations—by inserting a new subsection requiring the written concurrence of the Administrator of the Environmental Protection Agency before the final promulgation of regulations. The second part amends section 204(b)(1) of the bill by requiring the written concurrence of EPA before a State program may be approved.

The bill as reported requires the Secretary of Interior to develop, propose, and promulgate regulations according to the criteria of the act within 6 months after enactment. There is no requirement that the Secretary consult with or obtain the comments of any other Federal agency. The Secretary is required to submit State programs when submitted for the review and comments of the Environmental Protection Agency as well as the Department of Agriculture and "other Federal agencies concerned with or having special expertise pertinent to the proposed State program."

The Environmental Protection Agency is the one Federal agency whose special mission is the protection of the environment. It is charged with the administrative responsibility in our air and water pollution control programs. Indeed, even without specific coordination in this act, the Environmental Protection Agency will find itself closely involved in control of environmental impacts resulting from surface mine drainage.

Since the primary thrust of S. 245 is to establish a regulatory program for the protection of the environment, it would seem logical that the Environmental Protection Agency should be vested with lead responsibility. However, in view of the impact of the bill upon mineral production, land use, and the energy situation, the Department of the Interior is also an appropriate choice. The problem is not one of choosing a lead agency, then, but one of establishing proper coordination between agencies both possessing deep and inherent interests in this program. This is what this amendment would do. And by doing so it would reduce fragmentation of Federal environmental protection programs and facilitate coordination between Federal agencies sharing responsibility for such programs.

I would add to that that when former Senator John Sherman Cooper, of Kentucky, and I introduced S. 3000, in a previous Congress, the Environmental Protection Administration was given authority, because we felt then, as I feel now, that the principles and hazards of coal mining should come within the purview of the Environmental Protection Act. However, in a spirit of conciliation, I fully agree that the bill should vest authority in the Department of the Interior.

Mr. BROCK. Mr. President, I am not in disagreement with the amendment. I think it is constructive. The only thing I would be concerned with is that the Administrator of the Environmental Protection Agency might for some reason delay this matter unconscionably. I wonder what time strictures there are to protect against that sort of situation from occurring.

Mr. BAKER. That is a good point that my distinguished junior colleague has mentioned. It is of deep concern to us that the Secretary of the Interior or the Administrator of EPA might take an unreasonably long time to pass on a State plan under this act or to promulgation regulations, as in the case of EPA, for water quality.

Both the Administrator of EPA and the Secretary of the Interior would have to operate within the same time constraints. That is, for the promulgation of rules and regulations under the Environmental Protection Act the time is limited. There is a statutory limitation on the time EPA can take for the promulgation of water quality standards, and the same would apply in this case.

Mr. BROCK. Under section 204(c) there would be a limitation on the Secretary of the Interior, which I believe is 4 months.

Mr. BAKER. That is correct.

Mr. BROCK. Does that mean 4 months plus the amount of time EPA has?

Mr. BAKER. No; it is my understanding that it is not additional time. The Secretary and EPA would have to act within the same time. The same time constraint would apply both to the Secretary and to the Administrator of EPA.

Mr. BROCK. The Senator does not think it is necessary that we spell out "Secretary or Administrator?"

Mr. BAKER. I am perfectly willing to modify my amendment in that respect, so as to make it clear. I would hope that this colloquy might constitute a legislative history that would make it clear that that is the understanding of the author of the amendment: that the same time constraint would apply to the Administrator of EPA as applies to the Secretary. The time would run concurrently, not consecutively.

Mr. BROCK. I have great confidence in the author of the amendment. I would support the amendment on that premise. I do not know that I would insist upon a modification of the amendment, but I do say that I am supporting the amendment with the qualification that it would not in any sense modify the time frame.

Mr. BAKER. Just as a matter of agreement, I modify my amendment by adding at the end thereof:

Within the time frame described in this section.

Mr. BROCK. I appreciate that.

The PRESIDING OFFICER. The amendment is so modified.

Mr. McCLURE. Mr. President, I am happy to have this colloquy with the Senator from Tennessee concerning the amendment. There was some doubt as to whether the time frame might apply because of the limitation expressed in section 204(b), which is expressly a limitation upon the Secretary of the Interior.

I think the additional language will make clear what was probably the case, as stated in the Senator's understanding. I wanted to take this time very briefly, however, to agree that, while I completely support the concept of the Administrator of EPA having jurisdiction over water and air quality standards of these plants, and he has it under existing law, and it should not be confused in this law, the Administrator of EPA is not always right, and we are extending a great many veto powers over many different agencies, giving this authority to the Environmental Protection Agency. Sometimes they make mistakes, and sometimes those mistakes cost this country very dearly. I have reference to what everyone in our country is becoming increasingly aware of.

I call attention to a column which appeared in Sunday's Washington Post with reference to the tussock moth infestation in the Northwest forests of this Nation, which threatened to defoliate large sections of our Northwest forests, both public and private and the Environmental Protection Agency turned down a request to use DDT. If we look

at the environmental impact statement and how the Agency made the decision, one would have to confess that they made a grievous error, and the result was the loss of hundreds of thousands of acres, and millions and millions of board feet timber have been lost to this country. There will be an opportunity to make a similar decision this coming year, and as we look forward to the possible Agency decision next year, we are hopeful that the Environmental Protection Agency will have a little better view of the damage that might result by failure to make a proper decision, as it failed this year to make a proper decision.

While I do not oppose the amendment—in fact, I support it—I do call attention to the fact that we have embarked on a dangerous precedent when we repose in one agency veto power over other agencies of government. While we are concerned about the environment, and properly so, if one agency, unchecked by the discretions of other agencies, has complete power and it is wrong, the Nation suffers, and the Nation is suffering now, and will be for the next 30 years, from the loss of production of 900,000 acres in the Northwest source, as a result of the action of one agency that was vested with tremendous authority.

I support the amendment, but I hope that somewhere along the line the Environmental Protection Agency will also recognize that some of the other agencies should be consulted because they have some expertise in their fields, and will therefore make reasonable recommendations.

Mr. BAKER. I thank the Senator for his remarks. I could not agree with him more. Unfortunately, the long list of errors and missteps and misjudgments in a bureaucratic regime and in Congress is not all confined to EPA.

One of the reasons we have proceeded in the surface mining of coal is that, I am convinced, serious mistakes were made 10 years ago on a fuels policy and the implementation of that policy by the Federal Government and by the Congress. I think one of the terrible pressures to surface mine coal results directly from that error. I think there are other errors we are all aware of.

That is exactly the reason why I introduced a bill requiring a CEQ study of the total impact of the bill 3 years after its use. It is important to understand we are not infallible. The EPA, the Secretary of the Interior, nobody is infallible, and we are dealing with uncertainties, and we are simply going to do the best we can.

I appreciate the remarks of the Senator.

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

Mr. BAKER. I am delighted to yield to the chairman of the Public Works Committee.

Mr. RANDOLPH. I thank the Senator from Tennessee. I regret I did not have the opportunity of listening to the discussion on this particular amendment as much as I should have liked to. I did catch the comment of the able Senator from Idaho (Mr. McCLURE) when he said, I believe, that EPA was not always right. Is that a correct quotation?

Mr. McCLURE. Yes.

Mr. RANDOLPH. I concur in what the Senator said. That is the reason why I have some concern that there be a participation, rather than a mandating, of what is done, because in some instances, a decision that comes from EPA may not be correct.

I call the attention of Senators to Senate Joint Resolution 158. That resolution has been offered in the Senate to set aside the regulations of the Environmental Protection Agency under section 206 of the Federal Water Pollution Control Act, as amended.

My colleague, the ranking minority member on the Public Works Committee, knows the reason why we are working on this legislation. Under the EPA's proposed regulations in connection with reimbursement funds to the States, 24 States would receive no funds out of the $1.9 billion that had been appropriated.

So I only want the RECORD to reflect that there are occasions when we cannot wholly rely upon EPA in carrying out the clear intent of the Congress. In the matter I have just mentioned, it is very clear that under the law EPA proposed an illegal allocation program.

Would my colleague from Tennessee like to comment? Then I will ask about the modification of the language.

Mr. BAKER. Mr. President, I shall be glad to comment. The Chairman has stated that one of our children, the EPA—and after all, EPA is our child—has not always been right. One of our other children, the Secretary of the Interior, has not always been right, either the present one or previous ones. It is difficult to predict just which one of our children is going to be right. So it seems prudent to vest both in EPA and the Secretary of the Interior authority to take a look at that problem and concur in certain aspects of it.

The distinguished Chairman of the Environmental Protection Agency, Dr. Train, and the distinguished Secretary of the Department of the Interior are both good and close friend of mine, and I have great respect for them, and the fact that this amendment would require both of them to consult is not to be considered in any way an act in derogation of their authority or my esteem for them.

I think, when the chairman has had the opportunity to examine the modifying language, he may find that what I have tried to create is a duality of responsibility, not an overlap, and that under those circumstances we have assigned to each agency, in one case to the Department of the Interior, and in the other case to the EPA, a traditional responsibility which we would be fully privileged to monitor as time goes on.

Mr. RANDOLPH. Mr. President, I appreciate the comments just made by the Senator from Tennessee. I try to follow these matters closely. We have other amendments we are working on and modifications of them. I did not realize that there had been a final agreement on modification of the language to give jurisdiction to EPA in the area which it should have expertise—air and water quality. Is that correct?

Mr. BAKER. The Senator is correct.

Mr. RANDOLPH. Mr. President, this is entirely satisfactory. I support the amendment.

Mr. BAKER. Mr. President, I thank the distinguished chairman of the committee.

Mr. President, I have nothing further.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Tennessee (putting the question).

The amendment was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Tennessee is recognized for the purpose of offering another amendment.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BAKER. 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. BAKER. Mr. President, I ask unanimous consent that I may yield to the Senator from Washington so that he may introduce and have considered an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment of the Senator from Washington will be in order at this time.

AMENDMENT NO. 613

Mr. JACKSON. Mr. President, I call up amendment No. 613.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk proceeded to state the amendment.

Mr. JACKSON. 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 96, line 21, insert the following:

(c)(1) Each State Program may and each Federal Program shall include procedures pursuant to which the regulatory authority many permit variances for the purposes set for in this subsection.

(2) Where an applicant meets the requirement of subsection (c) (4) and (5), a variance from the requirement to restore to approximate original contour set forth in subsection 213(b)(2) of this section may be granted for the surface mining of coal where the mining operation will remove an entire coal seam running through the upper fraction of a mountain, ridge, or hill (except as provided in subsection (c)(5)(A) hereof) by removing all of the overburden and creating

a level plateau or a gently rolling contour with no highwalls remaining, and capable of supporting postmining uses in accord with the requirements of this subsection.

(3) Where the regulatory authority determines that more usable land would be created and better reclamation would be achieved, a variance granted pursuant to this subsection may also include a variance, if necessary, to permit the transfer of overburden to designated spoil storage areas within the permit area: *Provided*, That such transfer does not disturb areas which, at the end of the surface mining and reclamation operation, would otherwise be undisturbed. Such spoil storage areas—

(A) may not be designated on any area where the base of the spoil storage area has an average slope of more than ten degrees;

(B) shall be prepared in accord with sound engineering and reclamation practices to insure stability;

(C) shall be deemed in all respects to be a part of the lands affected by surface mining operations; and

(D) shall be subject to all of the requirements of this Act.

(4) The regulatory authority may grant a variance for a surface mining operation of the nature described in subsections (c) (2) and (3) where—

(A) the applicant has established that the proposed use of the land as reclaimed pursuant to the variance will be a use—

(i) the need for which is greater than the need for that use which would be served by returning to the approximate original contour; and

(ii) which will serve an equivalent or higher socially beneficial purpose.

(B) the applicant presents specific plans for the proposed postmining land use and appropriate assurances that such use will be achieved as specified in the reclamation plan;

(C) the proposed use would be consistent with adjacent land uses, and existing State and local land use plans and programs;

(D) the regulatory authority provides the governing body of the unit of general-purpose government in which the land is located and any State or Federal agency which the regulatory agency, in its discretion, determines to have an interest in the proposed use, an opportunity of not more than sixty days to reveiw and comment on the proposed use;

(E) a public hearing is held in the locality of the proposed surface mining operation prior to the grant of any permit including a variance; and

(F) all other requirements of this Act will be met.

(5) In granting any variance pursuant to this subsection the regulatory authority shall require that—

(A) for a variance granted pursuant to subsection (c)(2), the toe of the coal seam and the overburden associated with it are retained in place as a barrier to slides and erosion;

(B) the reclaimed area is stable;

(C) the resulting plateau or rolling contour drains inward from the outslopes;

(D) no damage will be done to natural water-courses; and

(E) all other requirements of this Act will be met.

(6) The regulatory authority shall promulgate specific regulations to govern the granting of variances in accord with the provisions of this subsection 213(c).

Mr. JACKSON. Mr. President, my amendment No. 613 would provide variances under limited and specified circumstances, to the provisions to section 213(b) of S. 425. Subsequent to committee action on this bill, it came to our attention that there was some ambiguity in the bill with regard to the continuation of certain mining techniques. Of particular concern is the practice of mountain-top mining, which creates flat plateaus on mountain tops which were previously precipitiously steep. We are aware that in some instances responsible mining operators have demonstrated that mountain top mining operations can be carried out in a self-contained area with little damage to the surrounding environment, creating in the process, level or gently rolling land that can be used for a number of socially beneficial uses. In particular, we have spoken with such men as the head of Cannelton Coal Co., who conducts a large mountaintop operation in West Virginia. In an area where flat land is scarce, his surface mining and reclamation operation has produced land to be used for housing developments and a local school. It is of utmost importance that such responsible mining operations, if they meet all the requirements of this act, be allowed to continue. If there is any confusion as to whether S. 425 could be construed to prohibit such responsible mining, this amendment is designed to put such concerns to rest. It has never been the intent—direct or indirect—to prohibit responsible surface mining operations, and I do not believe that such is the result. As further evidence of this concern, this amendment specifically provides for the continuation of mountaintop mining within the context of this bill, under specified constraints. We do not want to shut down such operations as those of Cannelton Coal, particularly in the face of an impending energy crisis, and this amendment is designed to prevent such problems.

Mr. President, it was our judgment that this particular problem was covered within the contents of the bill as introduced. However, there has been this question raised. The purpose of this amendment is to clarify and to remove any possible doubt as to the intent of the committee in this regard.

I think that states basically the situation that we are confronted with in this particular instance.

Mr. President, I yield either to the Senator from West Virginia or the Senator from Wisconsin.

Mr. NELSON. Mr. President, I offer an amendment to amendment No. 613. This amendment would strike the language starting on page 2, line 8 through line 24, and lines 1 and 2 on page 3 of the amendment.

Mr. President, I would oppose amendment No. 613, unless certain provisions are deleted.

This amendment has been the subject of lengthy discussions in recent days, involving all points of view on the strip mining issue, from the environmental side to the coal industry side. These discussions have been productive in delineating the points of difference and demonstrating the urgent environmental need and technical and economic justification for strong reclamation standards.

However, agreement was not reached between the opposing sides on language for any amendment. Furthermore, the amendment includes a provision which authorizes a variance for the transfer of overburden to designated spoil storage areas if an exception is granted to a mountaintop mine from the requirement of restoration to approximate original contour.

Certainly the provisions of the amendment are tightly drawn, designed to grant exceptions only where a mountaintop mine is creating flat land which has a potential socially beneficial use after mining and only where firm plans for that use are included in the proposed reclamation plan and reviewed in advance.

However, language in the committee report and the bill itself strongly indicates that provisions of the amendment are duplicative of those already in the bill.

For instance, on page 64, the committee report states that:

> It must be understood a mine operator need not necessarily use the downslope for spoil disposition if, for example, the permit area includes flat land which may be used, if approved by the regulatory authority, as a spoil pit for the spoil from the initial cut.

When a mining operation is being conducted on steep slopes, this bill specifically prohibits the dumping of spoil on the natural downslope below the bench or mining cut. However, as is explained in the committee report language, this does not preclude the disposal of some spoil in another carefully selected area if approved by the regulatory agency in advance as a part of the reclamation plan.

The practice of dumping spoil downslope from a mining cut is one of the most environmentally devastating in strip mining. As described in a recent strip mining report by the President's Council on Environmental Quality:

> The practice increases markedly the potential for landslides and slumping, erosion, highwall collapse or sloughing, chemical pollution, flooding, ground cover and wildlife pattern disruption and generally precludes future uses of mined areas.

It is vitally important that the provision in the Senate bill as now written prohibiting the practice of downslope spoil dumping be retained at its full strength. My concern with this amendment is that in duplicating the provision in the bill which allows for disposal of some spoil on land elsewhere than the downslope in some carefully prescribed cases where it can be stabilized and revegetated, it may invite misinterpretation and encourage some strip mining operators to seek a legislative or administrative variance from the prohibition against dumping spoil on the downslope itself.

Furthermore, it is not clear whether the bill also allows an exception to restoration to approximate original contour where flatland is being created which might provide socially beneficial uses later under environmentally acceptable conditions, which is sometimes the case

in mountaintop mining. The committee report indicates an ambiguity on this point.

As indicated in the committee report, the intent of the committee was not to preclude such reclamation options as reservoirs and usable flatland which may be created in mountaintop mining. And there is no doubt that in certain mountainous areas of Appalachia, plateaus created by strip mining on formerly peaked mountaintops may in some instances provide usable flatland away from the flood plain.

However, if this is already permitted by the bill, it again would be undesirable to provide redundant language in any amendment.

In sum, Mr. President, I oppose the amendment as it is now written because although it contains exceptions which are very tightly drawn, these exceptions in one instance are clearly duplicative of the bill and in another instance, may well be duplicative. To adopt such an amendment will only invite misunderstanding and possibly industry efforts to relax or avoid the reasonable reclamation requirements which this legislation seeks to establish.

Mr. President, I think that language is redundant. And if its effect would be to do more than the author sets out as his interpretation of the bill, I would oppose it in any event.

The Senate, of course, is well aware that on page 64 of the committee report it is stated that:

> It must be understood a mine operator need not necessarily use the downslope for spoil disposition if, for example, the permit area includes flat land which may be used, if approved by the regulatory authority, as a spoil pit for the spoil from the initial cut.

I in general would agree and I think everyone recognizes that there are instances where there is mining at the top of a mountain and if the high wall is eliminated and we end up with a flat area on the top of a mountain and if there is a socially valuable use to be put to that land, whether it is pasture or housing or a recreation area, and if the mining operator has given notice and plans in advance that use is his intention and it is approved, then no one objects to using the top of the mountain for that specific purpose.

I would hope that no one would interpret this amendment to mean that there was a wholesale license being authorized here for the clearing of the tops of all mountains for mining operations and dumping the excess spoils at some other point in the valley or elsewhere.

Mr. JACKSON. Mr. President, let me say, as I indicated earlier, that the judgment of the author of this bill was that very frankly he thought this problem was covered in the legislation that has been reported out. I must say that I do not disagree with the interpretation of the Senator from Wisconsin.

It seems to me that on this question of the handling of spoil storage, which is referred to in the report—by the way, the report covers the spoil storage from the initial cut, as I recall the language of the report—the report and the bill together should cover the situation.

The problem that arises is that there has been, in the judgment of the people involved in this type of mining operation, some question as to whether or not they could operate within the language. I felt they could. But this is the purpose of the amendment: to clarify. I must say that the Baker amendment which has just been adopted takes care of the spoil from the other cuts. The report covers the spoil storage from the initial cut; so I think the combination of the two should clarify the matter. I personally would be willing to modify the amendment in accordance with the Nelson amendment.

I ask unanimous consent that my amendment be modified in accordance with the amendment offered by the Senator from Wisconsin.

The PRESIDING OFFICER. Without objection, the Senator's amendment will be so modified.

Mr. JACKSON's amendment (No. 613), as modified, is as follows:

On page 96, line 21, insert the following:

(c)(1) Each State Program may and each Federal Program shall include procedures pursuant to which the regulatory authority may permit variances for the purposes set forth in this subsection.

(2) Where an applicant meets the requirements of subsection (c) (4) and (5), a variance from the requirement to restore to approximate original contour set forth in subsection 213(b)(2) of this section may be granted for the surface mining of coal where the mining operation will remove an entire coal seam running through the upper fraction of a mountain, ridge, or hill (except as provided in subsection (c)(5)(A) hereof) by removing all of the overburden and creating a level plateau or a gently rolling contour with no highwalls remaining, and capable of supporting postmining uses in accord with the requirements of this subsection.

(3) The regulatory authority may grant a variance for a surface mining operation of the nature described in subsections (c) (2) and (3) where—

(A) the applicant has established that the proposed use of the land as reclaimed pursuant to the variance will be a use—

(i) the need for which is greater than the need for that use which would be served by returning to the approximate original contour; and

(ii) which will serve an equivalent or higher socially beneficial purpose.

(B) the applicant presents specific plans for the proposed postmining land use and appropriate assurances that such use will be achieved as specified in the reclamation plan;

(C) the proposed use would be consistent with adjacent land uses, and existing State and local land use plans and programs;

(D) the regulatory authority provides the governing body of the unit of general-purpose government in which the land is located and any State or Federal agency which the regulatory agency, in its discretion, determines to have an interest in the proposed use, an opportunity of not more than sixty days to review and comment on the proposed use;

(E) a public hearing is held in the locality of the proposed surface mining operation prior to the grant of any permit including a variance; and

(F) all other requirements of this Act will be met.

(4) In granting any variance pursuant to this subsection the regulatory authority shall require that—

(A) for a variance granted pursuant to subsection (c)(2), the toe of the coal seam and the overburden associated with it are retained in place as a barrier to slides and erosion;

(B) the reclaimed area is stable;

(C) the resulting plateau or rolling contour drains inward from the outslopes;

(D) no damage will be done to natural watercourses; and

(E) all other requirements of this Act will be met.

(5) The regulatory authority shall promulgate specific regulations to govern the granting of variances in accord with the provisions of this subsection 213(c).

Mr. DOMENICI. Mr. President, will the Senator from Washington yield for a question?

Mr. JACKSON. I yield.

Mr. DOMENICI. First, I want to say to the distinguished Senator, who had a great deal to do with the drafting of the bill, that even though I have some concern, I commend the Senator and the committee for bringing us this basically excellent bill.

My concern is a follows: As the Senator from Washington knows, in the State of New Mexico and the Four Corners area, surface mined coal is not mined at the mountain tops, but merely up in the hills, rolling, and otherwise.

I am concerned about the text of section 213 as it might apply to the State of New Mexico. The State of New Mexico is a rather sleepy kind of State, but in this area it is away out in front.

Mr. ROBERT C. BYRD. Mr. President, may we have order? I would like to hear what the Senator is saying.

The PRESIDING OFFICER. The Senate will be in order.

Mr. DOMENICI. I thank the distinguished Senator from West Virginia.

In this area, I might say to the distinguished Senator from Washington, we are away out in front. In fact, we have what has been heralded nationally as a model surface mining act. The way it was created was through a kind of battle between the mining industry and the environmentalists. In this case, they said, "Let us get together and get lawyers," and for 6 months they both had lawyers drawing a bill.

The bill is beautiful in its simplicity and lack of rigidity. It provides for a mandatory commission of seven members appointed by the Governor, with their staff.

Looking at the Four Corners area, at the private land, if someone wanted to mine it, what they would have to do is present to this commission a detailed plan to how they are going about the surface mining, how they are going to reclaim the land, and what its ultimate use will be, as stripped and reclaimed.

My concern at this point is that that law is excellent in its flexibility, because if a plan is submitted that says "from this barren tract of 4 miles square, deserted, with rocks and 10-foot high hills,

we are going to produce a beautiful new redevelopment, with a lake and leveled off so that it can really be used by the people of the State." I want to make sure that this bill, without any amendment, would be flexible enough to let New Mexico reclaim that land in a way that would make it more attractive and more beneficial by using the flexibility of its seven-member commission to pass upon uses that are better, but may not return it to exactly its original contour.

I hope the Senator can answer affirmatively that indeed they will be able to do that, that it will be left up to them, and that this law is flexible enough to permit that. If not, I think we are basically doing a great deal of harm by trying to impose, from up here, this concept of "approximate original contour."

I ask the Senator if he can answer that, or discuss it with me.

Mr. JACKSON. Mr. President, it is pretty hard to respond accurately to the special problem that the Senator from New Mexico has raised. The Four Corners situation is, of course, a very large operation in strip mining of coal.

The problem is, as the Senator has stated, what is the approximate restoration of the land to the original contour?

Most of that land was flat, or a large part of it. It does not mean that it has to be restored to that exact original contour. There is some flexibility in the statute. The definition of "approximate original contour," as I understand it, as contained in the bill, has sufficient flexibility to retain, for example, lakes, and permit some variations in the contour. It does not have to be precise.

The end result, however, must be a restoration, I would say, with some naturalness, to the state it was in before. But it does not have to be precise, especially if it relates to a better land use plan. I mean it is conceivable that you could have such rigidity in a contour requirement that you would be shutoff by the insistence that it go back to its precise original form. That is not the intent of the authors of the pending legislation.

What we are trying to do, consistent with what we did in passing the National Land Use Act, which is now pending over in the House of Representatives, is to do something about improving the environment as it relates to the land itself in connection with strip mining, which, heretofore, has not been properly managed and directed by the States.

That is what is behind the pending legislation.

Mr. DOMENICI. Then I take it that the distinguished Senator would say that under the requirements of section 213(b), it is the concern of the Senator from Washington, one of the principal authors of the bill, that those criteria be flexibly applied in the future also, so that such considerations as the ones I have just brought to his attention will be looked at in terms of the minimum requirements under 213(b), with the idea of the regulations being flexible rather than rigid, with the overall idea in mind of not destroying this good Earth that we live on for the purpose of getting coal from under it.

Mr. JACKSON. Well, we do not want to make it so flexible that we have a loophole as big as a truck. We want it flexible enough to achieve the overriding objective, which is to improve the quality of the land. That is what we are really talking about in connection with the pending legislation.

The States, of course, can go beyond the standards that we have set. We have not preempted—and I emphasize this—the rights of the States. There are those who would argue that we ought to have a uniform national policy, and in that connection, we could preempt the rights of States and establish our own standards, which the States could not touch.

We have not done that. We have opted for that option remaining with the States, so that they can make adjustments beyond the minimum threshold provided in this bill.

Mr. DOMENICI. I understand the intention, and I understand the logic that says the States may be more stringent in their application of regulations or standards to get the quality, but I am still concerned as to when a State is more stringent.

For instance, in my example to the distinguished Senator from Washington, if in fact we are changing the contour, because we are cutting down a hill and leveling it and putting in a lake or whether one is more or less stringent than the other.

Mr. JACKSON. I cited a lake as an example. This is something that would improve the quality of the land in that area. I do not meaning a dumping ground where there is a water hole. I am talking about a quality lake, an area where there was no lake before.

Mr. McCLURE. Mr. President, the Senator from New Mexico (Mr. DOMENICI) has raised one of the basic difficulties which we discussed at some length in committee, but I do not believe we really resolved, and that is the question of whether the restoration to original contour is flexible enough to allow a change in use to some other use thought to be appropriate prior to the time the mining was started and approved in the mining reclamation plan. The pending amendment, No. 613, does address itself to that kind of flexibility where it is mountain top removal and where the coal mine processing is the removal of a mountain top. The amendment does, on the third page, give discretion for an approved reclamation plan prior to the beginning of the operation. But as I read this amendment, it does not apply to the general proposition that the Senator from New Mexico (Mr. DOMENICI) has raised, with respect to other situations other than mountain top removal, to which this amendment addresses itself.

I have mentioned a possible solution and it is only one of several. My amendment No. 614, which has not yet been called up but which is pending, specifically, in the last line, refers to the possibility of reclamation for public recreation, for impoundments of water which would in this instance allow a general exception to the restoration to original contour to allow the creation of a lake, for instance, which I think is a desirable purpose—if, indeed, approved by the regulatory agency prior to the time the mining started. But I do not believe the bill as written, nor the pending amendment, will solve the problem of the Senator from New Mexico. If we want to solve it, we must go to further amendments in addition to the one which the Senator from Washington (Mr. JACKSON) has proposed.

Mr. DOMENICI. Mr. President, on the other hand, if we proceed to put in every exception, to allow something like a lake, we will make it more rigid than it is now because, indeed, what does approximate contour mean? It might mean that we can vary the grade and that they are not concerned with what we use it for, or if we, on the other hand, use it for a lake, then every time we get around to the kind of use that does not involve a change in contour, there will be other contentions raised.

I am rather satisfied with the explanation. We will not solve it our first time through, but if the State solves it, then we might find, indeed, that we need some amended legislation to permit diversification.

I will support the amendment in terms of the lake, I say to the Senator from Idaho, but I do not think we can continue to try to come up with myriad substitute uses and list them as exceptions to this provision, because we would have to take 2 or 3 days to find out what everyone might wish.

However, I thank the Senator from Idaho for his concern and his analysis of it, and I also thank the Senator from Washington (Mr. JACKSON) for his responses to my questions.

Mr. JACKSON. Mr. President, might I say that I should have mentioned, in defining the original contour, the definition in the bill does allow a plus or minus of 5 degrees, which may or may not, in a given situation, solve the problem. But I wanted to point out the flexibility there.

Mr. McCLURE. Mr. President, I want to caution the Senate that I think the flexibility for the State to adopt its own plan must also be conditioned by the fact that we have some rigid criteria in the bill. So while the State can adopt a regulatory plan, that is no answer to the question posed by the Senator from New Mexico. This criteria can wipe the ground right out of the ball park, so far as having the flexibility the Senator from New Mexico has raised in his questions is concerned.

Perhaps he understood me to state that my amendment was with relation only to lakes. Not at all. My amendment No. 614 is an amendment which desires to give the very flexibility which the Senator from New Mexico asks and which I do not believe is in the bill now. It should be there. I support fully what he is saying and I would give the State

the opportunity to do that, but I am not at all certain it is in the bill now. In fact, I am certain it is not in there now, except within the parameters of the rather rigid standards set forth in this legislation.

Mr. DOMENICI. I thank the distinguished Senator from Idaho very much.

Mr. NELSON. Mr. President, I wonder whether the Senator from Idaho will yield for a question?

Mr. McCLURE. I yield.

Mr. NELSON. Did the Senator give the number of his amendment?

Mr. McCLURE. Amendment No. 614 I will say to the Senator from Wisconsin.

Mr. NELSON. I thank the Senator from Idaho very much.

The PRESIDING OFFICER (Mr. HELMS). The question is on agreeing to the amendment of the Senator from Washington (Mr. JACKSON).

Mr. JACKSON. 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. RANDOLPH. 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. RANDOLPH. Mr. President, I should like to address some questions to the able chairman of the Committee on Interior and Insular Affairs, and then I would also like to ask that I have the opportunity, in colloquy, to talk with the able Senator from Wisconsin with reference to the amendment as modified.

Mr. President, first of all, I want to address my remarks to the problems confronting a successful surface mine operation in West Virginia, the Cannelton Coal Co. The head of that company, Mr. Paul Morton, at my request, and in agreement with certain others intensely concerned with this problem, came to Washington on short notice, to show exactly what has happened in his operation. He conducts, in my judgment and that of many others, a model surface mining and reclamation program. Nevertheless, I am sure that there were those who felt, before he came, that he had absolutely no case. I believe the Senator from Wisconsin (Mr. NELSON) would agree that the report he received from his staff members, indicates they were in agreement that this operator had done something they did not understand could exist. I believe that my comment here is factual.

Mr. President, we are talking here today about replacement of land area from the standpoint of returning it not only to its original state if that is desirable, but also returning that mined surface to other uses. There have been mentioned lakes, for example. We have in the State of Virginia instances of large ponds, bodies of water, which have been created where there was surface mining. Had we been held to returning the land to its original contour, the lakes could not have been constructed. This is only one use but it points to the need for not just a little leverage, I say to the Senator from Washington—and especially to the Senator from Wisconsin (Mr. NELSON). We need a flexibility that will take care of a case such as that of the Cannelton Coal Co. As I stated, the president of that company came here almost at the last moment, while weeks and weeks before information on his operations had been presented in Washington, D.C., but made no impression. Then, at the last moment, we asked the opportunity to have him come. Those who followed closely his explanations and looked at the charts and saw the pictures realized that what many people thought could not be done was done. Substantial amounts of land for development had been created through mountain top surface mining. It was done in a manner which did not harm, but rather enhanced the environment.

That is why today I must be very careful with respect to agreeing to an amendment that has been modified, without our having the legislative intent clearly understood.

Mr. President, I have before me a copy of the Dominion-Post of Friday morning, October 5, a newspaper published in Morgantown, W. Va. The caption on the article to which I refer reads: "Once Controversial Land Now Reclaimed."

What is going to be done on this reclaimed land? It is going to become a homesite.

Senator ROBERT C. BYRD and I know West Virginia. We know that ofttimes surface mining can allow for the location of a school, an airport, or for housing—not one, but many homesites.

I speak now for a State that is not the most substantial in its production of surface mined coal, but is still very important in the total production of this coal. I reiterate also that 51 percent of all the coal mined in the United States comes from surface mines, and we must not forget this.

In the State of West Virginia we have a need, I say to the Senator from Washington, for level land. By surface mining, we sometimes are able to create usable land that will be out of the flood plain. We are a State with flash floods, and often tremendous damage is done. It is not advisable nor realistic to return the land exactly as it was when the surface mining took place.

I read from the Dominion-Post article:

The site of West Virginia's most controversial strip mining operations now is a model of successful reclamation. So much so, that the 42-acre plot on Laurel Run in Preston County may become the "home place" of a West Virginia University staff member and his wife.

I read further:

"We are very much interested in the land because it is beautiful," one of the prospective buyers said. "We think mining did not detract from this land but beautified it instead."

The article notes also that:

A handful of newsmen who toured the site yesterday expressed amazement over what they saw.

I said here yesterday, and I repeat today, that I do not condone the desecration of the land. Certainly, the practices of yesteryear were bad in many, many parts of the United States. But what we are attempting to do here—or must attempt to do—is to be reasonable in the type of legislation that comes from this body on the matter of surface mining.

It is my concern—and I hope it is shared by others—that when attempting to cope with this very real problem, we realize that the legislative history made here this afternoon will clearly indicate that what we are attempting to do is to provide the flexibility which is absolutely necessary if surface mine operations are to continue.

Mr. President, I ask unanimous consent to have printed in the RECORD the article to which I have referred.

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

STRIP MINE SITE MAY BE HOMESITE

(By Mickey Furfari)

The site of West Virginia's most controversial strip mining operation now is a model of successful reclamation.

So much so, the 42-acre plot on Laurel Run in Preston County soon may become the "home place" of a West Virginia University staff member and his wife.

The prospective buyers, who asked not to be identified, are trying to sell a house they own in Virginia for capital with which to purchase the land.

They began negotiations with owner Ward Thomas of Bruceton even before operator H. L. Kennedy completed stripping nearly 95,000 tons of "medium sulfur" coal from the Upper Freeport vein last March.

"We're very much interested in the land because it's beautiful," one of the prospective buyers said last night. "Strip mining didn't detract from this land but beautified it instead."

A handful of newsmen who toured the site yesterday expressed amazement over what they saw.

Greening grass and browning oats cover the fairly level contour and trim slopes, putting the nearby Cooper's Rock State Forest trees and adjoining thickets to shame.

There still is a major silt pond in the valley below, left there at the owner's request for his cattle. Fish and other life exist therein. The phosphate content averages about seven per cent.

No highwalls were left behind by stripping. In fact, the only one visible from the site is a highwall caused by cutting right-of-way for Appalachian Highway Corridor "E."

The strip site may be seen from Corridor "E," but trees block its view from Rt. 73.

A 30-foot knob was moved during the mining process to fill in the area and prevent exposed highwall. The terrain also was sloped to taper down into the woods on all sides.

Indeed, it offers a beautiful view of the Corridor "E" highway, which should be ready for opening to traffic before the year ends.

Small trees, numerous surface boulders, brush, thickets and weeds were cleared from the 29½ acres disturbed by the stripping. Just two boulders, near the edge of the forest, and scattered rock remnants are visible now.

Virtually all of the oats should reseed, with the grass popping up again next spring.

The small bridge, over which the coal was trucked for barging to Ohio power plants, has been reinforced with steel and the access road leading to the site is better than before.

The seams of coal, five to six feet thick, were found at a depth of 35–50 feet. But the "fill" is 65 feet in some spots.

During the stripping process, under the watchful eyes of federal and state officials, Kennedy's crew stored the topsoil, saved the good earth, kept moving land back and filling as the work progressed.

Heavy material was left at the bottom to form a solid foundation, with the better soil and then the topsoil above. Heavy machinery, some weighing 64 tons, packed the fill continuously.

"There will be very, very little settlement," predicted William M. Gindlesberger, the project superintendent who has been living in a mobile home nearby.

The prospective buyers have visited the land during reclamation and admit "we can't find anything at all bad about it." They say they may even remodel an old house, situated on part of the undisturbed land, and live in it.

"We have four married children," the University staff member's wife explained, "and they are talking about maybe eventually building summer homes up there."

A federal inspector who showed up briefly during yesterday's tour jokingly asked Kennedy, "Where did that big hole go?"

One hundred bushels of oats recently was harvested from the earliest seeding, but most will fall and provide ground cover. Law requires two growing seasons before reclaimed land may be inhabited.

Gindlesberger said he has seen "deer in flocks of 10 and 20" romping over the reclaimed terrain and feeding on the new plant life. Grouse also frequent the area along with other wildlife.

Kennedy, who spends half the year in Pittsburgh and the other half at Deep Creek Park, Md., recalled yesterday that he received a permit for stripping on Feb. 11, 1971.

The Department of Natural Resources and other authorities had thoroughly inspected his plans and given their approval.

Before work could be started, however, University professors, students and others organized an abolition movement and protested the project. Some even marched to the site to storm their disapproval.

"Then we heard on the radio one day that Governor Moore had ordered that the permit be revoked," Kennedy said.

"All of a sudden it was like a church revival. They came four and six abreast. Why, the State Police even had to come out here and direct traffic it was so thick."

Kennedy eventually appealed to the DNR's Board of Review and six days of hearings followed in Kingwood. Finally, on Aug 14, 1971, the board found that the operation would not damage Laurel Run or Cooper's Rock and reinstated the permit.

"Much, much time was lost," Kennedy observed. "And it cost us money. The price of coal dropped during all the hassle, and we didn't come out as well as we might have."

Kennedy said he ran a "good, tight operation" in order not to lose money on the venture.

Now that it's over and reclamation has been carried out so beautifully, Kennedy admitted that "it's most satisfying, naturally." He said he hoped all those who opposed the project would take time to see what can be done.

Kennedy operated three strip mining jobs in Harrison County from 1945–50 and reclaimed the land successfully, he recalled.

"We did leave highwalls, but back-filled, top-soiled and replanted just as we have done here," he said. "The contour here is just about the same as it was when we came in."

He contended that surface mining can and should be done successfully, with beneficial reclamation, "rather than leave the coal where it'll erode away."

Mr. RANDOLPH. Mr. President, this is the type of area, I say to the Senator from Washington and the Senator from Wisconsin, about which I make a case here today. It is a case that is factual in nature. It shows that the original contour in some cases does not result in the best use of the land.

I appreciate the attitude of the Senator from Washington, the chairman of the committee. He has tried very diligently to do what he could in an attempt to work out a reasonable modification of this bill.

The requirement to return the surface mined land to the approximate original contour is a very stringent provision in the bill. We must be very careful, as I have indicated. I and others have attempted to cooperate in working out an amendment as we make this legislative history.

Even though the Senator from Washington has spoken and the Senator from Wisconsin (Mr. NELSON) has spoken, I would like a further discussion as to the modification of the amendment. Does it allow the creation of level land by surface mining and reclamation. This will have much to do with whether I would support the amendment as modified.

At this point, I should note that in addition to our conferences we have had our staff members working together constantly for days. In this regard, I express appreciation to James Harris and Philip McGance of my staff and Philip Cummings of the Public Works Committee staff.

Mr. JACKSON. The answer is "Yes." May I just preface that "yes" by this comment.

For the last 3 days, we have been working on the Cannelton problem. I think that it is the best way to put it. There were those who said there were some questions as to the Cannelton Co., which has been a model, as the Senator has explained, as an operator in handling both a deep mine operation and a surface mine operation.

As I understand the operation, it is one in which they blend the two—that is, the strip mine coal with the deep mine coal. I think this company is a fine example for other operators to follow in connection with their operation over a period of time.

Senator NELSON's staff, my committee staff, and the Senator from West Virginia's staff met and discussed the details of this particular operation in West Virginia. The general consensus of all those who reviewed these matters was that it was a fine operation from the standpoint of what we are trying to do in this bill—that is, to have strip mining that will be environmentally acceptable.

My amendment was drafted for the purpose of trying to make clear that the Cannelton operation was not the kind of operation that was to be prohibited in any manner, shape, or form by this bill. It was the judgment of most of us, I believe, that the amendment was not necessary. However, because of questions relating to possible ambiguities that could be raised later, and realizing that this is an operation involving, I believe, some 600 men——

Mr. RANDOLPH. I ask at this point that we remember that in the deep mining operations of that company, approximately 500 miners are at work, and in the surface mining operation, about 80 miners are employed. It is important for us to realize that the men who work in the deep mines keep their jobs, in large degree, because surface mining is going on at the same time.

Mr. JACKSON. The two are inseparable as an operation, as I understand it, basically because the operation is successful in that it is unique in blending.

Mr. RANDOLPH. This company could not continue deep mining operations were it not for the surface mining.

Mr. JACKSON. Yes. And this is a rather unique economic story that this operation presents. We started from the point that the Cannelton type operation is a model from the standpoint that everything we have been able to ascertain about the operation was covered properly within the bill; that they would not be adversely affected by the bill; but in view of the fact that questions have been raised the sole purpose of my amendment was to clarify any doubt that might have existed with reference to this particular operation.

It is my judgment as author of the amendment, and with the Nelson modification—and may I add with the Baker amendment previously adopted by the Senate, No. 610, dealing with off-site spoils—there is no longer any possible ambiguity with reference to this operation and those situated similarly to the Cannelton Co.

Mr. RANDOLPH. I would like to inquire further. I would like to review the language that the Senator has agreed to as he now asks us for support for the modified amendment.

Mr. JACKSON. The language that was stricken?

Mr. RANDOLPH. Yes. I would like to have a clear understanding as to the language that is being stricken from the amendment offered by the Senator from Washington.

Mr. JACKSON. Yes. It starts on page 2, line 8, and runs to the bottom of page 2 and lines 1 and 2 on page 3; that is the Nelson amendment to the Jackson amendment. That language was stricken on the grounds that it did not change the purpose of my amendment; that the language in my amendment was redundant and not necessary to achieve the objective of the original Jackson amendment.

That is the legislative history and the deletion of section (3) that I have just referred to, the language stricken, does not change the overall intent, objective, purpose of my amendment, which was that people who were operating like the Cannelton Co. to do a good, economic, and environmental job should not be put out of business.

As I said at the outset, the amendment really had its genesis in connection with

this particular model of an operation, in connection with their mining, both surface and subsurface, in the State of West Virginia.

Mr. RANDOLPH. I appreciate the Senator's response.

Mr. JACKSON. So there is absolutely no change. This was agreed to on the ground that it was redundant; that it might cause confusion and misunderstanding. It was on that basis that I agreed to the amendment as a perfecting amendment to my amendment.

Mr. RANDOLPH. I would like to inquire of the able Senator, whether he feels there could be mountain top mining where a portion of the coal seam would not be mined because of environmental and economic concerns and the possibility of a better type reclamation? I would like to have his response on that question.

Mr. JACKSON. The amendment states the entire coal seam except the toe, so to speak. If, however, the regulatory authority did not want them to take something out, I do not see anything in the bill or in the amendment that would prohibit that action on the part of the State regulatory agency.

Mr. RANDOLPH. As we review the present language, the phrase "entire coal seam," I inquire further whether the Senator would comment on whether he feels mountain top mining can exist where the entire coal seam would not be mined? I ask this question because the Senator has mentioned as I have "the entire coal seam."

Mr. JACKSON. I could think that the State regulatory authority could handle that. It has to be handled very carefully because otherwise a Pandora's box could be opened on contour mining.

Mr. RANDOLPH. I do not desire this.

Mr. JACKSON. I know the Senator does not. I am trying to be explanatory.

Mr. RANDOLPH. What the Senator has said is sufficient when he speaks of the handling by the State regulatory agency in reference to this matter.

Mr. President, I do not know whether the Senator from Wisconsin (Mr. NELSON) was here. I do not believe he was present when I asked certain questions. It is my desire at this time to ask if he has the same feeling about the colloquy that I had with the Senator from Washington in reference to the responses. I want to be certain myself what is in the amendment as amended.

Mr. NELSON. Mr. President, I listened to the colloquy between the Senator and the distinguished Senator from Washington. I agree with responses made to the questions raised by the Senator. I also agree that in my judgment this language in this amendment is not necessary, as I interpret the purpose to which this specific amendment addresses. But I think it is true that it gives some more specific clarification of the issues raised by the Senator from West Virginia and in that respect I have no objection to the amendment.

Mr. RANDOLPH. I appreciate the response of the Senator from Wisconsin. It does help to explain and make a legislative history here in the Senate on this amendment as modified.

I also wish to commend the Senator from Tennessee (Mr. BAKER) with regard to the discussion of spoil material in the reconstruction of the original contour—material that may—is that correct, may—permanently be stored at such storage areas, if designated by the regulatory authority. Is that correct?

Mr. BAKER. Mr. President, if the Senator will yield, I assume the chairman of the committee is talking about amendment No. 610.

Mr. RANDOLPH. That is correct.

Mr. BAKER. Line 4, the word "shall" was changed to "may" in final form.

Mr. RANDOLPH. I want to stress the word "may."

This is a need for flexibility that the Senator recognizes.

Mr. BAKER. Yes, but I was going to point out that while that does, in fact, create an option, so to speak, the word "shall" is more mandatory in line 5 and line 6 and it remains "shall." They are not changed.

Does that answer the Senator's question?

Mr. RANDOLPH. Yes. I just wanted to be certain with respect to the understanding of the three Senators involved in this matter. This is a very vital bill. It is one in which we must be realistic, realizing also that the environmental concerns are very important and must be considered.

We fully recognize these concerns. But we do want to have a legislative history which indicates that there is flexibility, and the mechanism for such flexibility, when there is a clearly defined case where the coal can be mined and where proper reclamation does not require placing the land as it once was. I am thinking of mountaintop mining. We must have a certain amount of discretion. That is the reason why I am asking these questions. I refer again to the Cannelton operation. I believe, however, that this is not the only area in which flexibility would be desirable. I have stated this before.

I say to Senators who are on the floor that there are instances in which some variations from the portion of the bill dealing with down slope disposal would also be helpful in creating usable level land. I know that my able and diligent colleague from West Virginia (Mr. ROBERT C. BYRD), who is very understanding about this situation in West Virginia, will agree.

One final question. I would ask the Senator from Washington, if I may, this question and then I shall take my seat. Is it the Senator's understanding that spoil can be placed on the downslope below the mining cut if—and I want this clearly understood—it can be shown that it can improve the reclamation process?

Mr. JACKSON. With the Baker amendment, as I understand the Baker amendment, if it is a designated spoil storage area, the answer is yes.

Mr. RANDOLPH. That is certainly agreeable.

Mr. BAKER. If the Senator will yield just for a moment, the Baker amendment that the Senator is referring to is amendment No. 610. That amendment, as modified, reads:

Provided, that spoil material not required for the reconstruction of the approximate original contour on any site may be permanently stored at such spoil storage areas as the regulatory authority shall designate and for the purposes of this Act such areas shall be deemed in all respects to be a part of the lands affected . . .

And so forth.

To be perfectly frank, I do not contemplate, and I do not believe the amendment contemplates, that the designated spoil storage area can be downslope from contour mining, but, rather, envisages a storage area that can be at the head of a hollow. If we are going to start designating storage over the lip of the cut, for example, we may as well quit the whole bill.

Mr. RANDOLPH. I did not have that in mind. I am referring to what we call valley fill. That is the fill we are discussing. Am I correct?

Mr. BAKER. Let me give the Senator from West Virginia an example of a spoil storage area as I understand it and as I mean it to be understood in amendment No. 610. The Tennessee Valley Authority commissioned a demonstration project in Campbell County, Tenn., known as the Long Pit Operation, which is an experimental type operation, similar to but not identical to the two-box cut. The purposes of the demonstration are to derive the costs and to prove the practicability of mining coal and the restoration of the approximate original contour without any overburden over the side. To do that, it was discovered that they had a spoil expansion problem that absolutely precluded putting all the dirt back. So they have chosen certain areas, not over the side of a slope, but at the head of a hollow or at a point on the mountain where they compact and revegetate it. But it does not contemplate simply going systematically around the side of the mountain and disposing of spoil over the lip of the cut. If there is any doubt in anyone's mind—I took this up with the managers of the bill, because their words will constitute the legislative history—if there is any doubt in anyone's mind that this amendment does not contemplate off-site spoilage over the lip of the cut, I will amend my amendment, because I do not contemplate that.

Mr. RANDOLPH. Mr. President, that is understood by the Senator from West Virginia.

Mr. BAKER. Do the managers of the bill so understand it?

Mr. RANDOLPH. I wanted to tell the Senator that it is so understood by me. I am sure the managers of the bill realize that this goes to the very heart of the problem. I am very familiar with the situation at the head of the hollow. The junior Senator from West Virginia (Mr. ROBERT C. BYRD) and I understand that. We know what valley fill is, and we know what a mine cut is. I stress that this "head of hollow" fill or valley fill below the mining cut is essential to the Cannelton operation.

Mr. McCLURE. Mr. President, I think the Senator from West Virginia (Mr. RANDOLPH) asked a direct question. I think it ought to be precisely answered, just as concisely as it can be. The Senator from Tennessee made a response which I think needs to be understood.

The only place where amendment No. 610 applies is where there is no room to replace all the spoil back on the bench. Then it can be removed and designated as spoil. It might be valley fill. It might not be, but only if it could not be placed on the bench.

Mr. BAKER. That is entirely correct.

AMENDMENT NO. 610

Mr. President, since this is a rather disturbing point, and since this is an interpretation that we have been bandying back and forth, as it were, notwithstanding that amendment No. 610 has been agreed to, and a motion to reconsider has been laid on the table, I ask unanimous consent that I may modify my amendment No. 610 on line 4, after the words "stored at such", add two words: "off site"; so that the language will read:

That spoil material not required for the reconstruction of the approximate original contour on any site may be permanently stored at such off-site spoil storage.

That would mean it cannot be at the lip of the cut.

The PRESIDING OFFICER. Is there objection?

Mr. RANDOLPH. Mr. President, I do not agree to that. Why is the Senator modifying his amendment after it has been adopted? We are talking about an area where some flexibility is needed.

Mr. BAKER. What would happen to amendment No. 610 is that if the spoil cannot be put back in the cut because of the expansion of the overburden material after it has been taken out, the spoil can physically be moved to storage areas, but cannot be left at the lip of the cut to spill over at the lip of the bench. Adding the words "off site" before the word "storage" would clear up any misunderstanding about the interpretation of amendment 610.

Mr. RANDOLPH. I do not feel that the amendment needs to be modified. What does "off site" mean, for example?

Mr. BAKER. "Off site" means taking it off on a truck or a front-end loader and hauling it to some other storage point.

Mr. RANDOLPH. That is what is done with valley fill.

Mr. BAKER. Valley fill would clearly qualify; but one thing I want to guard against is some misunderstanding that might arise that "off site" storage means that one would simply push the overburden over the side of the hill. That must not mean that.

Mr. RANDOLPH. Mr. President, the Senator from West Virginia did not mean that. I said this before. Why is that something that should be done?

Mr. BAKER. Mr. President, I very much hope that the chairman would not object to the unanimous-consent request. It will not add one scintilla to the amendment, but would permit anyone to understand its interpretation.

Mr. RANDOLPH. Mr. President, do I have the Senator's assurance that that is understood?

Mr. BAKER. Mr. President, the Senator has the assurance of the author of the amendment that this in no way means valley fill, according to this amendment.

Mr. RANDOLPH. Mr. President, I withdraw my objection.

The PRESIDING OFFICER (Mr. HELMS). Is there objection to the unanimous-consent request?

Mr. McCLURE. Mr. President, reserving the right to object, and I do not intend to object, I want to make certain that there are no misapprehensions. When the Senator from West Virginia refers to valley fill under amendment No. 610, that would be limited to the single exception that there is not room in the bench to replace the material. It cannot be understood to be in any other circumstances.

Mr. BAKER. That is certainly correct according to the interpretation of the Senator from Tennessee.

Mr. McCLURE. Mr. President, I withdraw my reservation.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Tennessee? The Chair hears none, and it is so ordered.

AMENDMENT NO. 613

Mr. BAKER. Mr. President, before we proceed to the final disposition of the Jackson amendment as modified, if this is the appropriate time, I have a few questions that I would like to address to the authors of the amendment.

I support the amendment. However, I do so with some reservations because I think that I can see in my crystal ball—which is not notoriously accurate—something which disturbs me from time to time. I see the possibility that this variance in mountaintop mining would include a situation where whole mountaintops are hewn away in order to get the production of 5 or 6 or 7 tons of coal. That is not necessarily bad for a man who grew up in an area where 97 percent of the area is mountain. Some flat land is desirable.

However, it raises two or three questions that I would like to address to the authors of the amendment. What happens, for instance, to the enormous, huge amounts of spoil overburden that will be developed from mountaintop mining?

I note on page 2, paragraph 3, that it provides that where the regulatory authority determines that a variance can be granted in order to permit the transfer of overburden to designated spoil storage areas that there is a proviso which reads:

Provided, That such transfer does not disturb areas which, at the end of the surface mining and reclamation operation, would otherwise be undisturbed.

My question is, Where in the world would it be put?

Mr. JACKSON. My reply to the distinguished Senator from Tennessee is that the language referred to by the Senator has been dropped. That was covered in the Nelson amendment to my amendment. All of the language starting on line 8 of page 2, down to the bottom of page 2, and lines 1 and 2 on page 3 have been deleted. So that is all out.

Mr. BAKER. Very good. My second question is, as I said a moment ago, that there would be an enormous, extraordinary amount of overburden if mountain top mining is adopted as a possible variance to the bill.

What provision of the bill exists for the temporary containment of siltation and erosion of material that has been handled and doubly handled and finally put back on the top of the mountain in some sort of acceptable condition? With all of that dirt sitting around, it could rain, as it did this year, and it could all end up in the river. What provision is there to protect against that?

Mr. JACKSON. Mr. President, I point out that throughout the mining operations they have to take various steps to protect the quality of the water. It is set out in the criteria that the States are to follow. For example, on page 94 of the bill, line 13—and this runs all through the bill—they set out the things that the permittee must do.

The Senator mentioned water. I would point out that on line 13 it states:

(7) protect the quality of water and consider the quantity of water in surface and ground water systems both during and after surface mining and reclamation operations by * * *.

Then the bill sets out a whole series of things. I am merely giving this as an explanation in response to the Senator.

Mr. BAKER. I thank the Senator.

Mr. President, I will not prolong this except to ask what I think is one minor question. If the storage at any location of the spoil from mountaintop mining does get away and we wake up one morning and find a heavily silted river, that is pretty good evidence that it was not handled in a satisfactory manner. What happens then?

Mr. JACKSON. The operation could be shut down. And they would have to correct it. The point is that there must be compliance, and the standards here, I think, are reasonable ones.

We are trying to achieve a certain goal. The siltation of a river is a pretty good illustration of the problems that we have to deal with. In this kind of illustration that the Senator has referred to, the sediment can be taken as good evidence, and the operation can be shut down if it is not making a reasonable effort to comply with the standards laid down in the permit.

Mr. BAKER. Then the Department of the Interior can shut down such an operation if there is excessive siltation?

Mr. JACKSON. The Senator is correct. The bill contemplates, of course, that the State undertake this. For example, if the State will not see that the matter is enforced, the Secretary of the Interior then, with the State having failed to act, can intervene. That is found on page 99 of the bill, section 215(b) which reads as follows:

(b) When, on the basis of Federal inspection, the Secretary determines that any person is in violation of any requirement of this Act or any permit condition required by this Act which violation creates a danger to life, health, or property, or would cause significant harm to the environment, the Secretary or his inspectors may immediately order a cessation of surface mining and reclamation operations or the portion thereof causing or contributing to the violation and provide such person a reasonable time to correct the violation.

Mr. BAKER. Mr. President, I do not want to go further into this matter. However, I think it is vital legislative history. If in the future some State or regulatory authorities try to regulate this Act, I want them to know what the managers of the bill thought about this legislation, because it is important. Does the bill as drawn, and according to the several amendments that have been adopted, contemplate plans for erosion and controls such as entrapment dams, such as the introduction of vegetation by hydraseed or any other method? Does it clearly appear to the manager of the bill and to the distinguished chairman of the committee that in the four corners of the bill we contemplate providing stern methods against soil erosion even after the operation is finished, and not only when the plant is put into effect?

Mr. JACKSON. The first answer would be that the requirement as set forth in the four corners of the bill applied throughout the process from beginning to end, and specifically page 90 of the bill, I refer to the language beginning on line 22 which reads:

(3) the engineering techniques proposed to be used in mining and reclamation and a description of the major equipment; . . .

These are the things that they must show.

A plan for the control—

This is just the very outset—

of surface water drainage and of water accumulation;

Then it goes on to say:

a plan where appropriate for back filling, soil stabilization,

and so on.

So the answer to the Senator's question is that it is contemplated from the very beginning, throughout the operation, that such requirements be met.

Mr. BAKER. Is it also contemplated that if their efforts at revegetation fail, or their reclamation plans, or if they do in fact have a slide after their reclamation plan is finished, that there is a continuing responsibility to go back and revegetate and reshape the soil until they no longer have the problem?

Mr. JACKSON. Yes; their plan would have to be implemented and complied with.

Mr. BAKER. Mr. President, the last question I have to put, so that we may look this squarely in the face, is this: Would the distinguished chairman of the committee say certainly that what we are doing is sanctioning mountain top mining to the extent where whole mountains may be stripped down to ground level, and the storage of millions of tons of overburden may be placed in the hollows, creating hundreds of thousands of acres of new flat land, and that if we are going to adopt this variance, which I intend to support, we should do it with our eyes wide open to the fact that whole mountains may disappear from the landscape?

Mr. JACKSON. The answer is, yes, of course, but there have to be very carefully determined conditions precedent to all this, and they are set out, as the Senator knows, on page 3 of the amendment, pointed out in what was subsection (4), but when it is renumbered will be subsection (3).

It runs on over to page 4 of the amendment, so that those 2 pages set the standards that have to be met, and I believe they do provide ample safeguards.

Obviously, in this legislation, we are moving into a whole new area, and there is going to be a lot of trial and error in it. What we want to do is achieve the twin objectives, here, of being able to maintain a mining operation that will be satisfactory from an economic point of view, but also that will be environmentally acceptable.

Mr. BAKER. Mr. President, I conclude by saying I thank the chairman for his information, and also to say that I will support the amendment.

I express grave reservations about the desirability of mountaintop mining as a future major coal removal technique, but to be honest and frank about it, I would prefer that to the scarring of the sides of the mountains and the unreclaimed procedures that have occurred so far.

I will simply say to my colleagues that we will watch this and see what happens. I am unsure what the result will be, but I suppose on balance I will have to see how well or how badly it may work, and I may be back here trying to prohibit it at some future time.

Mr. JACKSON. I say to my good friend from Tennessee that I think he has stated the dilemma very well. There will be a lot of trial and error in this, and we will have to monitor and have an overview of it constantly, to see how it is working and determine whether or not it is a viable legislative proposition.

I must say it is very hard to predict every contingency that could arise in connection with this legislation, but I think we have gone a long way in struggling, over a period of 3 years, with this particular problem of strip mining and surface mining, and I hope we have made a good beginning. I would be the last to claim that this is the answer to everything.

Mr. BAKER. I think we have made an excellent beginning, and the Senator and the entire committee are to be commended.

Mr. JACKSON. We have provided in the bill, of course, for review and ongoing studies, which I think are a must. They are indeed a concurrent part of the legislation itself.

Mr. BAKER. Would the distinguished chairman—and I promise this is the last question—join with me, as an important and significant part of the legislative history of this bill, in saying to the States and to the Federal Government that one of the most important and vital aspects of any plan for removal of coal by surface mining is the control of siltation and erosion that may arise during the operation as well as after?

Mr. JACKSON. The Senator has summarized, I think, the nub of the problem. It is the process that flows from the process of erosion and siltation, the problems related to pollution and all related to erosion, that entire process of water action and everything that goes with it, that I think is one of the major concerns in this entire area.

Mr. BAKER. I thank the Senator.

Mr. JACKSON. Mr. President, I think we can vote on the amendment.

Mr. RANDOLPH. Mr. President, I feel that I want to make just a very brief comment in reference to the concerns expressed by the Senator from Tennessee. I would not want him to feel that those of us who have spoken this afternoon and have attempted to clarify the record are not conscious of the situations to which he has addressed himself.

Certainly, I think, there is no Member of this body who in any wise wants to condone the desecration of the land or improper mining methods for the extraction of surface coal. I cannot think of a Senator who would want to do that, and I am sure the Senator from Tennessee would agree with that statement.

We are attempting here, as I have said on several occasions, to be reasonable in what we do, recognizing that we must have certain flexibility, certain variances, certain opportunities to use the land to a better degree than it was before it was surface mined. I am sure the Senator shares my feeling in reference to that matter.

I agree with the Senator from Washington when he says that we will have to have trial and error. We had to have that, certainly, in connection with the air and water pollution control programs, which the Senator from Tennessee has supported and helped bring to this body. I know he now is studying, with others, certain problems that have arisen from the air and water pollution control programs that we have instituted in this country. Certainly, as he has indicated, he is concerned about the Coal Mine Health and Safety Act, and certain conditions that have arisen from the passage of that act.

So I think it can be said that, across a broad spectrum of legislative endeavors, we cannot expect to do the job completely. It must also be realized that sometimes when attempting to meet adverse conditions, we create a more unfavorable situation. Certainly, the Senator knows that sometimes medication that an individual may take for an illness has the effect of creating other problems of a medical nature. That happens; it is just a fact of life. I only want to emphasize that insofar as this Senator is concerned, he wants a bill which is well reasoned. He wants it as a conservationist. He wants it as an evironmentalist. He wants it as a realist.

We must realize that many persons are concerned about the impact of this bill. They have serious questions. In this regard, I ask unanimous consent that an article from the October 2, 1973, Charleston, W. Va., Gazette containing the comments of Mr. Ben Greene, chief of the West Virginia Department of Natural Resources Reclamation Division be printed at this point in the RECORD.

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

SENATE SURFACE MINE BILL AIRED BY STATE OFFICER

(By Fanny Seiler)

A proposed federal law that would require the elimination of highwalls and the replacement of material to the original contour of the land on strip mines would be asking the

impossible in West Virginia, reclamation division chief Ben Greene said Monday.

A proposed law now before the U.S. Senate would make exceptions to replacement of material to the original contour if there wasn't enough overburden.

Greene said currently 25 per cent of the permits issued annually would have land returned to the approximate original contour in West Virginia.

These generally would be in the northern part of the state. In Southern West Virginia, Greene said compliance with such a provision would be reconstructing a 65 degree slope of freshly graded material.

"It's almost impossible to go back to the original contour," Greene said, adding that if this was done on the steep mountains, erosion is likely to occur unless there are diversion ditches or terraces.

The surface mining industry in West Virginia is permitted under West Virginia law to leave a highwall no greater than 30 feet.

With the exception of the highwall and return of land to original contour, Greene said West Virginia already is meeting other provisions of the Senate bill reported out of the Senate Committee on Interior and Insular Affairs.

Greene said some in the industry have interpreted the Senate bill to mean that operators have to use the modified block cut now being used in Pennsylvania. This method replaces material by blocks, and as one block of overburden is removed from the coal seam, the soil and spoil are put into the area just previously mined.

Greene said he doesn't interpret the federal bill as requiring the use of only one method.

"I don't think they should dictate any one system or type of mining," Greene added.

Greene personally prefers the use of a terrace where the slope is steep. Each terrace is 15-feet, and has a gradual slope to a bench. He believes this is "far more stable land," than the steep mountainside without any break in the slope, and he said it's aesthetically more pleasing than the highwall.

Greene said more landowners want to retain the highwall so they can use the flat bench for farming.

However, Greene said he believes the trend is away from the highwall. Because of an administrative policy, Greene said operators have to control the materials when the slope is 50 per cent or greater which requires control throughout the life of the operation.

Mr. RANDOLPH. Mr. President, so I approach this problem with all of these concerns in mind, The amendments that I have offered, three in number, have been adopted without a rollcall. They have been adopted because the Members of this body believed them to be worthwhile amendments, and thus they are included in this bill. That is the reason I take the time this afternoon to try to clarify, as I think we have, the situation as affected by the bill and the replies of the Senator from Washington, the Senator from Wisconsin and certainly my cherished colleague on the Public Works Committee, the Senator from Tennessee.

Mr. HANSEN. Mr. President, I should like to make a few comments with respect to the colloquy that took place between the Senator from Tennessee and the chairman of the committee, the Senator from Washington (Mr. JACKSON) with respect to the time limit that exists in the event reclamation works have failed. I think the Senator from Tennessee asked what might happen if a slide occurred and what would be the result if vegetation failed to establish itself and continue.

I call the attention of the Senate to the committee report, on page 56, under section 210, Performance Bonds where it states:

This section sets out the requirements for one of the most important aspects of any program to regulate surface mining and reclamation—the performance bond. The requirements of this section will apply to interim permits as well as State and Federal programs.

Subsection (a) provides that once an application is approved a performance bond must be filed before a permit is issued. The amount of bond must be sufficient to assure completion of the reclamation plan if the work had to be performed by a third party at no expense to the public. The regulatory authority sets the amount of the bond on the basis of at least two independent estimates of these costs.

Then further down it states:

* * * requires that bond liability extend for a period of 5 years after completion of reclamation including revegetation or for 10 years in areas where the average annual rainfall is 26 inches or less. This extension is necessary to assure that the bond will be available if revegetation or other reclamation measures fail after initial accomplishment. The longer time period for liability in arid areas recognizes that permanent reclamation, particularly revegetation, is more difficult and uncertain in such areas. This subsection also permits the deposit of cash and negotiable Government bonds or certificates of deposit in lieu of posting a bond.

I wanted to call that section of the report to the attention of the Senator from Tennessee because there must be no misunderstanding as to the continuing liability of the mine operator or the bonding company after those reclamation efforts are presumed to have been done.

I should also point out that on page 93 of the bill, it states:

. . . establishment of a stable and self-regenerating vegetative cover (where cover existed prior to mining) which, where advisable, shall be comprised of native vegetation;

As the distinguished Senator from Montana (Mr. METCALF) knows, oftentimes there is very little, if any, vegetative cover in some of the areas that could be mined.

I make these observations in order that it may be clearly understood how far, timewise, the responsibility of the operator and the bonding company extends, in assuring that the reclamation practices that have been put into effect measure up to what might have been expected of them.

Mr. BAKER. Mr. President, there is one question I should like to ask in that connection. Legally speaking, there would be a distinction in the liability and the responsibility of the bond versus the continuing liability and responsibility of the operator. I would postulate that after 6 years in a nonarid region, suddenly we get a big slide or the failure of vegetation. Is there anything in the bill that would prevent a State from requiring the operator to come back and revegetate as distinct from the bonding company?

Mr. HANSEN. I am not aware of any provision in the bill, but the best information we have is that the limitation of liability would not extend beyond the periods that I have mentioned here. I would ask the Senator from Washington (Mr. JACKSON) if he knows if a failure in a reclamation effort such as a slide were to occur after a period of 5 years' time in an area where the rainfall annually exceeded 26 inches, would there be any obligation on the mining company, the operator, to go back and make such efforts as seem to be required to bring the reclamation effort back to where it should have been?

Mr. JACKSON. My understanding of the bill is that the obligation runs for 5 years——

Mr. HANSEN. That was my understanding, too.

Mr. JACKSON [continuing]. And the liability on the bond. That is, the bond required runs for 5 years. I do not think that would prevent private law suits being instituted directly against the firm itself or the company. Of course, State law is applicable. We are not changing State law in any manner, shape, or form. Action would have to be brought pursuant to State law. We do not change State law. I do not know whether the Senator from Tennessee will agree——

Mr. BAKER. Yes, I agree with the distinguished chairman. I started this colloquy by making the observation that there are two liabilities involved, one the liability of the bond and the other the liability of the operator.

Mr. JACKSON. The liability on the bond stems from the provisions in this bill.

Mr. BAKER. Clearly the bond liability would expire in 5 years in my part of the country, but if State law would continue to order the operator responsible under common law nuisance or statutory law, he would still be liable, and we have not abrogated that.

Mr. JACKSON. The statute would start running from the time the damage occurred.

Mr. BAKER. Both the Senator from Wyoming and the Senator from Washington have answered my questions which I interpret that both liabilities expire in 5 years in an nonarid region and 10 years in an arid region.

Mr. HANSEN. That is my general understanding. I would say that this is yet another of many reasons why the junior Senator from Montana (Mr. METCALF) and I have been so insistent that wherever there may be a disparity between State and Federal law, and the impact of State law exceeds the application of Federal law, then State law should govern and control.

There are other instances of concern to us where a reclamation program, or restrictions on where mining might be engaged in, or any number of other situations, could arise and be presented for resolution by the appropriate controlling authority or body. That, we think, argues well to let each State set the parameters, establish limits, and provide minimums that must be complied with in order for an operator to go ahead.

Mr. JACKSON. Mr. President, on a point of clarification on the question raised as I came to the floor, I invite the attention of the Senate to section 210b regarding the bond and this relates to the average annual rainfall——

Mr. HANSEN. What page is that on?

Mr. JACKSON. Page 85, line 16. I want to complete the record. Let me read section b of that section:

(b) Liability under the bond shall be for the duration of the surface mining and reclamation operation and for a period of five years thereafter, except in those areas where the average annual rainfall is 26 inches or less, the period of liability shall extend for ten years, unelss sooner released as hereinafter provided in this Act.

I had not read that section into the record at the time, and there was a colloquy about heavy rainfall.

Mr. HANSEN. I thank the Senator from Washington. I would just observe that I referred to this section just before he entered the Chamber.

Mr. JACKSON. I am sorry.

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

Mr HANSEN. Mr. President, I am happy to yield the floor.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. McCLURE. Mr. President, in connection with this subject, I think it should be abundantly explained for the record, to remove any possible implication from the prior colloquy that what we were referring to in time limits and the cutoff of liability is under this statute. I believe there was an implication a moment ago that there was an unlimited liability under this statute.

In the later colloquy, it was said that that liability is fixed under State statute and that there are limits to the liability for the reclamation plan fixed in the bonding statute—limits in time as well as extent.

On another question, I wonder if we might address a question on the fourth page of the printed JACKSON amendment, line 15, section 5, subsection (c). It reads:

The resulting plateau or rolling contour drains inward from the outslopes.

As I read that, without any explanation or modification, it would mean that in every instance, a lake would be created because there could be no outflow from the top of this plateau. I do not understand that to be the intention of the language, and I wonder whether a modification of the language might be added at the end to say "except at specified points," or some language with that in mind.

Mr. JACKSON. It is not a question of the creation of a lake in every instance. It is a drainage area, and of course you may have water in that area for a while and then the water will disappear.

I did not hear the proposed modification of the Senator.

Mr. McCLURE. I think that if we add at the end of line 16 "except at specified points," it would solve the problem of indicating that the plan can allow a drainage area and that it does not require the impounding of all the water that does fall on that plateau.

Mr. JACKSON. Mr. President, I have no objection to that modification, and I ask unanimous consent that my amendment be so modified, as offered by the distinguished Senator from Idaho.

The PRESIDING OFFICER. The Senator has a right to modify his amendment. The amendment is so modified.

Will the Senator send his modification to the desk, please?

The modification is as follows:

At end of line 16, p. 4, strike the semicolon, and insert ", except at specified points;".

Mr. HANSEN. I ask the distinguished Senator from Idaho if it was not his conclusion in reading subsection (c) on page 4 of the amendment proposed by the Senator from Washington that the probable intention was that some contour trenches might be prepared around a reclaimed area so as to entrap water, not a lake of water, but to entrap water at regular levels on a downslope, to hold the water in the built-up land and to prevent its ready and rapid runoff downslope. I have seen this done in numerous instances in the West. It does provide water in dry areas particularly, and gives vegetation a better chance of taking root and thriving than would otherwise be the case.

I ask the distinguished Senator from Idaho whether his modification would help accomplish that.

Mr. McCLURE. I say to the Senator from Wyoming that, yes, it would help accomplish that. I think the language is intended to prevent leaving a flat surface upon which all the water would come off as a sheet and gully down over the edge. I believe we all want to avoid that. The purpose of the amendment is to prevent it. But it needs the exception to allow runoffs to occur in some manner at some point, and I think my modification, which the Senator from Washington has accepted, will accomplish both purposes.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Washington, as modified.

The amendment, as modified, was agreed to.

Mr. METCALF. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JACKSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Tennessee is to be recognized at this time.

Mr. METCALF. Mr. President, I ask unanimous consent that the Senator from Idaho may be recognized at this time to call up an amendment and that the Senator from Tennessee be recognized subsequent to that.

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

AMENDMENT NO. 614

Mr. McCLURE. Mr. President, I call up my amendment No. 614.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. McCLURE. 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 126, strike lines 19 through 25 and lines 1–3 on page 127 and insert in lieu thereof the following: " 'approximate original contour' means that surface configuration achieved by backfilling and grading of the mined area so that it closely resembles the surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain, with all highwalls, spoil piles, and depressions eliminated except that water impoundments may be permitted where the regulatory authority determines that they are necessary or desirable for reclamation or public recration purposes.".

Mr. McCLURE. Mr. President, this amendment is intended to address itself to the very difficult question of the original contour restoration, which is a matter of much concern and has been a matter of much discussion.

The amendment is intended to replace a somewhat rigid formula in the bill which was to some degree touched upon by the amendment of the Senator from Washington, amendment No. 613, in the portion which was stricken at the suggestion of Senator NELSON.

Mr. President, I have discussed this amendment with the managers of the bill on both sides of the aisle. I understand that it is acceptable to them. If that is so, I will not burden the discussion any further.

Mr. JACKSON. Mr. President, I have no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeding to the amendment of the Senator from Idaho.

The amendment was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JACKSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Tennessee is to be recognized at this time.

Mr. MATHIAS. Mr. President, in the temporary absence of the Senator from Tennessee, I ask unanimous consent that I may call up an amendment which is at the desk.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The Senator may proceed.

AMENDMENT NO. 612

Mr. MATHIAS. Mr. President, I call up my amendment No. 612.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. MATHIAS. 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 96, between lines 21 and 22, insert the following:

(c) Notwithstanding any other provision of this Act, each State program and each Federal program shall include regulations which insure, that on and after the expiration of the twenty-four-month period following the effective date of this Act, no permittee shall remove overburden from slopes greater than twenty degrees from the horizontal, except that the appropriate regula-

tory authority shall be authorized to waive the provisions of this subsection for the benefit of any permittee, if such authority determines that the failure to so waive would result in an undue hardship to such permittee, but in no event shall any such waiver so granted under this subsection extend beyond the thirty-six-month period following the effective date of this subsection.

Mr. MATHIAS. Mr. President, this amendment to S. 425, the Surface Mining Reclamation Act, would phase out surface mining on steep slopes—for the purposes of my amendment, slopes over 20°. It provides a 1-year extension to surface mining operations supplying coal to customers who are dependent upon its delivery and have not succeeded in negotiating contracts for substitutes. At the same time, I extend my congratulations to the members of the Interior and Insular Affairs Committee and their chairman, Senator JACKSON. In the face of our energy crisis there can be no more difficult but rewarding task than to provide a comprehensive regulatory mechanism for an industry crucial to our future energy needs.

I feel the most important function my amendment can serve is to stimulate thought on what our national energy policy should be. The initial question is whether this Nation will promote surface mining as the major supplier of our coal demand at the expense of the deep mining industry. This in the face of reports which show only 3 percent of our coal reserves are strippable.

We can predict that coal production will continue to shift from the deep mines of the East to the virgin lands of the West. Russell Train, Administrator of the Environmental Protection Agency, has pointed out the problems associated with this shift. In his words:

The sooner we can make underground mining more economically attractive, more technologically feasible and more socially acceptable as a way of life, a way of employment, the better off we're going to be.

The proponents of surface mining point to its economies but the residents of heavily stripped counties in West Virginia and eastern Kentucky do not benefit by those savings. They pick up the cost in loss of streams and rivers, damage to roads and personal property, and loss of the esthetic values of those mountains and valleys they were once so proud of. The Council on Environmental Quality's excellent study of the economic impact of surface mining indicates that a ton of steam coal delivered to an electric utility from an Appalachian strip mine is only 71 cents cheaper than deep mine coal from the same region. But the social costs do not stop with the visual damage caused by stripping.

The demise of the deep mining industry is proceeding at an ever-increasing pace. Since 1966, nearly 2,400 deep mines have shut down and production has fallen by more than 84 million tons in Appalachia. At the same time, strip mine operations have increased by 700 and production by 59 million tons. In human terms that translates into a loss of 19,000 jobs in the mines. Strip mine employment also decreased as the mammoth machines do more of the work.

When we are dependent upon strip mine coal in the East, what will be the impact when the strippable reserves here are depleted? Will we have a deep mining industry to turn to for the fuel to fire utility boilers? I doubt it and, as a result, the Nation will face a most difficult task in converting back to deep mining.

As demand for coal increases each year and strip mine coal fills a greater proportion of that demand, we hasten the day when the strip coal reserves in the East will become marginal or depleted. This may occur within a decade or two in some of the heavily stripped, Eastern States. By 1983, the strip production in Appalachia could be in excess of 250 million tons per year. At that rate of production, the strip reserves of Appalachia would be mined out by the turn of the century. What then?

The point I am making, Mr. President, is that we do not have an abundance of strippable coal in the East. In my State of Maryland, there are only 27 million tons of coal that can be stripped. That is not one-tenth of last year's national strip production total. According to the Council on Environmental Quality, Alabama has only 15 years of reserves at present production. If the demand increases by the estimated 5 percent annually, Alabama will have mined out its strippable coal by 1980. Will there be some policy in Alabama which will encourage a switch to deep mining? No, because the States are helpless in the absence of a clearly defined Federal policy.

How difficult will it be 20 years from now to make the conversion back to deep mining? Well, for one thing, the strip operations rely upon tremendous detonations to loosen the rock and earth above the coal seam. These blasts fracture the ground beneath the seam of coal and cause gas and water to permeate down into deeper seams. The combination of unstable roof support, seeping gas and water would make it hazardous, if not impossible, to deep mine those seams in the future. Is that coal to be lost to future generations because it cannot be deep mined after the strip mine operators have finished with the ground above?

And what of the work force who will be called upon to work in the deep mines? Will there be an availability of experienced deep miners available when we need them? After years of ripping and gouging the land, polluting streams, rivers and lakes, turning the once beautiful mountains and valleys into waste land, how can we expect the residents of the coal mining regions to stay on, living in such a devastated environment? There will not be any decent housing or indeed land upon which to build houses.

These are not fictional conditions because these problems exist today in some Appalachian States and the continuation of surface mining will only serve to aggravate the problem.

The coal industry looks to the western, low sulfur coal beds to supply eastern markets. It is ironic that coal mined in Montana or Utah should be shipped 1,500 miles and burned in a powerplant on the Ohio River when that plant is sitting atop billions of tons of high quality, low sulfur coal. With the unemployment rate growing in Appalachia, we cannot allow jobs to be eliminated any longer by this type of competition. Every ton of coal that comes east, across the Mississippi River costs the job of miners in the coal fields of Appalachia.

Eighty million tons of coal are produced annually by surface mining on slopes over 20 degrees. That would be lost. Also, several thousand jobs could be affected by my amendment. Those figures are miniscule compared with what may be lost by embracing strip mining. I am more deeply concerned about the danger in our present course of encouraging expansion of surface mining and what effect this might have on fuel supplies 10 years from NOW. The loss of billions of tons of coal trapped in deep seams by the effects of blasting cannot be regained by reclamation.

A planned phaseout, over a period of 2 years, of all surface mining on slopes in excess of 20 degrees will go a long way toward committing the coal industry to shift from strip mining to deep mining in Appalachia. This stimulus to the deep mine industry will result in safer, more efficient deep mines because it will have eliminated 87 percent of the competition in the Central Appalachian States.

I believe we can regain any production lost through my amendment. An inventory of all deep mines in operation in 1971 was undertaken recently to determine the expansion potential of those mines. The data was supplied by the Bureau of Mines and the computation was undertaken by a private organization. It was determined that 50 percent of those deep mines worked only one shift and 30 percent worked two shifts. In half of the operating mines, machinery sat idle for two shifts and men who desperately need jobs remained home.

The study determined the tons per shift that each mine produced and multiplied this amount by the maximum number of shifts a mine could work during a standard work year. It was found that an additional 120 million tons of coal could be produced from existing mines in Appalachia if those mines had worked three shifts per day. It is assumed that downtime in the mines would increase since the machinery would be used more often, so a 20-percent reduction was factored into the result. But even with the loss in production due to breakdowns, absenteeism, necessary repairs, there still exists a potential for an additional 108 million tons from those Appalachian deep mines. There would also be created an additional 26,000 jobs for deep miners. Capital investment would be minimal or unnecessary, since the expansion is made possible by full production of existing mines, using existing equipment.

The 108 million tons of coal would more than replace the production lost by the 20 degree ban and since this would occur in the same regions, there would not be any regional impacts which could not be offset by the shift to expanded deep mining.

The expansion of the deep mine industry and the addition of miners will also

have a positive effect upon the safety in deep mines. Under present conditions, there exists a dangerous competition between deep mine and strip mine operators. In those production areas where the strip mines enjoy the economic advantage, deep mine operators are forced to reduce operating expenses and overhead. This means needed repairs are overlooked and new and safer equipment is not purchased. Giving deep mine operators a secure market will reduce this often tragic competition. It will also bring about greater job security and will encourage miners to remain in the profession for a longer duration.

If Congress and the Executive refuse to establish policy in the energy field our troubles will be compounded many times over. The days when we could dash about, fire bucket in hand, from one conflagration to another, are over. We must decide how much strip mining should be done, where it should be done, and what effect it will have on the other sectors of the energy industry. Twenty years from now when we are in desperate need of coal from the deep mines, those mines may be deserted.

Certainly, no one can responsibly advocate increased deep mining without speaking of the safety, health and environmental problems long associated with the industry. Senator CASE's amendment, which I cosponsor, is the proper approach to overcoming the serious shortcomings of deep mining.

In proposing a phaseout on the steep slopes, I am guided by two concerns. First, that we must care for the deep mining industry. Our Nation relies upon the vitality of that industry. Second, when we talk of coal on the steep slopes, beyond the angle of repose, we refer to a very small part of our resources—possibly the ratio of a billion to a trillion. So we are not dealing with a facet of the energy crisis but with a question of land use. From my experience in the hills of western Maryland, Mr. President, it just is not appropriate to strip mine for coal on the steep slopes.

My concern in raising the question of strip mining on steep slopes goes further than just the question of what happens to the siltation problem when we attempt to strip the slopes which will not hold the earth, because I think that raises a further question, a question that is beyond the four corners of this bill. I think Congress has not yet addressed itself to the overall problem of a Federal energy policy and my amendment points that out. For example, if we were to look everywhere in the country where there are veins of coal and strip them without regard to local conditions and topography, we could probably exhaust all such coal in 20 years. That might be easier and more desirable from a strictly economic point of view than deep mining operations, and as a result deep mining might become a lost art.

I am concerned that a quarter of a century from now we may have to expend a great effort to revive the deep mining industry. If the coal industry understands there are some limits which we must impose as to the kind of topography in which surface mining is going to be tolerable, then we will have encouraged the other methods of extracting coal and this will be of great importance.

We have an important mining industry in western Maryland. Nevertheless, we have paid a heavy price because there has been tremendous environmental damage, particularly when the surface mining has been done on the steep slopes.

I have suggested this amendment to avoid the pitfalls of mining in areas where it is in appropriate, while at the same time pointing to the importance of continuing the technology of deep mining which will supply the energy the country needs. Of course, we cannot talk about deep mining without talking about safety, health, and the environmental problems that are involved. I was happy to join with the Senator from New Jersey (Mr. CASE) in cosponsoring the amendment of which he was the principal sponsor, which will provide for research and development to overcome these problems.

In speaking of a phase out of surface mining on slopes greater than 20 degrees I think we have to have some concept of the quantity of which we are speaking. We are talking about a billion tons as opposed to a trillion tons. In that light I think we see that it is a relatively small burden which will be placed upon the mining industry. Nevertheless, I think that with the acceptance of the Case amendment and the colloquy which has been conducted on the floor by the distinguished Senator from Tennessee (Mr. BAKER) in support of his amendment my thoughts in offering my amendment have been presented to the Senate.

Therefore, I do not intend to ask the Senate to adopt this amendment at this time, but I would hope that the committee will keep in mind the dual questions which are raised by the amendment, the questions of surface mining on very steep slopes and the underlying problem of developing a national energy policy which protects deep mining for the day when strip mine reserves are exhausted.

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

Mr. MATHIAS. I am happy to yield to the Senator from Wyoming.

Mr. HANSEN. Mr. President, I wish to commend the distinguished Senator from Maryland for the thoughtful concern that is implicit in the amendment which he has presented at this time.

I would say, as he knows, that there is provision in the bill for a study to be undertaken to seek out better answers to many questions that we now know all too little about. I think, too, that an amendment of this kind, as I suspect he would agree, has applicability determined by the amount of rainfall that there may be in one part of the country as contrasted with another part of the country. A 20-degree slope in an area where there is a rainfall of 36 inches a year is extremely serious. However, where there is a rainfall, as we have in some parts of Wyoming, of 7 inches a year, it does not take on that much importance.

So I think we might expect from the study called for in the bill, and from the latitude that I think should be given to the States in looking at problems in their areas, and by virtue of the contribution the Senator from Maryland has made, to be presented with answers that will be more specific and more responsive to his concerns.

Mr. MATHIAS. I thank the Senator. The Senator expressed the situation very precisely. While I am very tender on this question of siltation, possibly because of the climatic conditions Maryland enjoys, I think the proper time to press for this is after the study is completed.

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

Mr. MATHIAS. I yield to the Senator from Wisconsin.

Mr. NELSON. I commend the Senator from Maryland for raising the issue. I think the real tragedy is that we are in a position where it is necessary to do strip mining at all. If we had established an energy policy which involved appropriate research a quarter of a century ago, at least a quarter of a century ago, as we should have, it probably would be possible today to eliminate all strip mining of all kinds no matter where it is. Strippable coal only represents a relatively small amount of the total available coal in the United States; yet today it is supplying about one-half the total consumption of coal.

I think if one looks at the history of strip mining it will be concluded that on a cost-benefit ratio strip mining has done more economic damage to America than any profits or benefits on the right side of the ledger.

So we have another example of the lack of planning in this country, which has been a nonpartisan dereliction on our part. Anyone who bothered to look at the literature which was available easily a quarter century ago that stated we were headed where we are today, that the world would be short of resources, that we would run into an energy crunch in this country, could have known what would happen. Harrison Brown wrote "The Future of Man" in 1954. Anyone who bothered to look at it would have been advised where we would be in another 20 years from the time the book was written.

I hope we will develop an energy policy and have the necessary research, and that some day we will get away from strip mining, which does damage permanently to America's countryside.

Mr. MATHIAS. I thank the Senator. I think he stated the case correctly. One did not have to be one of the judges or prophets of Israel to read the handwriting on the wall. No longer can we postpone the study that is required.

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

Mr. MATHIAS. I yield.

Mr. FANNIN. Mr. President, I agree wholeheartedly that we have done violence to many acres of land in this Nation of ours. But I think when we make a blanket condemnation of strip mining without taking into consideration the differences in areas of our country, it is not proper. In many areas of the West, we can have more valuable land after strip mining than before. So I cannot agree, though I know the noble goal the Senator has in mind.

Stripping now accounts for more than 50 percent of U.S. production with an investment of almost $2 billion. More than 60 percent of the total coal used by electric utilities came from surface mines in 1971. A recently completed survey by NCA shows that the trend continued in 1972, when the percent of strip coal used by the utilities continued to increase.

Surface mining of coal has had a continuing upward curve in the last decade for a variety of reasons including cost, health, and safety, and a shift in demand requirements. Reversing this trend will be difficult, if not impossible, as the CEQ report concluded.

So I am not in any way disagreeing with what was said has been done in the past in many instances, but I do think we should make sure that the public should not be misled, and I do think, when we use figures like 3 percent, it is a very misleading figure. Using 3 percent as the figure of coal in the United States today that is going to be mined or could be mined by strip mining is wrong. We have to take into consideration that when we mine underground we lose about 50 percent of the coal; and when we mine by surface mining we lose about 10 percent of the coal. This is very important to consider, because if we are talking about the future, I think we should talk about what we can do about reclaiming the land and, in many instances, having better land available than before the mining was started. If we are talking about the Appalachia area, 70 percent of surface production is affected. If we talk about the steep slopes, it would do away with that kind of mining.

Much of the low sulfur coal is now going to eastern utilities and to export, and they would be affected. It would also affect major reserves of readily available high quality, low sulfur coals in the United States.

We are talking about different factors. If we are talking about the amount of coal that may be in the ground, then we should consider the amount of coal that is available in different areas of the Nation. In some places the sites are of great consequence, because the powerplant is practically over the site. That is so in the Four Corners area, where Arizona is involved.

I realize that much must be done in this regard, but I hope that there is not a misimpression of what can result from surface mining, if it is handled properly.

Mr. MATHIAS. Mr. President, I think the Senator has emphasized very strongly that topography, climate and other factors have to be considered. That is one reason why I wanted to defer my amendment until the committee had completed the study contemplated by the bill. I think both Senators will agree with me that overriding all of these questions is the question of the lack of a national energy policy of real force and real creativity which will assure us an energy supply.

Mr. FANNIN. I wholeheartedly agree that we need an overall energy policy, but one of the problems we have now is that the events that have occurred have changed the complete picture. Surely, we did not realize a few years ago that there could be an energy shortage. We did not realize there could be an oil shortage.

Mr. MATHIAS. If we get that policy, many of these subsidiary questions will find their proper location and proper slot.

Mr. FANNIN. I commend the Senator for his desire to go further into this matter and for not offering the amendment at this time. I think he has made it crystal clear that he does not intend to go forward in a haphazard manner; that he wants to proceed with a proper study and thought before any action is taken.

Mr. MATHIAS. The Senator is right, and, Mr. President, at this time I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. HANSEN. Mr. President, will the Senator yield for one further observation?

Mr. MATHIAS. If I still have the floor.

Mr. HANSEN. I just wanted to underscore what the distinguished Senator from Arizona has said. It is an easy thing these days to be against steep slope mining, just as it is to be against sin, but the reason I rise now is to observe that the economic facts of life ask us to be more discerning than such a declaration would be.

I say that because in the Powder River Basin—and I note the distinguished senior Senator from Montana is here, as well as the distinguished floor manager of the bill, the junior Senator from Montana—whether we like it or not, we are going to have further exploration and development and exploitation of the coal resources. It is obvious that as we develop surface mining throughout the United States, more and more of it will be done where it can most profitably and successfully be undertaken.

It is because of my realization, and that of the distinguished junior Senator from Montana, of that fact, that we have been insisting that State law ought to be sovereign if it exceeds in its demands for certain reclamation practices what the Federal law may call for.

But I will get back to my original premise, which is that in the West, particularly in the Powder River Basin, with which both my colleagues from Montana are familiar, our coal deposits are not tilted, they do not dip, as so often happens in the Eastern States. They may dip somewhat, but they tend to be 100 percent horizontal. Where there are beds 100 feet or 200 feet or more in thickness with overburden as little as 27 feet in thickness, there is just no way, except by surface mining, to conserve energy, which means taking all of that coal out.

We can ill afford to waste any natural resource, and now we certainly have no reason to even consider wasting an energy resource as important as this coal by saying we are going to try to remove it by other means than surface mining.

That comes about because that is the only practical way the coal can be taken out, and it is the way, through proper handling of the overburden, that we can restore those areas that are mined to assure their continuing productivity and continuing usefulness for all of the many purposes that man may have in mind or may develop in the future.

I wanted to say this because I hope we will keep in perspective the important role that surface mining can, does, and must perform.

Yesterday the distinguished senior Senator from Montana, who knows far more about mining than I ever shall, made some observations about his having worked in the mines and his later experience as a mining engineer. I certainly would not try to second guess him at all as to what we should do, but I do say this: As our resources of energy become more severely restricted because, as the Senator from Maryland has said, of our failure to develop an energy policy, which exacerbated the present dilemma, I think we must agree that surface mining makes good sense where reclamation can properly be done. Where the end product will better serve mankind than it served mankind's needs earlier, it ought not to be restricted.

I think, in a broad sense, that is precisely what the Senator from Maryland has in mind saying, let us take a look at all these techniques. Let us study the problems. He has said, in effect, by having called attention, as his amendment does, to this issue, let us be certain it will be examined very closely, not alone by the Government, not alone by the States, but by industry to make sure that what we do will serve our long time needs.

The PRESIDING OFFICER (Mr. HELMS). Under the previous order, the Senator from Tennessee is recognized.

ADDITIONAL COSPONSOR

Mr. BAKER. Mr. President, I ask unanimous consent that the name of the Senator from Maryland (Mr. MATHIAS) be listed as a cosponsor of amendment No. 611 to the pending bill, S. 425.

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

AMENDMENT NO. 605

Mr. BAKER. Mr. President, I call up amendment No. 605.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk proceeded to state the amendment.

Mr. BAKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment reads as follows:

On page 111, line 12, strike the figure "$100,000,000" and insert in lieu thereof the amount "$80,000,000".

On page 117, after line 3, add the following:

"SEC. 304. The Secretary of the Interior and the Secretary of Agriculture are directed to develop regulations and conduct a continuing review of mining regions to identify zones or watersheds where previously mined and unreclaimed coal surface mine operations due to erosion, siltation, or toxic discharge present a hazard to water quality and where due to inaccessibility, low land values, or unduly high reclamation costs timely reclamation under sections 301 and 302 is either economically or physically infeasible.

"SEC. 305. (a) In any zone designated under the review process of section 304 in order to assist States and their political subdi-

visions, soil and water conservation districts, in developing and carrying out within watershed and subwatershed areas plans for works and measures for the reclamation and rehabilitation of non-Federal lands which have been damaged by surface mining and which are presently in a scarred or unreclaimed condition, the Secretary of Agriculture is authorized, upon the request of States:

"(1) to provide to the States and soil conservation districts technical assistance by the Soil Conservation Service for developing plans for the reclamation and rehabilitation of such lands, which plans may include works and measures such as revegetation, land smoothing, diversions, grade stabilization and gully-control structures, debris basins, bank sloping drainage, access roads for maintenance, and any other works, measures, or practices deemed necessary by the Secretary of Agriculture; and

"(2) to cooperate and enter into agreements with, and to make grants to and provide other aid as the Secretary of Agriculture deems necessary and appropriate in the public interest to effectuate the purposes of carrying out any such plan that has been approved by the Secretary of Agriculture and the Governor of the State, or his designated representative, subject to such conditions as may be prescribed by the Secretary of Agriculture: *Provided,* That the Federal share of the cost of the reclamation and rehabilitation of any such lands included in an approved plan shall not exceed 75 per centum of the estimated total cost thereof.

"(b) The program herein authorized shall apply to the unreclaimed or unrehabilitated lands damaged by surface mining located in States which have heretofore enacted, or shall hereafter enact, legislation requiring reclamation or rehabilitation of lands damaged by surface mining when the Secretary of Agriculture determines that—

"(1) significant public benefits will be derived from the reclamation and rehabilitation of such lands;

"(2) such lands were damaged by surface mining prior to the date of enactment of this Act, sometimes referred to as 'orphan lands'; and

"(3) there does not exist a contractual or other legal requirement for the adequate reclamation or rehabilitation of such lands: *Provided,* That the Secretary of Agriculture may carry out a limited program of reclamation of lands damaged by surface mining for demonstration purposes in those States which do not have laws requiring reclamation or rehabilitation of such lands.

"(c) The Secretary of Agriculture may require as a condition to the furnishing of assistance hereunder to any owner of lands included in an approved plan that such landowner shall:

"(1) enter into an agreement of not to exceed ten years providing for the installation and maintenance of the needed works and measures specified in such plan; and

"(2) install or cause to be installed such needed works and measures in accordance with technical specifications as approved by the Secretary.

"(d) The Secretary of Agriculture is authorized to prescribe such rules and regulations as he deems necessary or desirable to carry out the purposes of this section.

"(e) There is authorized to be appropriated to the Secretary of Agriculture for the purpose of this section $20,000,000 for fiscal year 1975.".

Mr. BAKER. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

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

Mr. BAKER. Mr. President, the reclamation of abandoned mines in remote, mountainous coal fields is difficult and costly. The Appalachian Regional Commission has conducted several demonstration projects on such land in the Appalachian region and has experienced costs averaging between $3,000 an $5,000 per acre—ranging up to $8,000 depending upon the degree of regrading attempted. In many instances "restripping" of these areas under the provisions of the act will reduce the serious water quality and soil erosion problems, but often such restripping is not feasible.

S. 425 establishes a revolving fund established by an appropriation of $100,000,000 and such fines and fees as the Secretary may collect. Primarily, however, this fund will depend for sustenance upon receipts from the sale of reclaimed lands by the Secretary. It is unlikely that such a program will be able to affect any substantial amount of the hundreds of thousands of acres of abandoned steep contour mines in Appalachia, since reclamation costs will run in many areas 25 to 30 times the value of the land for resale.

The amendment provides a review mechanism for the Secretaries of Interior and Agriculture to designate zones or watersheds where reclamation under the basic authority of S. 425 is "economically or physically infeasible." In these areas the Secretary of Agriculture is authorized to provide technical assistance and 75 percent grants for watershed treatment to control erosion and to reduce or elimiate siltation. Such an approach will be more adaptable to the steep contour problem since it does not require land acquisition and addresses primarily the offsite water quality problem with only minimal land treatment.

The cost of the program is estimated by SCS to be about $20 million annually. The amendment provides one such authorization—for fiscal year 1975 but holds the line on costs by reducing the revolving fund a like amount.

Mr. President, this amendment is frankly out of despair. I feel that it is highly unlikely that we will spend 25 or 30 times the value of land to reclaim it in many sections in the Appalachian region.

If we cannot reclaim it because of the economic value, then the only thing that I know to do is to reduce the off-site deposit of siltation from acid mine drainage and other factors that insult the environment and affect many areas from strip mining operations, with the killing of fish and the isolation of wildlife is to call on our old friend, the Soil Conservation Service which has an outstanding record in this field and provide them with an opportunity to provide their services and assistance in an area that is badly needed.

Mr. METCALF. Mr. President, if the Senator will yield, I have gone over the Senator's amendment. I must say that in our concern about such provisions as section 213 and the requirement of permission, we probably have not been as concerned with orphaned lands as we need to be. Orphaned land has been in every bill, and orphan land has been part of every bill that I can remember that was ever introduced in the 25 years that I have been a Member of Congress.

I am glad we are making a gesture; $100 million will not even begin to stop it.

As the Senator knows, in a dialog yesterday we pointed out that this provision for the reclamation of land where there are pits and so forth, applied not only to coal, but also to all mining activities.

So it is all over the United States, as far as the reclaiming of abandoned lands is concerned. I am in accord with the amendment offered by the Senator from Tennessee, but I wonder if he would, again, show us why an additional appropriation for $100 million, which is woefully inadequate, and about $20 million in soil conservation, should not be sought.

Mr. BAKER. So far as I am concerned, I could not agree more with the distinguished Senator from Montana; $100 million a year is a drop in the bucket, when it comes to reclamation on orphaned land. I do not believe for an instant that we are going to spend $3,000, $5,000, or $8,000 an acre to restore mining land that was stripped and unrestored years ago. So far as I am concerned, I would be willing to put the whole $100 million into the Soil Conservation Service; $20 million is not enough. It takes the basic $100 million simply to earmark $20 million for use by the Soil Conservation Service.

I do not know how other Senators feel about it, but I feel that the SCS has done a great job, not in this field, but in related fields.

If the manager of the bill wants to spend $500 million——

Mr. METCALF. $100 million to the SCS and $100 million for other reclamation would be only a drop in the bucket. Let us try to follow that approach. I think the Senator is making a good suggestion, but let us see what the SCS can do in some areas and what the Bureau of Reclamation can do with respect to orphaned land in other areas. If we succeed, we will have to appropriate funds to find ways to reclaim thousands and thousands of other acres, because this would be just the beginning.

Mr. BAKER. I entirely agree that it is the best technique to follow that approach.

There is one other thing I should like to call to the attention of the Senator from Montana. The Tennessee Valley Authority has long been interested in the techniques of reclaiming orphaned land. On previous occasions we have presented in the annual appropriation request fairly modest amounts, such as $10 million or $12 million, for experimental or demonstration projects in this respect. I would hope that the distinguished Senator from Montana would agree with me that the demonstration approach to reclamation might be the very best way to spend some of this money. If, in fact, there are other agencies which could submit plans for demonstration techniques, we might consider other aspects in this respect. But I agree with the proposal of an amendment restricted to $20 million for the SCS and plans for other techniques.

Mr. METCALF. Probably this would be an appropriation for a demonstration. I agree to the amendment. I congratulate the Senator from Tennessee for correcting an oversight in the proposed legislation.

Mr. McCLURE. Mr. President, I think the suggestion that the SCS can do some very valuable work is apropos. I wonder sometimes why we move into things like water conservation and environmental control and ignore an agency which has the longest and best experience in the study of these problems. The SCS deals with the problem of water control where it is most effective.

I think we also must have access to existing agencies for ongoing programs. I recollect now that the Bureau of Mines has a small reclamation demonstration program underway, unrelated, as far as I know, to coal mining, and it happens to be in my State. The Bureau of Mines is conducting that demonstration project in conjunction with the University of Idaho to determine what kind of vegetation can be used and what will be used in some mined areas of Idaho. We hope to continue funding the project through the Bureau of Mines in order to keep the demonstration program alive.

I would agree with the Senator that a demonstration program could perhaps more efficiently and effectively use limited funds than to spend small amounts of money over the entire spectrum, with no real accomplishment.

Mr. BAKER. I thank the Senator from Idaho. I think his suggestions are well taken, and I associate myself with his observations.

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

Mr. BAKER. I yield to the distinguished Senator from Wyoming.

Mr. HANSEN. Mr. President, I commend the distinguished Senator from Tennessee for the amendment he has presented.

Let me say that we have a number of big jobs to do as we contemplate the entire spectrum of mining activity as it has occurred in the past.

From time to time, I have addressed myself on this floor to the problem that subsidence has caused. There are areas in the United States where active subsidence now is causing great damage to cities, to homes, and to people.

I simply make this observation now in order that we not lose sight of what I think has to be a very high priority item as we consider where to spend our first dollars. With all due respect, appreciation, and support for the amendment proposed by the Senator from Tennessee, let me say that I think we must consider ongoing damage that is occurring, and without proper action will become more severe, will involve more people, and will necessitate a far greater outlay of money than would be required if we were to accelerate as quickly as possible with that job.

New techniques that have just existed in recent years have made practicable subsidence correcting efforts that were unthought of not many years ago.

I thank my distinguished colleague.

Mr. BAKER. I thank the distinguished Senator from Wyoming for his additional observations, with which I agree.

Mr. President, I have no further debate on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Tennessee.

The amendment was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. FANNIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 8877) making appropriations for the Departments of Labor and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1974, and for other purposes; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. NATCHER, Mr. SMITH of Iowa, Mr. CASEY of Texas, Mr. PATTEN, Mr. OBEY, Mrs. GREEN of Oregon, Mr. MAHON, Mr. MICHEL, Mr. SHRIVER, Mr. CONTE, Mr. ROBINSON of Virginia, and Mr. CEDERBERG were appointed managers on the part of the House at the conference.

The message also announced that the House had disagreed to the amendments of the Senate to the joint resolution (H.J. Res. 727) making further continuing appropriations for the fiscal year 1974, and for other purposes; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses there, and that Mr. MAHON, Mr. WHITTEN, Mr. PASSMAN, Mr. NATCHER, Mr. FLOOD, Mr. SMITH of Iowa, Mr. CEDERBERG, Mr. RHODES, Mr. MICHEL, and Mr. CONTE were appointed managers on the part of the House at the conference.

SURFACE MINING RECLAMATION ACT OF 1973

The Senate continued with the consideration of the bill (S. 425) 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.

The PRESIDING OFFICER. Under the previous order, the Senator from Tennessee is recognized.

Mr. BAKER. Mr. President, I have an amendment at the desk which I shall not call up at this moment. In lieu of putting in a quorum call in order to notify certain of my colleagues whom I promised to advise before beginning discussion of the next amendment, I am happy to yield to the Senator from Utah, with the understanding that at the conclusion of his remarks I may have the floor again.

Mr. MOSS. Mr. President, I do have an amendment. I shall not take very long. I think it is acceptable to the manager of the bill.

Mr. BAKER. Mr. President, I ask unanimous consent that I may yield to the Senator from Utah for the purpose of offering an amendment, without losing my right to the floor.

The PRESIDING OFFICER. Without objection, the Senator from Utah is recognized.

Mr. MOSS. Mr. President, I send to the desk an amendment which is not printed, but a copy is on each Senator's desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. Moss' amendment is as follows:

At the appropriate place in Section 208 add the following:

"(14) a determination of the hydrologic consequences of the mining and reclamation operations, both on and off the mine site, with respect to the hydrologic regime, quantity and quality of water in surface and ground water systems and the collection of sufficient data for the mine site and surrounding area so that an assessment can be made of the probable cumulative impacts of all anticipated mining in the area upon the hydrology of the area and particularly upon water availability. For those mining and reclamation operations which remove or disturb strata that serve as aquifers which significantly insure the hydrologic balance of water use either on or off the mining site, the regulatory authority shall specify:

(A) monitoring sites to record the quantity and quality of surface drainage above and below the mine site as well as in the potential zone of influence;

(B) monitoring sites to record level, amount, and samples of ground water aquifers potentially affected by the mining and also directly below the lower most (deepest) coal seam to be mined;

(C) the maintenance of records of well logs and boreholes; and

(D) monitoring sites to record precipitation.

The monitoring, data collection and analysis required by this section shall be conducted according to standards and procedures set forth by the regulatory authority in order to assure their reliability and validity."

At the appropriate place in Section 213, add the following:

"11) a detailed description of the measures to be taken during the mining and reclamation process to assure the protection of (A) the quantity and quality of surface and ground water systems, both on and off-site, from adverse effects of the mining and reclamation process, and (B) the rights of present users to such water."

At the appropriate place in Section 213, add a new paragraph (E) as follows: "by restoring recharge capacity of the aquifer at the mine site and protecting alluvial valley floors."

Mr. MOSS. Mr. President, this amendment has to do with the impact on hydrologic settings of surface mining at the mine site and in areas surrounding the mine.

Both surface mining and underground mining can increase the availability of water in some areas by increasing water retention characteristics of the ground surface. In other situations, mining operations decrease the availability of water by intersecting aquifers and discharging this ground water into surface drainage systems.

Much of this water will be lost through evaporation. In such instances downstream users of the surface water might realize a slight increase in water availability, however, the users of ground water aquifers might realize a decrease in their supply. Such changes might be temporary or irreversible. In areas where rainfall is relatively high compared to evaporation, such changes in surface

and ground water availability might well be insignificant. However, in semiarid and arid areas, such changes in water availability either in ground or surface water systems might easily have substantial impacts on land use and the economy of the region.

During the surface mining and reclamation process, including the phases of advanced planning and design of the operation, there are a number of very specific activities which must be carried out in order to both determine the impact on the hydrologic balance as well as to correct and minimize such impacts. Specific planning and monitoring requirements have been identified, new paragraph (14), page 81, and paragraph (11), page 92.

Specific adjustments to the mining process and actions to be taken during reclamation are identified in the proposed paragraph (f), "restoring the recharge capacity of the aquifier at the mine site and protecting alluvial valley floors."

In order to assure that both the short- and long-term disruptive impacts of mining on ground water supplies are minimized, it is necessary that reclamation be conducted in such a way so as to maximize the recharge capacity of the mine sites. The design of spoil handling, placement, and grading operations should be done to enhance recharge potential at the site.

For those mining operations, singularly or in combination, which cut across or destroy large aquifiers, mining should be predicated on the ability to replace the aquifier storage and recharge capability by selective spoil material segregation and handling.

Similarly, the alluvial valley floors and stream channels at the mine site must be preserved. The unconsolidated alluvial deposits are highly susceptible to erosion as evidenced by the erosional history of many western valleys. Removal of alluvium from the stream bed of a valley not only lowers the water table but also destroys the protective vegetation cover by draining soil moisture. Rehabilitation of valley floors is a long and expensive process and in the interim these highly productive grazing areas would be removed from use. Present efforts by the Federal Government to rehabilitate such valley floors and have extremely expensive, of long duration and only partially successful.

It should be noted that in a number of existing western coal strip mines, the present practice is to preserve such valley floors and stream channels. For instance, the 30-year mining plan for the Navajo Mine at Farmington, N. Mex.—Four Corners—clearly shows a zone of little or no mining and reduced impact where a tributary cuts across the mining operation.

This provision does not impose new and undue requirements on mining operators. It does, however, make a rule for all operations of present good practices of many operators.

Mr. President, the amendment makes changes in three separate places in the bill. It requires that a determination of the hydrologic consequences be made at the time that the application is made for opening the mine. It calls for monitoring the site and for records to be kept of the hydrologic changes that might come about; and it requires a detailed description of the measures to be taken during the mining and reclamation process.

Finally, the new paragraph provides for restoring the recharge capacity of the aquifer at the mine site and protecting alluvial valley floors.

I ask unanimous consent that the amendments be considered en bloc, since they occur at three separate places in the bill.

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

Mr. METCALF. Mr. President, I strongly urge the adoption of this amendment. The problem of water is of great concern in coal mining, in the West especially. This problem would be taken care of without interfering with State laws, particularly with the State water laws, which are most complex.

The amendment of the Senator from Utah focuses attention on the need to protect our surface water and our ground water. I urge its adoption.

The PRESIDING OFFICER (Mr. HELMS). The question is on agreeing to the amendments en bloc of the Senator from Utah (Mr. Moss).

The amendments were agreed to en bloc.

Mr. MOSS. Mr. President, I move that the vote by which the amendments were agreed to be reconsidered.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Tennessee (Mr. BAKER) is now recognized.

Mr. BAKER. Mr. President, I have at the desk Amendment No. 615. Let me say in advance that I do not intend to call it up. However, I want to discuss the amendment in light of and in the context of our consideration of this bill. The Senator from Kentucky (Mr. COOK) desires to enter into a colloquy with me on this subject. I have also indicated to the distinguished chairman of the Commitee on Interior ond Insular Affairs, the ranking member, and other Senators, why feel so strongly on this subject.

These amendments are to the Coal Mine Health and Safety Act of 1969. I will not today call up Amendment No. 615 but I do intend to ask the jurisdictional committees to consider the matters I intend to bring to their attention.

TRIBUTES TO FORMER SENATORS JOHN SHERMAN COOPER OF KENTUCKY AND LEN JORDAN OF IDAHO

Mr. BAKER. Mr. President, while we are waiting for the Senator from Kentucky (Mr. COOK) and others to come into the Chamber, I should like to pay a well-deserved tribute to a man who is not with us now as a Member of the Senate but who cosponsored S. 3000 in previous sessions of Congress, which, I believe, was the first bill to provide a comprehensive set of Federal criteria for strip mining plans throughout the country.

Mr. President, I am sure that former Senator John Sherman Cooper of Kentucky would have joined enthusiastically in our rather lengthy deliberations on a good piece of legislation. I believe that if the Senate passes this bill and the House concurs and it becomes the law of the land, no one will be happier with the outcome than former Senator Cooper who knows the Appalachian region so intimately, his concern for which having been shown so favorably over so many years.

Mr. MOSS. Mr. President, may I add my word of commendation to former Senator John Sherman Cooper of Kentucky who did, indeed, work long, faithfully, and most effectively on this matter of strip mining and surface mining and contributed greatly during the time he served in the Senate. I want to join and be associated with the remarks of the Senator from Tennessee.

May I also add to that the name of former Senator Len Jordan of Idaho, a ranking member of the Minerals, Materials, and Fuels Subcommittee. He worked hard and diligently on the bills that were considered by that subcommittee. He, too, would be delighted to see his handiwork come to fruition along with the excellent work being done by the present members of that committee, the Senator from Montana (Mr. METCALF), the Senator from Arizona (Mr. FANNIN), the Senator from Wyoming (Mr. HANSEN), the Senator from Idaho (Mr. MCCLURE), and other Senators too numerous to mention.

But I do say that a great deal of effort has been made in a very difficult area. It is so hard to find an appropriate balance between the challenge we have to utilize this resource for energy and, at the same time, preserve our natural habitat and restore it to where it was before we degraded it. This has been a hard piece of legislation to write. A tremendous job has been done by my colleagues especially the distinguished Senator from Tennessee (Mr. BAKER). I thank him for yielding me this time to say these few words.

Mr. BAKER. Mr. President, I could not agree more with the Senator from Utah. Former Senator Len Jordan of Idaho was extraordinarily perceptive in this field. He contributed mightily to the deliberations which have led to the pending bill now being considered by the Senate. It is a very fine piece of legislation. I would add my commendation and congratulations to former Senator Len Jordan of Idaho and former Senator John Sherman Cooper of Kentucky in recognition of their efforts in this respect.

Mr. FANNIN. Mr. President, I should like to commend the Senator from Tennessee and the Senator from Utah for the statements they have made with reference to former Senator John Sherman Cooper of Kentucky, and former Senator Len Jordan of Idaho, who was a member of the Committee on Interior and Insular Affairs and worked diligently on legislation that involved mining and other programs. He was a stalwart in that regard.

Former Senator Cooper was extremely helpful in legislation on matters pertaining to strip mining. He had a great interest, having told me on many occasions of

his experiences in Kentucky and how he had been through the mines himself and worked with the miners and had this tremendous interest and dedication to do something about the conditions that existed in his own State and throughout the Appalachian area.

Thus, it is fitting that we pay tribute to these men at this time. I highly commend the Senator from Tennessee (Mr. BAKER) for doing so.

Mr. BAKER. Mr. President, I thank the Senator from Arizona very much.

Mr. President, yesterday I introduced S. 2541, a bill to amend the Federal Coal Mine Health and Safety Act of 1969. This bill is designed to modify certain provisions of the Coal Mine Health and Safety Act which are operating to the detriment of all segments of the deep mining industry.

A pervasive theme during the ongoing consideration of S. 425, the Surface Mine Reclamation bill now before the Senate, has been that while we must insure that irresponsible surface mining does not continue unabated, we must make adequate provision for the recovery of our coal deposits, our most abundant energy resource. Thus, in view of the fact that it has been estimated by the Environmental Protection Agency that 97 percent of our Nation's recoverable coal reserves can be obtained only through deep mining, and because surface mine legislation and reform of Federal regulation of deep mining form a logical connection, I think it incumbent upon Congress to consider the impact which the Federal Coal Mine Health and Safety Act of 1969 has exerted upon the underground mining of coal.

Therefore, I submitted my amendment No. 615, which contains provisions identical to the bill which I introduced yesterday. These provisions can be categorized under four major headings.

First, I propose amendments to provide for improved administrative practices by clarifying the procedures whereby the Bureau of Mines promulgates mandatory health and safety standards for underground coal mines. These amendments will insure that all interested parties will receive adequate notice of proposed standards, hearings, and final regulations. Furthermore, the amendments will assure proper and extensive consultation and consideration of several points of view before improved health and safety standards can become effective. These alterations should eliminate the arbitrary and premature manner in which some standards have been promulgated.

Second, I propose to strike the mandatory civil penalties section 109(a)(1) of the Coal Mine Health and Safety Act, which provision requires the mandatory assessment of civil penalties by the Secretary of Interior against deep mine operations for each and every violation of a health and safety standard. The assessment of substantial fines under the authority vested by this section has developed into regulatory overkill. It should be pointed out that appeals from these fines are limited to the size of the fine and not to the merits of the alleged violation. In short, as administered by the Bureau of Mines, the mandatory assessment of civil fines raises serious due-process questions, imposes economic hardship upon deep mine operators, and imposed by the act. These sanctions include criminal penalties, encompassing imprisonment, and the authority to order closure of the mine.

Third, I propose amendments to effect certain changes in the law relating to operating efficiency and the utilization of certain types of equipment as well as improvements in safety training programs.

Finally, I propose to restore the gassy and nongassy classifications in effect prior to the 1969 act. Those mines located above the water table that have been tested and found free from methane gas would be exempt from having to purchase expensive and unnecessary permissible equipment designed for large gassy mines.

In summation, our brief experience with the administration of the provisions of the Federal Coal Mine Health and Safety Act by the Bureau of Mines indicates the need for Congress to consider clarifying and, in some instances, modifying amendments. Some of the act's provisions are neither workable nor effective, and a few, rather than contributing to safety, arguably have increased the hazards of working in underground coal mines. This is not to say that the act has not been effective, for commendable progress has been made. Similarly, these proposed amendments are not designed to lessen the protection afforded the health and safety of the miners, but are intended to restore economic vigor to the deep mining industry by eliminating statutory and regulatory excesses. Miners, as well as operators, should benefit from the procedural and administrative reforms which I am proposing and from the restoration to profitability of many deep mining operations now rendered marginal under the act.

It is clear that the coal industry must improve its capability to recover underground coal reserves. The elimination of unnecessary and burdensome requirements, while simultaneously not reducing the protection afforded miners, will significantly enhance the productivity of deep mining operations and thereby accrue to the benefit of all concerned.

Mr. President, it seems to me that these remarks with respect to the Coal Mine Health and Safety Act of 1969 are relevant and germane to our debate on the adoption of the surface mine bill, S. 425, which is before the Senate. With the rather rigid and highly desirable restrictions we are placing on surface mining, it is not only inevitable but also desirable, I believe, that the cost differential between surface mining and deep mining will diminish or disappear. If that is the case, we will place greater and greater reliance on underground mining to furnish greater amounts of coal to satisfy the voracious appetite of this country for energy.

If that is so, then at the same time we must consider how the Coal Mine Health and Safety Act of 1969 has functioned. I have many examples in my files of almost ludicrous situations that have developed from possibly misguided, possibly little understood provisions of this act.

I know that many in my State and throughout the coal fields of the country were greatly distressed with the constitutional due process aspects of the authority of a Federal inspector to levy a civil fine, and by an act that provides that you cannot even appeal from the levying of the fine, only as to the amount of the fine. These are only some examples of the problems we have encountered since the enactment of that laudatory bill.

It is not my purpose or desire to emasculate the function of the Coal Mine Health and Safety Act. It is, rather, my purpose today, by introducing the bill which has been referred to the appropriate committee, to reembody it in that bill and in amendment No. 615 to this bill, to call the attention of the Committee on Interior and Insular Affairs to what I believe are the unintended but serious results of that act.

I hope the representatives of the jurisdictional committee who are on the floor may give me some hope, even assurance, that these matters will be taken up in hearings and that careful attention will be given to the grievances which have been brought to my attention.

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

Mr. BAKER. I am happy to yield.

Mr. JAVITS. Mr. President, I have consulted Senator BAKER. I have enormous respect for his views. As the ranking member of the committee, I shall do everything I can to look very carefully into the situation. He knows that we do not control the hearings—the majority do—but I shall do everything I can, in considering his views and the factual background, to obtain the hearings.

I am a member of the Committee on Labor and Public Welfare, and I assure the Senator that I will see that the utmost regard is given to his presentation of this matter and that it will be given earnest and prompt consideration.

Mr. BAKER. Mr. President, I am deeply grateful to the distinguished ranking member of the committee, for whom I have great respect, not only as a Senator but as a lawyer as well. I know that he fully understands that the spirit of this presentation is for a full, fair, and equitable examination of the consequences of that act, and in no way to eviscerate or decimate the desirability of protecting the health standards of our country.

Mr. JAVITS. Knowing the Senator as I do, I have every confidence in that.

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

Mr. BAKER. I yield.

Mr. WILLIAMS. Mr. President, as chairman of the Committee on Labor and Public Welfare, which reported the bill and led the debate on the coal mine health and safety legislation, I assure the Senator that we will be in hearing on proposed mining legislation.

Even though we recognize that this Coal Mine Health and Safety Act, as the

President said when he signed it, was historic in its reach and its importance to coal miners, whenever there are any ideas to improve that breakthrough legislation to bring better conditions of health and safety to miners, we will be there to hear those ideas.

As I indicated to the Senator from Kentucky (Mr. COOK) recently, some of his thoughts on the Coal Mine Health and Safety Act can be heard and will be heard when proposed legislation is before our committee in the hearing process. The proposed legislation deals with bringing health and safety legislation for miners under the responsibility of the Department of Labor. That would be an appropriate time, and I assure the Senator that we will welcome a review of his ideas.

Mr. BAKER. Mr. President, I am very grateful to the distinguished chairman, the Senator from New Jersey, for giving me those assurances. I think it most appropriate and far preferable to consider these matters in committee and not as a floor amendment of rather substantial proportions.

So, on the representations of the chairman and the ranking member of the affected committees, I reiterate my earlier statement that I shall not call up Amendment No. 615. I shall stand ready to present those views to the appropriate committee or committees later in the session or next year.

I yield the floor.

Mr. FANNIN. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 73, line 1, strike: "four" insert in lieu thereof: "six".

Mr. FANNIN. Mr. President, this is a very simple amendment.

Section 204. "State Authority; State Programs," reads:

(a) A State, to be eligible to receive financial assistance provided for under titles III and V of this Act and to be eligible to assume exclusive jurisdiction, except as provided by section 215 and title III of this Act, over surface mining and reclamation operations on land within such State, shall—

Under section (b), it states:

(b) The Secretary shall not approve any State program submitted by a State pursuant to this section until:

(1) he has solicited the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other Federal agencies concerned with or having special expertise pertinent to the proposed State Program; and

(2) he has provided an opportunity for a public hearing on the State Program within the State.

Then section (c) states:

The Secretary shall, within—

The present language is "within four calendar months following the submission of any State program." My amendment would just change the word "four" to "six." This would mean that the Secretary shall, within 6 calendar months following the submission of any State program, approve or disapprove such State program or any portion thereof. Then the language would continue as it is in the bill.

I feel that this amendment is essential because insufficient time is provided for the Secretary to obtain the information from the Environmental Protection Agency and to do what is required of him to make his decision. I feel that this is a needed amendment in order that the program can be properly administered.

Mr. METCALF. Mr. President, I concur in the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. METCALF. Mr. President, I have at the desk a series of technical amendments, which I call up, and I ask unanimous consent that they be considered en bloc.

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

The amendments will be stated.

The legislative clerk proceeded to read the amendments.

Mr. METCALF. Mr. President, I ask unanimous consent that further reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, the amendments will be printed in the RECORD.

The amendments are as follows:

(1) Page 95, line, 6. Strike "operator" and insert "operator's".

(2) Page 96, line, 8. Insert after "waters" the following "or sustained combustion".

(3) Page 119, line, 9. Insert after the word "mining": ", including mining systems that will minimize or prevent the continuous polluting discharge of mine drainage following the cessation of mining activities, and".

(4) Page 90 line, 21. Add the following: "and the comments of any State and local governments or agencies thereof which would have to approve or authorize the proposed use of the land following reclamation."

(5) Page 134, line, 22. Strike "404" and insert "504".

(6) Page 134, line, 2. Strike "applicant" and insert "application".

(7) Page 104, line, 21. Insert after "citizen" "as defined by law and regulation".

The PRESIDING OFFICER. The question is on agreeing to the amendments.

The amendments were agreed to.

Mr. METCALF. Mr. President, I had an amendment in this bill and a provision in the bill for citizen suits. In order to avoid frivolous suits, Senator ALLEN wants any complaint to be made in writing, under oath. I concur with that, and I send to the desk two amendments, which I ask unanimous consent be considered en bloc.

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

The amendments will be stated.

The legislative clerk proceeded to read the amendments.

Mr. METCALF. Mr. President, I ask unanimous consent that further reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendments will be printed in the RECORD.

The amendments are as follows:

On page 109, Sec. 219(b)(1)(A), 1.14 after "notice" in writing under oath".

On page 110, Sec. 219(b)(2), 1.1 after "notice" insert the following: "in writing under oath".

The question is on agreeing to the amendments.

The amendments were agreed to.

Mr. METCALF. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of S. 425.

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

Mr. ALLEN. Mr. President, I send to the desk an amendment that I offer at this time on behalf of the distinguished Senator from Georgia (Mr. NUNN) and myself.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 92, Sec. 213(b)(2), 1.24 after the word "unless" insert the following: "another surface configuration is equally as effective in controlling erosion, siltation and rainwater runoff or".

Mr. METCALF. Mr. President, will the Senator yield so that I may ask for the yeas and nays on final passage while we have a sufficient number of Senators in the Chamber?

Mr. ALLEN. I yield.

Mr. METCALF. Mr. President, I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

Mr. ALLEN. Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. ALLEN. Mr. President, surface mining of coal is a matter of increasingly urgent environmental concern—and well it should be. Unfortunately, in years past there have been instances in Alabama and elsewhere that clearly demonstrate the need for reasonable and cost-efficient measures to insure that surface mined lands are not abandoned but, rather, are restored to the degree that they can be put to productive use after mining operations have been completed.

I have supported, and will continue to support, legislation to prevent the flagrant degradation of the environment in the interest of surface mining. I have supported, and will continue to support, legislation placing a clear and irrevocable requirement upon surface miners for reasonable reclamation.

At the same time, it should be recognized—especially today when energy shortages are real or threatened in many areas of the Nation—that surface mined coal satisfies a very substantial amount of our overall energy needs. In Alabama, some 11 million tons of coal are surface mined annually. That represents about 4 percent of the State's total production. Without surface mined coal, there is no question that there would be an energy crisis in Alabama, and throughout the Nation. For instance, I am informed that more than 50 percent of the coal used by Alabama Power Co., which serves most of the State with electricity, is supplied from surface mines.

I have a similar statement from the TVA also, which is the greatest user of coal in the entire Nation. If their supply

were appreciably reduced, I am advised that a shortage of electricity would result.

I am convinced that legislation can be enacted that will accomplish the twin goals of, first, protecting our environment from short-sighted operations that would leave the land scarred and abandoned and, second, permitting an uninterrupted supply of surface mined coal to help meet our vital and rapidly growing energy requirements.

However, the legislation pending before the U.S. Senate, now to regulate surface mining has been amended to include one provision that I consider unnecessary and unworkable. It is a provision that very conceivably would make surface mining all but impossible in Alabama and many sections of the country. Under this provision, surface mined lands would have to be restored to their approximate original contour, unless it can be shown that there is insufficient overburden for such restoration. The original contour requirement replaced an earlier stipulation that surface mined lands could be restored to a contour other than the original so long as the contour after reclamation was compatible with surrounding terrain and was equally effective in controlling erosion, siltation, and the runoff of water.

The earlier version, I believe, is much to be preferred over the original contour amendment. In the first place, restoring the original contour, in many instances, simply would not be practical and, where it could be done, would represent an unwarranted economic burden on the operator, with the resulting higher cost ultimately borne by the consumer.

The original contour amendment would apply generally in Alabama because coal seams in the State are thin. Consequently, the amount of coal mined seldom would be such that there would be insufficient overburden.

It should be noted that, because coal seams in Alabama are thin, the cost of mining is inherently higher than in other States where the seams are thicker.

The distinguished Senator from Wyoming spoke of seams in his State being 100 or 200 feet thick, whereas in Alabama they are sometimes as little as 18 inches to 2 feet in thickness. Adding the economic burden of restoring land to the original contour inevitably would force some operators out of business, while further increasing the cost of others. And, I repeat, any increases in cost would be passed on to the consuming public.

I favor the earlier provision—and that was the committee version until the final hours before committee action when the original contour amendment was added—that would allow restoration to a contour other than the original so long as the stipulations I mentioned above are included to insure compatibility with surrounding terrain and effective control of erosion, siltation, and runoff of water. I believe such a provision is feasible, would allow limited but necessary flexibility in the reclamation of surface mined lands, and still would fully meet environmental requirements.

As to the amendment itself, it seeks to amend on page 92, section 213(b)(2), line 24, where it states that the regulations would require at a minimum that the permittee backfill, compact, and grade to restore the approximate original contour unless, and then this language inserted:

another surface configuration is equally as effective in controlling erosion, siltation, and rainwater runoff or

This would be up to the regulatory authority to determine whether the other surface configuration is equally effective in controlling erosion, siltation, and rainwater runoff.

Why freeze in and make absolutely inflexible the requirement that the land be returned to the original contour when the regulatory authority should be given the power to accept another plan if it accomplished the purposes of the act, and that is to be equally effective controlling erosion, siltation, and rainwater runoff? It merely gives the authority in the alternative. What is so essential about returning to the original contour if another method might be equally effective and be at a much smaller cost, rather than to demand and require the return to the original contour?

Section 213(b)(2) requires backfilling, compacting, and grading to achieve approximate original contour with all highwalls, spoil piles, and depressions eliminated.

Control of erosion, sedimentation, landslides, toxic drainage, soil stabilization, and revegetation should be the key objective of reclamation and reclamation must be the key objective of this legislation. These objectives can be handled, oftentimes more effectively, without return to the original contour. For example, the steeper the slope, the greater the erosion and siltation in this natural state. Therefore, the creation of terraces, plateaus, and gently rolling land more effectively control erosion and siltation.

These alternative methods would be barred under the language of the bill as it now stands. Alternative grading plans, including terracing, retention of stable highwalls or spoil banks, and water impoundments should be permitted under the bill, but are not.

It does not give the operator the option to go another route on his own. The alternate method would have to be approved by the regulatory authority. Why not vest in the regulatory authority the power to allow the operator to go a different route if it would accomplish the same purpose? Why freeze in the requirement that he return to the original contour?

Requiring return to the original contour without exception in all mountainous and hilly terrain is not a responsible approach to the objective upon which we all agree. Even though return to the original contour may be appropriate in some cases in many, if not most, instances it would frustrate protection of the environment rather than further reclamation.

For example, in my own State and in most of Appalachia return to the original contour would require the disturbance of a significant amount of otherwise undisturbed terrain in order to eliminate the so-called "highwall" and consequently is probably the most costly requirement imposed without concomitant actual environmental benefit. We all know that the steeper the slope the faster water travels over the surface. As a result, requiring the return to original contour in all cases would frequently result in greater erosion, siltation, and loss of ground water and would return the land to other surface forms. Level land, gently rolling terrain, terraces and plateaus are land forms which permit more effective control of erosion, siltation, and drainage. Allowing the utilization of alternative final land forms would in many cases in Alabama and throughout Appalachia permit land to be put to better use after surface mining than it could have ever experienced prior to the removal of the coal. Such land forms can hold topsoil, are better suited to the support of economically desirable vegetation, and can be more readily stabilized against slumping, landslides, and erosion than by being returned to their original steep contour.

I believe that the concept of returning to the original contour is included in this bill primarily to cope with a visual problem—that is, the highwall. There are alternative methods of coping with the visual impact of highwalls that are less costly and ultimately more effective. Terracing up to the highwall, partial backfilling, stair stepping the highwall itself with vegetation on the steps, sloping the highwall, and combinations of these methods are good examples. Water impoundment is not used too often in the steep mountains, but in more rolling terrain, it eliminates the visible highwall and also serves as a water conservation measure. In the future, new techniques may be perfected and become available. Alternate methods for treating the highwall should be specifically permitted by the legislation while, at the same time, it should not preclude the adoption of any new methods which may be developed.

Mr. President, under the concept of the bill, all of the improved methods that might be developed in years to come would be barred under the language of the bill that we are seeking to amend. It seems to me to be shortsighted not to permit the regulatory authority to have discretion to approve an alternative plan—not require it to approve it, but give it authority to approve it.

Many of the highwalls in Appalachia are quite stable and do not present a slide problem. They, of course, will weather over the years, but this permits natural vegetation. Some of the alternative methods of highwall treatment can also be used to improve stability where necessary.

I am not saying that approximate original contour should never be used. There may be situations that call for such treatment to hide the highwall.

Under the language of the amendment that I am proposing, the power of the regulatory authority to require return to the original contour would not

be taken away from it; it would have that authority, but merely would be given the additional power of providing for an alternative method.

However, there are other methods much more effective, to insure stability and to control erosion and sedimentation, in many cases, than going back to the original contour.

The visual effect of highwalls can also be handled with other methods. Original contour should not be the primary requirement or the standard against which all reclamation should be measured. It does not insure good reclamation and could actually be counterproductive.

I hope, Mr. President, that the amendment will be adopted. I have supported the amendments to clarify the bill, to make it more effective, to provide for the protection of the environment; but this amendment is needed in the State of Alabama and in much of Appalachia to prevent the destruction of an industry and the throwing out of work of thousands of coal miners.

I am hopeful that use of an alternative plan, to be approved by the regulatory authority, will be authorized in this legislation in its final form. I hope the amendment will be agreed to.

Mr. NELSON. Mr. President, I shall just comment briefly. The amendment by the distinguished Senator from Alabama would eliminate from the bill the requirement that all highwalls, spoil piles, and depressions be eliminated. That is, in my judgment, the very guts of the most important part of the bill, and if this amendment were adopted, it would destroy what I consider the most significant provision, or one of the two or three most significant provisions, in the measure.

I do not think the distinguished Senator from Alabama should, No. 1, be concerned about the problem of cost. A very careful study was done, at the request of the committee, by the Council on Environmental Quality, and they submitted to the committee a very careful report entitled, "Coal Surface Mining and Reclamation." They made the study and presented the report on April 30, 1973. In that report, based upon the study of the Council on Environmental Quality, they stated:

> Our cost estimates of demonstrated surface mining techniques indicated that in most cases the incremental cost would not be significant.

Incidentally, in that report, the Council recommended, one, to backfill to the original or similarly appropriate contour; two, to prevent the dumping of supplies down the slope except as necessary to the original excavation of earth in new mining operations, and, three, to carry out reclamation as a continuous part of the mining operation.

The elimination of the highwall is supported, after a careful study, by the Council on Environmental Quality. The State of Pennsylvania has had a requirement in its law for the elimination of the highwall since 1964 and more recently, a requirement that restoration, under their regulations, be to the approximate original contour. The government of Pennsylvania supports that requirement in their law and their regulations.

The president of the United Mine Workers supports it. So I do not think the distinguished Senator from Alabama should be concerned or worried about the loss of jobs. I do not think the president of the United Mine Workers would support elimination of the highwalls if he anticipated that result.

Furthermore here is a comment of Mr. Edward Mears, president of a firm in Pennsylvania that mines 1,300,000 tons of Pennsylvania coal in a year. He was quoted in a recent West Virginia newspaper article as saying that he has found it more economical to use the modified block cut practice than his previous practice.

Mac Chutz, president of another company in a recent newspaper article was quoted as saying:

> We have a good law. We are doing a good job and I like it.

In a recent letter, the Governor of Pennsylvania commended the modified block cut method for strip mining as a means of complying with Pennsylvania requirements.

I think it would be a terrific mistake if this amendment were to be agreed to.

HIGHWALLS, SPOIL DISPOSAL, AND CONTOUR

Mr. President, I urge support for the provisions of the strip mining control bill regarding highwalls, downslope spoil disposal, and approximate original contour. These sections of S. 425 were strengthened by amendments which I introduced and the Interior Committee adopted by an 8 to 6 vote.

The first of these key reclamation provisions, contained in section 213(b)(2), requires the elimination of the highwall that is left after the strip mine operator cuts into the side of a hill following a seam of coal in contour mining.

The second key provision, also in the same subsection, would require that the slope be returned to its approximate original contour after the strip mining, with the elimination of spoil piles and depressions. In cases where the operator shows that there is not enough overburden to return the land to its original contour, stipulations are set forth requiring the best reclamation possible in the circumstances.

The third key provision, in section 213(b)(6), would prevent the dumping of spoil material or other strip mining wastes downslope from the mining cut or the narrow bench of land associated with it. An exception is made for spoil from the initial cut, provided the operator demonstrates that the material will not slide and that the other pertinent reclamation requirements of the subsection can still be met.

While there are other reclamation requirements in this bill, the elimination of highwalls and downslope spoil dumping and restoration of the mined area to its approximate original contour are absolutely essential steps in any meaningful attack on strip mining's massive environmental abuse.

As described in a recent report of the President's Council on Environmental Quality, "unsightly highwalls are a hazard to life and property. Highwalls that crumble and erode from weathering ruin drainage patterns and significantly add to water pollution. Material falling off the highwall can retard surface water flow and thereby prolong the contact between water and acid producing materials."

Downslope spoil dumping, the report continued, "increases markedly the potential for landslides and slumping, erosion, highwall collapse or sloughing, chemical pollution, flooding, ground cover, and wildlife pattern disruption and generally precludes future uses of mined areas."

As public awareness of the incredible destruction from these strip mining practices has increased, the pressures for congressional action have grown steadily stronger. In 1965, I introduced one of the first regulatory bills in Congress. The legislation got nowhere. Now, the support for the steps contained in the strengthening amendments I introduced in committee regarding highwalls, slope contour and downslope dumping ranges from environmental groups to the United Mine Workers of America to the strip mining study of the President's Council on Environmental Quality.

In its study, the Council urged reclamation requirements that would bring the strip mined slope back to its original contour and prevent the dumping of spoils down the slope, which would be required under the bill now before us.

In a letter last month supporting the elimination of highwalls and downslope dumping, United Mine Workers President Arnold Miller said—

> There is ample evidence that highwalls can be eliminated in a very high percentage of contour mining locations via the modified block cut method developed in Pennsylvania." He added that, "with the exception of the initial removal of overburden for the first cut . . . , there is no need or justification for continuing the practice of depositing overburden over the bench.

The elimination of these strip mining practices is amply justified not only environmentally but economically and technically.

In its study this year, the Council on Environmental Quality pointed out that reclamation techniques now exist to eliminate highwalls and downslope spoil disposal at significantly less cost than other reclamation practices.

One of the methods to which the study referred was the so-called modified block cut, a concurrent mining and reclamation technique by which a contour mining cut is filled during the stripping operation with the overburden being taken from along the coal seam. In this way, highwalls and downslope spoil dumping are eliminated in a continuous process.

The practice of leaving exposed highwalls after reclamation was outlawed in Pennsylvania in 1964. In large part, the modified block cut process of strip mine reclamation was developed as a means of complying with that law and the regulations under it and is now in use not only in Pennsylvania but in areas of

West Virginia and Kentucky, according to the Council study.

Edward Mears, president of a firm that mines 1.3 million tons of Pennsylvania coal yearly, was quoted in a recent West Virginia newspaper article as saying he has found it is "more economical" to use the modified block cut method than his previous practices. Mac Chutz, president of Allied Fuels Co., was quoted in a recent Pennsylvania article as saying—

We have a good law. We're doing a good job and I like it.

In a recent letter, Gov. Milton Shapp of Pennsylvania also affirmed the economic viability of decent strip mining reclamation:

Pennsylvania's coal strippers estimate the reclamation costs to meet our tough standards are only $400 to $500 per acre—less than 1½ percent the cost of the sales price of their coal.

He added—

I understand from mining engineers that the technology now exists to reclaim all surface mines to approximate original contour without retention of highwalls regardless of the slope of the ground.

Adding further support to the sections in this bill regarding highwalls, downslope dumping and slope contour, Walter Heine, administrator of the Pennsylvania law, said in a recent letter:

In our view, therefore, Section 213(b)(2) and (6) is reasonable and consistent with respect to Pennsylvania law, since approximate original contour backfilling, which has been part of our law since 1964, is now clearly the prevailing reclamation standard in Pennsylvania.

In a letter to the Interior Committee last month supporting the elimination of highwalls and downslope spoil disposal, Senators SCHWEIKER and SCOTT of Pennsylvania pointed out that their State has not allowed an exposed highwall to remain for over 9 years.

Spelling out the benefits of sound reclamation practices, the Senate Interior Committee report on this legislation notes that the practice of eliminating highwalls and restoring to approximate original contour will eliminate the long useless ribbons of benches which can be as wide as 200 feet and run for miles along steep slopes.

As noted by the report, in addition to Pennsylvania, the States of West Virginia and Ohio have also taken steps to require the elimination or limiting of highwalls.

Regarding restoration of the mined slope to its approximate original contour, the report explains that the steepness of the slope is immaterial to the feasibility of this requirement. In West Virginia, complete back filling of the mining cut is now required on all slopes up to 30 degrees. And as noted earlier, the prevailing reclamation standard in Pennsylvania is now restoration to approximate original contour.

The report also notes that the modified block cut is not the only feasible means of achieving this reclamation standard, pointing out that several surface mines in West Virginia and Tennessee are now reclaiming to approximate original contour using other techniques.

Regarding the dumping of spoil on the downslopes, the report notes that already, most Appalachian States restrict spoil replacement on the downslope and prohibit so-called fill benches on the steepest slopes.

In sum, there is no longer any excuse for delay in putting an end to environmentally destructive strip mining practices and requiring restoration of strip mined lands.

Every week, surface mining for coal disturbs an estimated 1,000 acres. As cited in the Interior Committee report, as of January 1, 1972, there were 4 million acres of land disturbed by surface mining in the United States, of which 1.7 million acres were disturbed by surface mining for coal.

In a recent message to Congress, President Nixon said:

The damage caused by surface mining, however, can be repaired and the land restored. I believe it is the responsibility of the mining industry to undertake such restorative action and I believe it must be required of them.

The provisions in this legislation for the elimination of highwalls and downslope soil dumping and the restoration of the land to its approximate original contour are reasonable requirements designed to insure that strip mining operators do indeed meet this vital responsibility to protection of the quality of the environment and the interests of the American public.

It must also be noted that when measured against the tremendous potential for further environmental damage by strip mining not only for coal but for other minerals, this legislation should only be considered a beginning step.

Even with reclamation, which is required in this bill, coal stripping on a large scale in the West, the next most likely phase in coal development, threatens a vast, permanent change from the Rocky Mountains across the Great Plains. The sprawling network of strip mines, powerplants and power transmission grids, and coal gasification and liquefaction plants that will probably accompany the exploitation of the giant western coal reserves, will have a massive impact not only on the environment but on the future economy and quality of life of the entire region.

Recently, a study sponsored by the National Academy of Sciences concluded with the warning that even with the best of reclamation efforts, restoration of coal-stripped western lands will frequently be painfully slow, if not impossible process, because of the region's naturally dry climate.

Already, the reckless efforts to reap the treasure of the land without regard to the environmental and human costs have created a national tragedy, the ravaged, coal-stripped hills of Appalachia. We must not allow another region of a once beautiful land to be ravaged.

Coal strip mining's cruel devastation of the land and of the people who live on it is all the more tragic because it is so unnecessary. While coal stripping has sometimes been portrayed as absolutely essential to meeting our energy needs over the long range, in fact, only a relatively small share of the Nation's coal reserves is actually strippable. Most of our coal supply can be tapped only by underground mining methods, simply because of the way it was deposited by nature.

In view of the ratio between strippable and underground coal, the Nation's energy companies would better serve the public's supply needs by directing their attention to finding the most economical, safe, environmentally acceptable means of developing our underground coal reserves. As a step in this direction, the bill before us now directs a special study by the Council on Environmental Quality of more efficient, less damaging mining methods, including underground mining.

Recently, Russell Train, Administrator of the Environmental Protection Agency, cited the urgent need to develop better underground coal mining methods. As quoted in a Washington Post story, Mr. Train said:

The underground reserves are by all odds the predominant sources that we have. We're going to have to get at this in any event. The sooner we can make underground (mining) more economically attractive, more technologically feasible and more socially acceptable as a way of life, way of employment, the better off we're going to be.

Mr. President, I do not want to conclude this statement without taking note of the leadership of Senator METCALF on this important piece of environmental legislation. The committee action last month ordering this strip mining regulation bill reported was the product of many hours of committee hearings and markup sessions over a period of months and Senator METCALF'S persistent efforts in moving the bill along and in offering major strengthening amendments were a real public service.

Mr. SCHWEIKER. Mr. President, I rise in opposition to the amendment of the distinguished Senator from Alabama.

Mr. President, I think this amendment would gut the bill. I think in essence the amendment would undo the good work the committee has done and that this bill will do in its present form.

I was a supporter of the original language which the Senator from Wisconsin (Mr. NELSON) introduced in the committee. I think that was a good amendment in the committee bill. I think that the committee bill corresponds to the present law and present technology in Pennsylvania and the present practice in Pennsylvania.

I think a very interesting statistic is that each acre produces $35,000 worth of coal. Yet it only costs about $500 an acre to restore that land to approximately the original contour.

So, for each $35,000 worth of coal, which is what an acre produces in Pennsylvania, it costs $500 to restore that land to approximately the original contour. That is about 1.5 percent of the total revenue derived from the coal. This is a very small investment to make sure that the land will not be defaced and gutted.

I invite some of the Senators to travel through Pennsylvania and observe some of the holes that have been left from the previous ways in which they mined coal.

The new bill has been on the books for 9 years in Pennsylvania. Yet we produced more coal in the 9 years with the tough bill on the books than the previous 9 years when an easy law was on the books. So all of the points brought out here did not hold up in Pennsylvania.

Interestingly enough, during that 9-year period we have surpassed the West Virginia production of coal. I am not particularly for that. However, it does show that it was no handicap for us to operate under the approximately original contour legislation. And the fact that our coal production exceeded that of West Virginia, despite our tough law, shows that.

Some say that the coal production in West Virginia and Tennessee and Kentucky is not the same as that of Pennsylvania.

We have different contours in the northern and southern part of Pennsylvania. In the southern part of Pennsylvania the area is identical to that of West Virginia and Tennessee. In one county of Pennsylvania, while you could not see the county line, the contour of the land in Pennsylvania is identical to that of West Virginia.

The fact is that the cost of restoring the land to approximately the original contour is 1.5 percent at the present time. It might go up to 2 percent or 2.5 percent. However, is that not an investment we want to make if we want to get coal out of the ground and beautify America at the same time?

I strongly oppose the amendment of the Senator from Alabama. I think that it would gut the bill. I think that the committee bill is an excellent bill. It follows Pennsylvania standards. I hope that we will not turn the clock backwards and retrench, because we can have a good bill and can still mine coal. And that is what the bill does.

Mr. ALLEN. Mr. President, one would think from listening to the distinguished Senator from Pennsylvania that the amendment supplants the provision allowing a return to the original contour. Far from that being true our amendment would allow the original contour to be ordered by the regulatory authority if it so desired. It also allows the regulatory authority to authorize an alternative plan.

The distinguished Senator dislikes the idea of placing confidence in the regulatory authorities. The Senator from Alabama would be glad to leave it up to the regulatory authority, State or Federal, as to whether the original contour would be best for that land and for all concerned, or whether an alternative plan would be better for the land and for all concerned.

The distinguished Senator from Pennsylvania is also assuming that a return to the original contour is best in every case. As a matter of fact, Mr. President, it is not always the best in every case to return to the original contour. An alternative plan might be better for the land and the environment.

In the judgment of the Senator from Alabama, this is clearly an amendment that gives the regulatory authority the flexibility to use the best plan for the benefit of all concerned, for the public, for the environment, for the coal operators, for the miners, and for one and all.

It allows the regulatory authority to specify the particular plan that will be adopted to reclaim the land.

Mr. President, I have a statement by the Tennessee Valley Authority which is the largest user of coal in the entire country. That statement points out the hardships that would be created by the demand for a return to the original contour.

I read that statement:

TVA OBJECTIONS TO S. 425: REQUIREMENT OF RESTORATION TO APPROXIMATE ORIGINAL CONTOUR

Paragraphs (2) and (6) of section 213(b) of the bill as ordered reported represent the most serious obstacles to continued coal production. Paragraph (2) would require backfiling and grading to the approximate original contour with all highwalls, spoil piles, and depression eliminated if there is a sufficient volume of overburden to do this. Consistent with this requirement, paragraph (6) would generally prohibit placement of spoil on the natural downslope. Since the volume of overburden removed in surface mining in the mountainous Appalachian area is more than enough to fill the cut because of expansion of the overburden material, the effect of these provisions is to require restoration in all cases to the approximate original contour.

Based upon recent studies and a relatively small amount of experimentation, it is apparent that return of the surface mined areas in mountainous Appalachia to the original contour will entail an increase in coal production costs which could be almost present day costs. The economics would make such production infeasible and the end result would be virtual elimination of this source of production. Even in the flatland areas, the cost of surface mining would be substantially increased by the original contour requirement, if applied without exception to the entire mining area.

In its recent report to the Senate Committee on Interior and Insuar Affairs, the Council on Environmental Quality has identified over 100 million tons of surface mined coal produced from the mountain slopes in Appalachia in 1971. This approximates 30 percent of the entire production in the Appalachian region. It is obvious that the elimination of such a substantial proportion of the Appalachian production would seriously damage the economy of the region and would cause a drastic curtailment in the production of power in the eastern part of the United States. To replace this lost surface mine production through an increase in underground production would take many years, possibly as many as 10 to 15. Not only would new mines have to be opened but the necessary equipment to produce the tonnage would have to be manufactured. Legislation reducing coal production would seem most improvident in the face of existing and impending fuel shortages and at a time when power shortages have already occurred and even more serious shortages are threatened.

That is the pending bill without the amendment. I continue to read:

The effects of such legislation on the TVA power system would be serious and immediate. The basic coal supply for Kingston, Bull Run, and John Sevier Steam Plants is from coal strip mined in eastern Kentucky, Virginia, and northern Tennessee. Elimination of the surface mine production in these areas would reduce TVA's annual coal receipts by about 6.2 million tons. Since TVA burned 37.5 million tons during fiscal year 1973, the loss of 6.2 million tons would mean a reduction of approximately 17 percent, which in turn would mean a 13 percent loss in TVA's power generation. TVA probably could not obtain replacement of all this coal from new underground mines or strip mines in unaffected areas in less than two to three years, even if it were the only utility involved. Since there would be competition by other utilities for new sources of production, complete replacement of the lost production could be expected to take 10 to 15 years.

Moreover, the strong competition for the remaining coal, including new sources, would most certainly drive the price of coal power higher, thus requiring higher rates for the coal-generated electric power. It is noteworthy in this connection that under its most recent invitation for bids on coal with a bid-opening date of August 21, 1973, TVA failed to receive acceptable bids in sufficient quantity to cover its anticipated requirements.

Mr. JACKSON. Mr. President, the committee worked very hard in drafting this bill, and decided to adopt a stringent requirement for restoration after careful consideration of the need and consequences of changing current practices. The proposed amendment would result essentially in "business as usual." It would not provide protection from damages beyond what is presently provided. The purpose of this bill is to provide an improvement over current conditions, and I believe this amendment would substantially weaken if not destroy the bill. This is practically the same amendment which industry proposed to the committee during markup and urged for adoption in our executive sessions, because it would require no change from present practices—it allows retention of "highwalls" and "spoil piles" as well as providing general exceptions to restoration of contour. The committee report has several pages of cogent arguments as to why such practices are unacceptable and must be changed:

Unstable highwalls are a hazard to life and property. Highwalls that crumble and erode from weathering, ruin drainage patterns and significantly add to water pollution. Material falling off the highway can retard surface water flow.

In both area and contour mining, the retention of highwalls results in the isolation of land—usually land above the mining operation and not otherwise affected by mining. Such isolated land, surrounded by a highwall of 30 to 200 feet, is preempted from any future land use, and is inaccessible to wildlife as well as to man. In heavily surface mined areas, such isolation has caused severe problems not only by precluding use of the land, but also by denying access in case of fire. There have been instances in which forest fires have burned unchecked because the forest was surrounded by highwalls and could not be reached by firefighters.

Retention of high walls isolates land above the minesite and results in useless and unstable land. Spoil piles, if left after mining, result in serious erosion and sliding.

I, for one, must oppose this amendment. We have worked hard to pass a strong bill. Earlier today we voted a compromise that we all hoped would avoid this very problem. Together with the McClure amendment I believe we have thus provided the necessary flexibility. This amendment is contrary to this compromise agreement.

Mr. President, I strongly urge that our colleagues vote this amendment down, because it will really change substantially the whole effort that we have made.

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

Mr. JACKSON. I yield.

Mr. ALLEN. I understood the Senator to say that this amendment would allow the continuation of the present practices. I believe the Senator overlooks the fact that the legislation that is pending before the Senate, and to which this amendment is sought to be added, would give the regulatory authority a right to require the return to the original contour, which is not now the case.

Mr. JACKSON. States already have that right, and many of them do. We have laid down standards in this bill which will be changed now, by this amendment, and it will undo everything we went through in our long, drawn out executive sessions. We went over this problem over and over again, I must say, for almost 3 months; and I am afraid we will end up right where we started before we had the bill reported.

Mr. ALLEN. I will agree with the Senator that the amendment sought to add the exclusive method of reclaiming the land, but all it does is add an alternate method, with the regulatory authority being the one to decide which plan to pursue.

Mr. BAKER. Mr. President, I shall not detain the Senate long. I strongly oppose this amendment. I think it is an example of marching up the hill and marching back down again. I think it will undo the good work of this committee, and put us back where we were before we started.

I think many States have laws that would be substantially stronger than this bill would be if the amendment were adopted. I think it would leave Appalachia with the prospect of continuing to have those horrible scars marring the sides of her majestic mountains.

I think the essence of this bill is to say to the miners, "If you are going to surface mine at all, you have to pay the price of putting the land back the way you found it."

I think that is the least we can do to relieve the environmental subsidy the poorest part of our country is paying toward the power bill of the rest of the Nation. Appalachia should not have to bear that burden. This bill would eliminate that, and I think the amendment ought to be rejected.

The PRESIDING OFFICER (Mr. BURDICK). The question is on agreeing to the amendment of the Senator from Alabama (Mr. ALLEN). 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 Mississippi (Mr. EASTLAND), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. MONDALE), the Senator from Maine (Mr. MUSKIE), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I also announce that the Senator from Nevada (Mr. CANNON) is absent attending the funeral of a friend and associate.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BROCK), the Senator from Oregon (Mr. PACKWOOD), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

The result was announced—yeas 29, nays 62, as follows:

[No. 463 Leg.]

YEAS—29

Allen	Ervin	Saxbe
Bartlett	Fannin	Scott, William L.
Bellmon	Fulbright	Sparkman
Bennett	Goldwater	Stevens
Byrd, Harry F., Jr.	Hansen	Talmadge
Byrd, Robert C.	Helms	Thurmond
Cotton	Hollings	Tower
Curtis	Hruska	Young
Domenici	Huddleston	
Dominick	McClellan	
	Nunn	

NAYS—62

Abourezk	Griffin	Metcalf
Aiken	Gurney	Montoya
Baker	Hart	Moss
Bayh	Haskell	Nelson
Beall	Hatfield	Pastore
Bentsen	Hathaway	Pearson
Bible	Hughes	Pell
Biden	Humphrey	Proxmire
Brooke	Inouye	Randolph
Buckley	Jackson	Ribicoff
Burdick	Javits	Roth
Case	Johnston	Schweiker
Chiles	Kennedy	Scott, Hugh
Church	Long	Stafford
Clark	Magnuson	Stevenson
Cook	Mansfield	Symington
Cranston	Mathias	Taft
Dole	McClure	Tunney
Eagleton	McGee	Weicker
Fong	McGovern	Williams
Gravel	McIntyre	

NOT VOTING—9

Brock	Hartke	Packwood
Cannon	Mondale	Percy
Eastland	Muskie	Stennis

So, Mr. ALLEN'S amendment was rejected.

Mr. METCALF. Mr. President, I move that the vote by which the amendment was rejected be reconsidered.

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

The motion to lay on the table was agreed to.

Mr. HANSEN. Mr. President, in voting for final passage of the surface mining bill, I wanted to record my approval of the many commendable provisions and features contained in the bill. Following extensive hearings and debate, the final version reflected an awareness of the problems associated with surface mining, as well as a determination to improve our techniques in meeting our energy requirements through the use of this vitally important fossil fuel. Its importance increases as the customary sources of domestic petroleum reserves become less and foreign sources grow more uncertain and insecure. Through this bill the need for energy can be reconciled with the equally pressing need for preserving our environment.

Nevertheless, I am deeply concerned about some of the actions undertaken by the Senate. The Mansfield amendment, which prohibits surface mining on all lands where the surface is privately owned and title to the mineral estate is retained by the Federal Government, threatens the availability of a significant amount of America's most readily available low sulfur coal. The amendment was hastily agreed to and deserved greater examination than it was afforded.

Whether the variations to the original contour provision will result in closing down significant areas in Appalachia remains to be seen. I can only conclude that the Senior Senator from West Virginia believes that it may be because he sponsored an amendment which would provide relief and assistance to all who might be adversely affected by adhering to the provisions of the bill.

No one would argue against a prohibition of surface mining where satisfactory and acceptable reclamation programs are unattainable. However, it may not be in our best interest or the effective use of our land to require that all land be returned to its original contour. Hopefully, the bill allows enough latitude so that sites can be utilized for hospitals, schools, playgrounds, housing, and other public purposes, where no satisfactory sites existed previously. I would hope that the House of Representatives would take note of what I believe have been serious mistakes made by the Senate.

I am convinced that our country can reduce its national security threatened dependency upon foreign energy supplies by making more extensive and efficient use of coal in the year ahead. We can make this fuel and energy source available by surface mining without doing unacceptable damage to the environment.

Implementation of a forward looking energy policy and enactment of wisely considered surface mining legislation will help promote the general welfare for us and all future Americans.

Mr. FANNIN. Mr. President, I am voting for S. 425 with only one reservation: I fear that the Mansfield amendment, adopted by a vote of 53 to 33 yesterday, will cause untold violence to property rights and to the Nation's ability to extract her most abundant domestic fuel. We have effectively locked the doors of a storehouse full of energy and given away a resource belonging to all the people of this Nation. Such an amendment cannot be allowed to remain, and I pledge myself to work to remove this provision in conference with the House.

Mr. President, I ask unanimous consent to have the following material printed in the RECORD: A letter from the Department of the Interior, Bureau of Land Management, giving information on the Mansfield amendment; and a letter from the U.S. Department of the Interior, Bureau of Mines.

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

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C.

To: Director.
From: Chief, Division of Upland Minerals.
Subject: Mansfield's Amendment to S. 425.

Senator Mansfield's amendment to the "surface mining bill" S. 425 will, without a doubt, adversely affect the environmentally sound development of the important low sulfur coal resources administered by the Bureau of Land Management.

The amendment, Enclosure 1, would withdraw from surface mining for coal, all lands where title to the surface is not in the United States, and title to the mineral estate is.

The effect of this amendment is significant:

1. Because underground mining is not economic, the amendment will in effect preclude or lock-up coal development on over 42.85 million acres of land on which coal has been reserved to the U.S. This is 61 percent of the total of 70.18 million acres of public and acquired lands in the 8 coal leasing States.

Column 2 in Table 1 (Enclosure 2) shows the number of acres of land which have been patented with the mineral retained by the U.S. All of this acreage would be affected by the amendment. Column 3 shows the total public domain and acquired lands in the coal leasing States.

The reserves of recoverable coal directly affected are staggering. In Montana, for example, it represents 55% of the strippable coal acreage, and over 50% of the total strippable coal reserves (tons). In North Dakota over 24% of the strippable coal reserves are directly affected. At present no underground coal mines or coal resources can be economically mined in this area.

2. The amendment will significantly reduce total recoverable coal reserves because: (1) Many coal deposits will not be produced because technical mining conditions will prevent underground mining of the thick coal deposits close to the surface, which are amenable to surface mining, and (2) many isolated tracts (both Federal and private) will not be mined because no company will be able to sink the necessary shafts for underground mining. These resources will be permanently lost. See a typical land ownership pattern in the enclosed ownership map for an illustration of this problem.

3. The amendment will prevent the systematic development of coal reserves because of the complex land ownership patterns. See the land ownership map enclosure which illustrates this problem.

4. The amendment will have adverse environmental effects as it will have the effect of forcing mining in areas where mining should perhaps not occur. It will also force unrealistic coal mining patterns which will preclude sound mined land reclamation (see enclosed land ownership map).

5. The amendment will force increased underground mining of coal which will result in increased human injuries and fatalities in the industry.

6. The amendment will result in higher prices for coal and coal-derived energy products. Strip-mined coal from the Western coal fields cost $1.84 to about $3.00 per ton f.o.b. mine (average in 1971 was $2.60 per ton). This is about one-half or $2.50 less than the national average price for strip-mined coal and about $4.40 below the average price for deep-mined coal.

The amendment will seriously alter the economics of coal gasification adding about 17¢/MMBTU for SNG and increasing plant investment for a 250 MMSCF plant by over 20 million dollars. Many of the potential coal gasification sites would be affected.

TABLE 1.—ACRES AFFECTED BY MANSFIELD AMENDMENT

[In millions]

State	Private surface Federal coal	Federal surface Federal coal
Colorado	5.6	8.3
Montana	10.7	8.1
New Mexico	7.0	13.2
North Dakota	4.8	.07
Oklahoma	.05	.007
South Dakota	1.8	.3
Utah	1.1	22.7
Wyoming	11.8	17.5
Total (42.85/70.18=61 percent)	42.85	70.18

Note: Public domain and acquired lands.

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., October 2, 1973.

To: Assistant Secretary—Energy and Minerals.

From: Director, Bureau of Mines.

Subject: Newspaper article—"Deep-Mined Coal Termed Essential for Clean Energy." Washington Post, September 27, 1973.

The subject enclosed newspaper article by George C. Wilson, who cites Russell E. Train as the source of his coal reserve statistics, is in error on the reporting of the gross figure estimate of our national coal reserve and the percentage of that estimate that is recoverable utilizing surface mining methods.

According to the latest published USGS information contained in their Circular 650, "Energy Resources of the United States," and Professional Paper 820, the total coal resources of the U.S. have been estimated at 3,224 billion tons. However, only about one-half of this quantity, or 1,581 billion tons, has been categorized as an identified resource, which means that there is reasonable assurance that this quantity does in fact exist. The remaining part of the resource estimate is based entirely upon geologic inference and is described by the terms "hypothetical" and "speculative."

Only a portion of the identified coal resource constitutes a *reserve*. The Bureau of Mines' estimate of our coal reserve includes only the measured and indicated categories of selected coalbeds according to their thickness and depth of burial or overburden. Current mining technology and economics of recovery limit mining of bituminous coal and anthracite in beds of less than 28 inches in thickness and at depths greater than 1,000 feet. Subbituminous and lignite coals are generally not mined if the beds are under 60 inches. We recognize that there are exceptions to these established criteria; however, such exceptions are currently of minor importance.

Applying these criteria, the Bureau in a publication, IC 8531, "Strippable Reserves of Bituminous Coal and Lignite in the United States," estimated that approximately 45 billion tons of the 118 billion tons of surface minable coal are currently economically minable. By the same token, of the total 1,581 billion tons, between 400–500 billion tons are estimated to be minable by current underground mining technology. Further, we estimate that mining losses, which account also for inaccessible coals due to natural and manmade restrictions (i.e., coal under rivers and cities, close to gas wells, under faulty roof, and other unforeseen obstacles), are 50 percent. If we consider all of the above factors and the latest available information, it appears that on a conservative basis we have approximately 200 billion short tons of all rank coals that are economically minable by underground methods at the present time. With respect to surface mining, it appears that an additional 45 billion short tons would be available from the gross figure of the estimated 118 billion short tons. This, of course, indicates that over 18 percent of our presently assessed identified resources are recoverable by surface mining methods. Moreover, with respect to feasibility, the greater portions of our western coal reserves are recoverable only by surface mining under existing mining technology. In any event, even assuming that the entire 400–500 billion ton reserve figure constitutes our coal reserves that could be produced from the 1,581 figure, the percentage of the total coal reserve that could be surface-mined, would then be 8-10 percent of our total coal reserves.

Surface mining operations presently account for 289 million tons of coal, or over 48 percent of the current coal production. Further, our records indicate that over 60 percent of the surface-mined coal enters the electric utility fuel market. A marked and immediate curtailment of surface coal mining would result in a severe coal shortage and serve to further worsen our national energy situation. The implication in the enclosed news article that our surface minable reserves are insignificant are grossly misleading and in error.

IMPACT OF AMENDMENT TO S. 425, FORBIDDING COAL SURFACE MINING WHERE THE FEDERAL GOVERNMENT OWNS THE COAL BUT DOES NOT OWN THE SURFACE

Coal provinces and States	Leases number	Surface ownership, private (acres)	Total area leased (acres)	Surface ownership, private (percent)	Total reserves, surface minable under lease (million tons)	Surface minable reserves under private surface ownership (million tons)
Pacific coast:						
Alaska	5	1,073	2,593	41	2	0.8
California	1	0	80	0		
Oregon	3	0	5,403	100		
Washington	2	521	521	100	6	6.0
Subtotal	11	1,594	8,597	19	8	6.8
Percent						85
Rocky Mountain and Northern Great Plains:						
Colorado	112	54,606	122,078	45	236	106.2
Montana	17	34,967	36,232	97	1,120	1,086.4
New Mexico	28	26,198	40,958	64	281	179.8
North Dakota	20	16,436	16,436	100	285	285.0
Utah	195	13,335	266,609	5	200	10.0
Wyoming	92	117,196	199,933	59	7,801	4,602.6
Subtotal	495	262,738	682,246	39	9,923	6,270.0
Percent						63

Coal provinces and States	Leases number	Surface ownership, private (acres)	Total area leased (acres)	Surface ownership, private (percent)	Total reserves, surface minable under lease (million tons)	Surface minable reserves under private surface ownership (million tons)
Eastern and Interior States:						
Alabama	1	200	200	100		
Kentucky	1	0	1,282	0		
Ohio	1	0	144	0		
Oklahoma	53	85,477	86,798	98	6	
Subtotal	56	85,677	88,424	97	6	
Percent						
Grand total	531	350,009	779,267	45	9,937	
Percent						

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

The committee amendment in the nature of a substitute as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

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

Mr. MOSS. Mr. President, I ask unanimous consent that a member of my staff, Karl Braithwaite, be permitted on the floor during the vote.

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

Mr. HARRY F. BYRD, JR., obtained the floor.

Mr. METCALF. Mr. President, will the Senator yield to me so that I may yield to the Senator from Alabama for the purpose of answering a question?

Mr. HARRY F. BYRD, JR. I yield.

Mr. METCALF. I yield to the distinguished Senator from Alabama.

Mr. SPARKMAN. Mr. President, I want to propound this question to the manager of the bill.

In the Mansfield amendment which was agreed to yesterday, it is stated, "All coal deposits title to which is in the United States," and so forth. The Tennessee Valley Authority owns coal lands that meet the description given in the Mansfield amendment. The Tennessee Valley Authority is a corporation organized under the laws of the United States. It carries on its own business, borrows money, issues bonds, generates and sells power, and so forth.

Under my interpretation, the Tennessee Valley Authority does not come under the description of "United States." I asked the manager of the bill whether that is his interpretation.

Mr. METCALF. Yes. I say to the Senator from Alabama that the Tennessee Valley Authority is a public corporation and certainly is not the kind of public landowner that Senator MANSFIELD and I were talking about in the Mansfield amendment, such as the Bureau of Land Management, which operates public lands. Certainly, that was never the intention, and I do not think the language of the Mansfield amendment covers subsurface ownership of the Tennessee Valley Authority.

Mr. MANSFIELD. I concur.

Mr. SPARKMAN. I thank both Senators. That was my interpretation, but I did want a clarification in the RECORD.

Mr. METCALF. I talked to Senator BAKER about this. He is from Tennessee and has followed this bill closely all day. I should like to have his opinion on this question.

Mr. BAKER. I thoroughly agree with the distinguished manager of the bill and the Senator from Alabama.

TVA is a federally chartered corporation. Title to land about which the Senator inquires, I believe, is held by the corporation not by the United States of America.

I am certain in my mind that the Mansfield amendment does not apply to mineral that is owned by the TVA, and I do not believe the language of the Mansfield amendment has any application to the TVA situation.

Mr. SPARKMAN. I thank the Senators for that interpretation. I thank the distinguished majority leader, the author of the amendment, who agrees with that interpretation.

RESOLUTION TO DECLARE MONDAY, OCTOBER 15, 1973, JOHN C. STENNIS DAY

Mr. MANSFIELD. Mr. President, I send to the desk a resolution and ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the resolution (S. Res. 180) was considered and unanimously agreed to, as follows:

Resolved, That the United States Senate hereby takes note of the national tribute being paid to the Honorable John C. Stennis on Monday, October 15, 1973 and does hereby declare that day to be John C. Stennis Day to celebrate his remarkable and complete recovery from grave wounds inflicted on him in the course of an armed robbery, and to recognize his deep and sincere interest in promoting the education of our young people in the duties of citizenship, in particular through the John C. Stennis Chair of Political Science at Mississippi State University, where future generations of citizens will be trained to participate fully in our democratic form of government at every level.

SURFACE MINING RECLAMATION ACT OF 1973

The Senate continued with the consideration of the bill (S. 425) 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.

Mr. HARRY F. BYRD, JR. Mr. President, the Senate is considering an important piece of legislation. S. 425 is heralded by its sponsors as providing the means to balance our growing energy needs with the stress these needs place upon our environment.

I agree with this objective. But does the pending legislation accomplish this objective? I think not.

On the contrary, the bill before us would reduce the available supply of a scare and valuable fuel—namely, low-sulfur coal—at a time of very real energy shortage in the United States.

It is essential that we keep in mind the vital role that coal plays in our energy picture. It is not too much to say that unless and until we pass entirely out of the fossil fuel age—and there certainly is no immediate prospect of that—the United States is absolutely dependent on an adequate coal supply.

I think that Robert W. Fri, then Acting Administrator of the Environmental Protection Agency, described our situation very well in a speech in Washington on June 18 of this year.

Mr. Fri said:

Our oil and natural gas reserves are considerably smaller than coal reserves yet we are burning them at a rate better than three times greater. Obviously, if we accelerate, or even maintain, the rates at which we now consume natural gas and oil, we will substantially deplete these reserves before makink any big switch back to coal. In that event the switch, when it comes, will be much like a balloon payment on a loan—extensive, hurried and costly.

Coal is by far our most plentiful fuel resource. It makes up 88 percent of the proven fuel reserves of the United States.

It is essential that we make wise use of this gerat resource. While no one advocates reckless destruction of the environment, unreasonable restriction on coal production would greatly weaken our effort to achieve self-sufficiency in energy.

We must consider that even with prudent conservation measures, our economy is going to demand increasing amounts of energy each year. And this increasing demand comes at a time when major portions of our fuel supplies are threatened by serious unrest in the Middle East.

At the same time, there is a pressing concern for cleaner air in our metropolitan areas and cleaner air in some of our rural regions—a demand which can be met in part by low-sulfur coal.

Surface mining in Virginia regularly produces 10 million tons of low-sulfur coal annually. If this bill is enacted, that coal will not be available.

I think some aspects of the problems involved in regulation of surface mining, particularly as concerns mountainous regions like the mining area of southwest Virginia, have not been given full consideration to date. I would like now to explore some of these problems.

The committee recognizes in its report—page 34—that a mining and reclamation program for the mountains of Appalachia must necessarily differ from one for the Western areas of our country. Further, it is recognized that many States already have regulatory surface mining and reclamation laws and, while the implication is made that these laws are not adequately enforced, it is not, and it cannot, be said that all State laws are poorly enforced.

Virginia has had a strong surface mining and reclamation law on the books and in full effect since 1966. It was strengthened in 1972 by the general assembly. I believe it is a good law.

The Virginia General Assembly already has recognized the problems associated with surface mining. The legislature moved to correct it by responsible and responsive legislation. And it is working.

There is much coal production in the southwestern areas of my State. Coal production, together with its allied industries, is the major industry and the major source of income for southwest Virginia. Virginia's law has insured environmental responsibility without committing economic suicide.

Mr. President, S. 425 can make no such claims.

This bill, if enacted as presently written, will, I am reliably informed, end surface mining of coal in the rugged mountains of southwest Virginia. The bill requires backfilling to original contours—section 213(b)(2). While this might be possible in some areas, it is not in southwest Virginia. There is even strong evidence that an unbending policy to slope restoration promotes further environmental damage, such as erosion, rather than retarding it. Yet the bill makes no allowance for the submission and approval of alternative plans by the operators.

Likewise, section 213(b)(6), eliminating any deposit of spoil downslope, in effect, eliminates, according to competent sources, surface mining of coal in my State.

There are those who will say "It is quite all right to eliminate surface mining of coal. The jobs which are lost can be replaced by some other occupation, or by deep mining. And surface mined coal only amounts to a small percentage of our total coal reserves."

These statements may apply to some other State, Mr. President. But they do not reflect the effect of this legislation upon Virginia. Virginia has nearly 2,000 persons directly employed by coal surface mining companies. If surface mining were eliminated in Virginia, it would have a profound effect upon related and supporting services and businesses. The immediate effect would be the loss of an estimated 6,000 jobs. The long-term effect, in terms of jobs only remotely related or dependent upon the surface mining of coal, would be several times greater.

In addition, consider this: Virginia's annual coal production exceeds 30 million tons. The surface mining industry produces 10 million tons of low-sulfur coal, or between 25 to 30 percent of Virginia's annual production.

This is coal production which, if eliminated on the surface, cannot be increased through deep-mining techniques. If surface-mined coal is banned, it is lost to our economy.

Just what does this mean to the people caught in the midst of compelling energy shortages? It means that the 70 percent of Virginia's surface-mined coal which has gone to the electric utility companies will be removed from their power supplies. It means that more shortages are likely in the near future. It means that costs will rise.

A few more comments about this bill are in order, Mr. President. It would impose its stringent standards on exploratory operations, as well as actual mining. It makes little sense to subject exploratoy operations to the gamut of regulations intended for the actual mining and reclamation operations. The sizes of the operations are not comparable, nor is the environmental effect.

Lastly, Mr. President, I would like to turn to the reclamation and orphaned land aspects of this bill. First of all, the language of the bill suggests that "abandoned and unreclaimed mined areas" are something quite different than the layman might envision. As used in title III, an abandoned tract of land means one which "has been affected by surface mining operations prior to the enactment of this act and has not been returned to productive or useful purposes." This determination is left, apparently, to the Secretary of Interior or his designee. And the power of condemnation is established for the purpose of acquiring this affected land with a fund initially set at $100 million.

Mr. President, Virginia law already contains an abandoned lands program. There are approximately 15,000 acres to be restored under this program, paid for by revenues from surface mining permit fees, paid by the surface mine operators.

It makes no sense to require the taxpayers throughout this country to pay for reclamation of land in Virginia which the surface mining industry is willingly paying for—and which is being effectively reclaimed without Federal assistance. To subject Virginia's program to federal control or oversight will only serve to stifle State initiative—not strengthen it.

Mr. President, another factor also troubles me. Section 216 provides for designation of lands unsuitable for surface mining. Either the State plan or the Federal plan, if a State plan goes unimplemented, must include a preliminary inventory of any State land unsuitable for surface mining, to be completed within 3 years. If a State's program should fail to be acceptable to Federal authorities, this inventory would be undertaken at the Federal level. The designation of "areas of critical environmental concern" within a State by Federal authorities is a chilling thought—it is tantamount to Federal zoning on State land. The language in this section is strikingly similar to language in S. 268, the recently passed Land Use Policy and Planning Assistance Act of 1973.

To include this language not only invites Federal control over State land—it begs for it. Even if a State program is approved, it remains subject to Federal guidelines, standards and review—controls which are not born of legislative processes, but of bureaucratic decisionmaking.

This bill has laudable purposes—purposes which I support. But for the reasons I have outlined, I think it fails to accomplish its aim.

Because of the extremes to which it goes and its serious adverse effect on the jobs and economy of southwest Virginia, I must cast my vote against S. 425.

Mr. HELMS. Mr. President, I desire to associate myself with the thoughtful and sensible remarks of my distinguished friend, the Senator from Virginia (Mr. HARRY F. BYRD, JR.). I have been present on this floor for almost all of the debate. In fact, I have presided over this body for much of the time this bill (S. 425) has been under consideration.

I know that the proponents of this bill are sincere in their desire to protect and preserve the environment. I share their desire. But at this critical, crucial time when—at best—many of our citizens are almost certain to suffer as a result of the energy crisis, I agree with my distinguished colleague (Mr. HARRY F. BYRD, JR.) that this legislation at this time contains too great a threat to the welfare of our people.

Accordingly, I shall vote against S. 425.

Mr. DOLE. Mr. President, I wish to express my support for the Surface Mining Reclamation Act and its goals of establishing "an environmentally strong and administratively realistic program" to regulate surface mining of coal in the United States.

In view of the importance which coal holds as we look ahead to meeting the long-term energy requirements of this Nation, it is of critical importance that we develop and implement an effective national policy to guide the development of these huge energy reserves.

Strip mining has become an important social as well as an economic issue. It has produced and can continue to produce significant quantities of coal at highly attractive cost savings, but it has caused, and left unchecked it will continue to cause widespread scenic, economic, and ecological blight in the areas in and near which it is practiced. So in attempting to formulate a responsible policy for regulating this activity, the Congress is faced with the difficult and frequent complex task of finding the middle ground between unrealistic idealism and devasting pragmatism.

We cannot permit blind devotion to the preservation of our country's natural beauty and utility to bring about the paralysis of our economic system through energy shortages. But neither can we sacrifice the values of our natural heritage to a rampant and insensitive drive to fuel the furnaces of industry and economc development.

In the course of debate on this bill we have examined a number of issues—reclamation standards and practices; the proper balance between State and Federal responsibilities; rights of the various property interest owners, to mention but a few—which are of critical importance to the general thrust of this legislation. And I believe the broad interest in the bill and the constructive approach which has characterized consideration of it in the Interior Committee and on the Senate floor, have made it possible to come up with a sound national program.

It is balanced insofar as the competing interests are concerned and in relation to the roles of the Federal and State governments. I believe it deserves support; however, at the same time it will require careful oversight by Congress to explore weaknesses which may develop, disclose lapses in its approach, and provide the opportunity for making improvements as we gain experience with it.

Coming from a State which has experienced significant strip mining, I feel this bill will be of real benefit to Kansas, its coal industry and the people who live in that part of the State where coal is produced. Across the Nation, I believe the bill provides effective guidance for development of our vital coal reserves with a proper regard for the environment in which we and our children must live long after mining activity has ceased.

The PRESIDING OFFICER. The question is, Shall the bill pass? 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 Mississippi (Mr. EASTLAND), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. MONDALE), the Senator from Maine (Mr. MUSKIE), the Senator from Mississippi (Mr. STENNIS), and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

I also announce that the Senator from Nevada (Mr. CANNON) is absent attending the funeral of a friend and associate.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BROCK), the Senator from Oregon (Mr. PACKWOOD), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

I further announce that, if present and voting, the Senator from Illinois (Mr. PERCY) would vote "yea."

The result was announced—yeas 82, nays 8, as follows:

[No. 464 Leg.]

YEAS—82

Abourezk	Brooke	Cotton
Aiken	Buckley	Cranston
Allen	Burdick	Dole
Baker	Byrd, Robert C.	Domenici
Bayh	Case	Dominick
Beall	Chiles	Eagleton
Bentsen	Church	Ervin
Bible	Clark	Fannin
Biden	Cook	Fong
Fulbright	Kennedy	Randolph
Goldwater	Long	Ribicoff
Gravel	Magnuson	Roth
Griffin	Mansfield	Schweiker
Gurney	Mathias	Scott, Hugh
Hansen	McClellan	Sparkman
Hart	McClure	Stafford
Haskell	McGee	Stevens
Hatfield	McGovern	Stevenson
Hathaway	McIntyre	Taft
Hollings	Metcalf	Talmadge
Hruska	Montoya	Thurmond
Huddleston	Moss	Tower
Hughes	Nelson	Tunney
Humphrey	Nunn	Weicker
Inouye	Pastore	Williams
Jackson	Pearson	Young
Javits	Pell	
Johnston	Proxmire	

NAYS—8

Bartlett	Byrd, Harry F., Jr.	Helms
Bellmon	Curtis	Saxbe
Bennett		Scott, William L.

NOT VOTING—10

Brock	Mondale	Stennis
Cannon	Muskie	Symington
Eastland	Packwood	
Hartke	Percy	

So the bill (S. 425) was passed, as follows:

S. 425

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 "Surface Mining Reclamation Act of 1973".

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TITLE I—STATEMENT OF FINDINGS AND POLICY

SEC. 101. FINDINGS.—The Congress finds and declares that—

(1) extraction of coal and other minerals from the earth can be accomplished by various methods of mining, including surface mining;

(2) coal mining operations presently contribute significantly to the Nation's energy requirements; surface coal mining constitutes one method of extraction of the resource; the overwhelming percentage of the Nation's coal reserves can only be extracted by underground mining methods, and it is, therefore, essential to the national interest to insure the existence of an expanding and economically healthy underground coal mining industry;

(3) many surface mining operations result in disturbances of surface areas that burden and adversely affect commerce and the public welfare by destroying or diminishing the utility of land for commercial, industrial, residential, recreational, agricultural, and forestry purposes, by causing erosion and landslides, by contributing to floods, by polluting the water, by destroying fish and wildlife habitat, by impairing natural beauty, by damaging the property of citizens, by creating hazards dangerous to life and property, by degrading the quality of life in local communities, and by counteracting governmental programs and efforts to conserve soil, water, and other natural resources;

(4) surface mining and reclamation technology are now developing so that effective and reasonable regulation of coal surface mining operations by the States and by the Federal Government in accordance with the requirements of this Act is an appropriate and necessary means to minimize so far as practicable the adverse, social, economic, and environmental effects of such mining operations;

(5) because of the diversity in terrain, cli-

mate, biologic, chemical, and other physical conditions in areas subject to mining operations, the primary governmental responsibility for developing, authorizing, issuing, and enforcing regulations for surface mining and reclamation operations subject to this Act should rest with the States; and

(6) while there is a need to regulate surface mining operations for minerals other than coal, more data and analyses are needed to serve as a basis for effective and reasonable regulation of such operations.

SEC. 102. PURPOSES.—It is the long-term goal of Congress to prevent the adverse effect to society and the environment resulting from surface mining operations. Toward that end, it is the purpose of this Act to—

(1) establish a nationwide program in accordance with the policy and objectives of the Mining and Minerals Policy Act of 1970 (30 U.S.C. 21a);

(2) assure that the rights of surface landowners and persons with a valid legal interest in the land are fully protected from such operations;

(3) assure that coal surface mining operations are not conducted where reclamation as required by this Act is not feasible;

(4) assure that coal surface mining operations are so conducted as to prevent degradation to land and water;

(5) assure that adequate measures are undertaken to reclaim surface areas as contemporaneously as possible with the coal surface mining operations;

(6) assist the States in developing and implementing such a program;

(7) wherever necessary, exercise the full reach of Federal constitutional powers to insure the protection of the public interest through the effective control of coal surface mining operations;

(8) encourage the full utilization of coal resources through the development and application of underground extraction technologies;

(9) provide a means for development of the data and analyses necessary to establish effective and reasonable regulation of surface mining operations for other minerals;

(10) strike a balance between protection of the environment and the Nation's need for coal as an essential source of energy; and

(11) stimulate, sponsor, provide for and/or supplement present programs for the conduct of research, investigations, experiments, and demonstrations, in the exploration, extraction, processing, development, and production of minerals and the training of mineral engineers and scientists in the fields of mining, minerals resources, and technology, and the establishment of an appropriate research and training center in each State.

TITLE II—EXISTING AND PROSPECTIVE SURFACE MINING AND RECLAMATION OPERATIONS

SEC. 201. GRANT OF AUTHORITY: PROMULGATION OF FEDERAL REGULATIONS.—(a) Not later than six months after the date of enactment of this Act, the Secretary, in accordance with the requirements of this Act, and the procedures set forth in this section, shall publish in the Federal Register regulations covering surface mining and reclamation operations for coal which shall set forth in reasonable detail those actions which a State must take to develop a State program and otherwise meet the requirements of this Act.

(b) Such regulations shall not be published until the Secretary has first published proposed regulations in the Federal Register, afforded interested persons and State and local governments a period of not less than forty-five days after publication to submit written comments and held one or more public hearings on the proposed regulations. The date, time, and place of such hearings shall be set out in the notice of proposed rulemaking. The Secretary shall, after consideration of all comments and relevant matter presented, publish the regulations with such modifications from the proposed regulation as he may deem appropriate.

(c) Such regulations shall not be promulgated as final regulations until the Secretary has first obtained the written concurrence of the Administrator of the Environmental Protection Agency with regard to portions thereof which affect air and water quality within the time specified in section 201(a).

(d) The Administrative Procedure Act shall be applicable to the administration of this Act: *Provided*, That whenever procedures provided for in this Act are in conflict with the Administrative Procedure Act, the provisions of this Act shall prevail.

SEC. 202. OFFICE OF SURFACE MINING, RECLAMATION, AND ENFORCEMENT.—(a) There is hereby established in the Department of the Interior of Office of Surface Mining, Reclamation, and Enforcement.

(b) The Office shall have a Director who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate provided for level V of the Executive Schedule Pay Rates (5 U.S.C. 5315), and such other employees as may be required. The Director shall have the responsibilities provided for under this Act and such duties and responsibilities as the Secretary of the Interior may assign. Employees of the Office shall be recruited on the basis of their professional competence and capacity to administer objectively the provisions of this Act. Employees may be recruited from the United States Geological Survey, the Bureau of Mines, the Bureau of Land Management, and other departments and agencies of the Federal Government which have expertise pertinent to the responsibilities of the Office. No legal authority which has as its purpose promoting the development or use of coal or other mineral resources, shall be transferred to the Office.

(c) The Secretary, acting through the Office, shall—

(1) administer the State grant-in-aid program for the development of State programs for surface mining and reclamation operations provided for in title V of this Act;

(2) administer the grant-in-aid program to the States for the purchase and reclamation of abandoned and unreclaimed mined areas pursuant to title III of this Act;

(3) administer the grant-in-aid program for the mining, minerals and related environmental research institutes pursuant to title IV of this Act;

(4) administer the surface mining and reclamation research and demonstration project authority provided for in section 604 of this Act;

(5) develop and administer any Federal programs for surface mining and reclamation operations which may be required pursuant to this title and review State programs for surface mining and reclamation operations pursuant to this title;

(6) consult with other agencies of the Federal Government having expertise in the control and reclamation of surface mining operations and assist States, local governments, and other eligible agencies in the coordination of such programs;

(7) maintain a continuing study of surface mining and reclamation operations in the United States;

(8) develop and maintain a Surface Mining and Reclamation Information and Data Center and make the information maintained at the Data Center available to the public and to Federal, regional, State, and local agencies conducting or concerned with land-use planning and agencies concerned with surface mining and reclamation operations;

(9) assist the States in the development of State programs for surface mining and reclamation operations which meet the requirements of this Act and, at the same time, reflect local requirements and local environmental conditions;

(10) assist the States in developing objective scientific criteria and appropriate procedures and institutions for determining those areas of a State to be designated unsuitable for all or certain types of mining pursuant to section 216; and

(11) monitor all Federal and State research programs dealing with coal extraction and use and recommend research projects designed to (1) improve the feasibility of underground coal mining and (2) develop improved techniques of surface mining and reclamation.

SEC. 203. SURFACE MINING OPERATIONS NOT SUBJECT TO THIS ACT.—(a) The provisions of this Act shall not apply to any of the following activities:

(1) the extraction of coal by a landowner for his own noncommercial use from land owned or leased by him; and

(2) the extraction of coal for commercial purposes where the surface mining operation affects two acres or less.

SEC. 204. STATE AUTHORITY; STATE PROGRAMS.—(a) A State, to be eligible to receive financial assistance provided for under titles III and V of this Act and to be eligible to assume exclusive jurisdiction, except as provided by section 215 and title III of this Act, over surface mining and reclamation operations on lands within such State, shall—

(1) have appropriate legal authority under State law to regulate surface mining and reclamation operations in accordance with the requirements of this Act;

(2) provide sanctions under State law for violations of State laws, regulations, or conditions of permits concerning surface mining and reclamation operations which meet the requirements of this Act, such sanctions to include civil and criminal penalties, forfeiture of bonds, withholding of permits, and the issuance of cease-and-desist orders by the State regulatory authority or its inspectors;

(3) have available sufficient administrative and technical personnel, adequate interdisciplinary expertise, and sufficient funding to enable the State to regulate surface mining and reclamation operations in accordance with the requirements of this Act;

(4) submit to the Secretary for approval in accordance with the requirements of this Act a State program which provides for the effective implementation, maintenance, and enforcement of a permit system for the regulation of surface mining and reclamation operations for coal on lands within such State;

(5) include in any State program a process for coordinating the review and issuance of permits for surface mining and reclamation operations with any other Federal or State permit process applicable to the proposed operation; and

(6) have established a process for designation of areas as unsuitable for surface mining in accordance with section 216 and is actively conducting a review of potential surface mining areas within its boundaries.

(b) The Secretary shall not approve any State program submitted by a State pursuant to this section until—

(1) he has solicited the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other Federal agencies concerned with or having special expertise pertinent to the proposed State Program, and obtained the written concurrence of the Administrator of the Environmental Protection Agency with regard to portions or parts of the State's proposed program which affect air and water quality within the time specified in section 204(c); and

(2) he has provided an opportunity for a public hearing on the State Program within the State.

(c) The Secretary shall, within six calendar months following the submission of any State Program, approve or disapprove such State Program or any portion thereof. The Secretary shall approve a State Program if he determines that the State Program meets or exceeds the requirements of this Act.

(d) If the Secretary disapproves any proposed State Program, he shall notify the State in writing of his decision and set forth in detail the reasons therefor. The State shall have sixty days in which to resubmit a revised State Program.

(e) For the purposes of this section and section 205, the inability of a State to take any action the purpose of which is to prepare, submit or enforce a State Program, or any portion thereof, because the action is enjoined by the issuance of an injunction by any court of competent jurisdiction shall not result in a loss of eligibility for financial assistance under titles III and V of this Act or in the imposition of a Federal Program. Regulation of the surface mining and reclamation operations covered or to be covered by the State Program subject to the injunction shall be conducted by the State until such time as the injunction terminates or for one year, whichever is shorter, at which time the requirements of sections 204 and 205 shall again be fully applicable.

SEC. 205. FEDERAL PROGRAMS.—(a) The Secretary shall prepare and, subject to the provisions of this section, promulgate and implement a Federal Program for a State if such State—

(1) fails to submit a State Program covering surface mining and reclamation operations within twelve months of the promulgation of the Federal regulations for such operations;

(2) fails to resubmit an acceptable State Program within sixty days of disapproval of a proposed State Program: *Provided*, That the Secretary shall not implement a Federal Program prior to the expiration of the initial period allowed for submission of a State Program as provided for in clause (1) of this subsection; or

(3) fails to enforce its approved State Program as provided for in this Act.

If State compliance with clause (1) of this subsection requires an act of the State legislature the Secretary may extend the period for submission of a State program up to an additional six months. Promulgation and implementation of a Federal program vests the Secretary with exclusive jurisdiction for the regulation and control of surface mining and reclamation operations taking place on lands within any State not in compliance with this Act. After promulgation and implementation of a Federal program the Secretary shall be the regulatory authority. If a Federal Program is implemented for a State, section 216 shall not apply for a period of one year following the date of such implementation. In promulgating and implementing a Federal program for a particular State the Secretary shall take into consideration the nature of that State's terrain, climate, biological, chemical, and other relevant physical conditions.

(b) Prior to promulgation and implementation of any proposed Federal program, the Secretary shall give adequate public notice and hold a public hearing in the affected State.

(c) Permits issued pursuant to an approved State program shall be valid but reviewable under a Federal program. Immediately following promulgation of a Federal program, the Secretary shall undertake to review such permits to determine that the requirements of this Act are not violated. If the Secretary determines any permit to have been granted contrary to the requirements of this Act, he shall so advise the permittee and provide him a reasonable opportunity for submission of a new application and reasonable time to conform ongoing surface mining and reclamation operations to the requirements of the Federal program.

(d) (1) If a State submits a proposed State program to the Secretary after a Federal program has been promulgated and implemented pursuant to this section, and if the Secretary approves the State program, the Federal program shall cease to be effective thirty days after such approval. Permits issued pursuant to the Federal program shall be valid but reviewable under the approved State program. The State regulatory authority may review such permits to determine that the requirements of this Act and the approved State program are not violated. If the State regulatory authority determines any permit to have been granted contrary to the requirements of the Act or the approved State program, he shall so advise the permittee and provide him a reasonable opportunity for submission of a new application and reasonable time to conform ongoing surface mining and reclamation operations to the requirements of the Act or approved State program.

(2) Whenever a Federal program is promulgated for a State pursuant to this Act, any statutes or regulations of such State which are in effect to regulate surface mining and reclamation operations subject to this Act shall, insofar as they interfere with the achievement of the purposes and the requirements of this Act and the Federal program, be preempted and superseded by the Federal program.

(e) Any Federal program shall include a process for coordinating the review and issuance of permits for surface mining and reclamation operations with any other Federal or State permit process applicable to the proposed operation.

SEC. 206. SURFACE MINING OPERATIONS FOR COAL PENDING STATE COMPLIANCE.—From the date of enactment of this Act until twenty-two months after such date (plus the period of any extension granted under section 205 (a)) no person shall open or develop any new or previously mined and abandoned site for coal surface mining operations on lands within any State, or expand by more than 15 per centum the area of land affected in the preceding twelve months by a coal surface mining operation existing on the date of enactment of this Act unless such person has first obtained an interim permit issued by the appropriate State regulatory authority which may issue such interim permits upon application made by the operator. Such application and permit shall be in accordance with the requirements of this Act.

SEC. 207. PERMITS.—(a) After the expiration of the twenty-two month period (plus the period of any extension granted under section 205(a)) following the date of enactment of this Act, no person shall engage in or carry out on lands within a State any surface mining operations unless such persons has first obtained a permit issued by such State pursuant to an approved State Program or by the Secretary pursuant to a Federal Program, except that a person conducting surface mining operations existing at the date of enactment of this Act may conduct such operations without a permit beyond such period if an application for a permit with respect to such operations has been filed, but the initial administrative decision has not been rendered. It is the sense of Congress that administrative or judicial appeals in connection with permit applications shall be granted the highest priority and preference in all courts and be resolved as expeditiously as possible.

(b) The term of any permit for surface mining and reclamation operations shall not exceed five years if issued pursuant to an approved State program and shall be for five years if issued pursuant to a Federal program. Each permit shall carry with it a right of successive renewals if the permittee has complied with the requirements of the approved State program or a Federal program for the State within which the operations are conducted and has the capability to implement the reclamation plan applicable to the operations covered by the permit. Prior to approving the renewal of any permit the regulatory authority shall review the permit and the surface mining and reclamation operations and may require such new conditions and requirements as are necessary to deal with changing circumstances, a permit shall be renewed by operation of law unless prior to expiration of the permit term the permittee has been given timely notice and a hearing in accordance with the rules and regulations of the regulatory authority and the regulatory authority has found that the requirements for renewal have not been satisfied.

(c) A permit shall terminate if the permittee has not commenced the surface mining and reclamation operations covered by such permit within three years of the issuance of the permit.

SEC. 208. PERMIT APPLICATION REQUIREMENTS: INFORMATION, INSURANCE, AND RECLAMATION PLANS.—(a) Each application for a permit under a State program or Federal program pursuant to the provisions of this Act shall include as a minimum the following information—

(1) the names and addresses of (A) the permit applicant; (B) every legal owner of record of the property (surface and mineral) to be mined; (C) the holders of record of any leasehold in the property; (D) any purchaser of record of the property under a real estate contract; (E) the operator if he is a person different from the applicant; and (F) if any of these are business entities other than a single proprietor, the names and addresses of the principals, officers, and resident agent;

(2) the names and addresses of the owners of record of all surface area within five hundred feet of any part of the permit area;

(3) a statement of any current or previous mining permits in the State held by the applicant and the permit numbers;

(4) if the applicant is a partnership, corporation, association, or other business entity, the following where applicable (A) the name and address of each partner owning 3 per centum or more of the partnership, and (B) the name and address of each shareholder owning 3 per centum or more of the shares, together with the number and percentage of any class of voting shares of the entity which such shareholder is authorized to vote;

(5) a statement of whether the applicant, any subsidiary, affiliate, or persons controlled by or under common control with the applicant, has ever held a Federal or State mining permit which subsequent to 1960 has been suspended or revoked or has had a mining bond or similar security deposited in lieu of bond forfeited and, if so, a brief explanation of the facts involved;

(6) such maps and topographical information, including the location of all underground mines in the area, as the regulatory authority may require which shall be in sufficient detail to clearly indicate the nature and extent of the overburden to be disturbed, the coal to be mined, and the drainage of the area to be affected;

(7) a copy of the applicant's advertisement of the ownership, location, and boundaries of the proposed site of the surface mining and reclamation operations, such advertisement shall be placed in a newspaper of general circulation in the locality of the proposed site at least once a week for four successive weeks and may be submitted to the regulating authority after the application is filed;

(8) the anticipated starting date of the proposed operation;

(9) the number of acres of land to be affected by the proposed operation;

(10) the name of the watershed and location of the surface stream or tributary into which surface and pit drainage will be discharged;

(11) evidence of the applicant's legal right to enter and commence surface mining operations on the area affected;

(12) when requested by the regulatory authority, the climatological factors that are peculiar to the locality of the land to be affected, including the average seasonal precipitation, the average direction and velocity of prevailing winds, and the seasonal temperature ranges;

(13) such other information as the regulatory authority may require; and

(14) a determination of the hydrologic consequences of the mining and reclamation operations, both on and off the mine site, with respect to the hydrologic regime, quantity and quality of water in surface and ground water systems and the collection of sufficient data for the mine site and surrounding area so that an assessment can be made of the probable cumulative impacts of all anticipated mining in the area upon the hydrology of the area and particularly upon water availability. For those mining and reclamation operations which remove or disturb strata that serve as aquifers which significantly insure the hydrologic balance of water use either on or off the mining site, the regulatory authority shall specify:

(A) monitoring sites to record the quantity and quality of surface drainage above and below the mine site as well as in the potential zone of influence;

(B) monitoring sites to record level, amount, and samples of ground water aquifers potentially affected by the mining and also directly below the lowermost (deepest) coal seam to be mined;

(C) the maintenance of records of well logs and boreholes; and

(D) monitoring sites to record precipitation.

The monitoring, data collection and analysis required by this paragraph shall be conducted according to standards and procedures set forth by the regulatory authority in order to assure their reliability and validity.

(b) Each applicant for a permit shall be required to submit to the regulatory authority as part of the permit application a certificate issued by an insurance company authorized to do business in the United States certifying that the applicant has a public liability insurance policy in force for the surface mining and reclamation operations for which such permit is sought, or evidence that the applicant has satisfied other State or Federal self-insurance requirements. Such policy shall provide for personal injury and property damage protection in an amount adequate to compensate any persons damaged as a result of surface mining and reclamation operations and entitled to compensation under the applicable provisions of State law. Such policy shall be maintained in full force and effect during the term of the permit or any renewal, including the length of all reclamation operations.

(c) Each applicant for a permit shall be required to submit to the regulatory authority as part of the permit application a reclamation plan which shall meet the requirements of this Act.

SEC. 209. PERMIT APPLICATION APPROVAL PROCEDURES.—(a) The regulatory authority shall notify the applicant for a permit within a period of time established by law or regulation whether the application has been approved or disapproved. If approved, the permit shall be issued after the performance bond or deposit required by section 210 has been filed. If the application is disapproved, specific reasons therefor must be set forth in the notification. Within thirty days after the applicant is notified that the permit or any portion thereof has been denied, the applicant may request a hearing on the reasons for said disapproval. A hearing shall be held within thirty days of the request. Within thirty days after the hearing the regulatory authority shall issue and furnish the applicant the written decision of the regulatory authority granting or denying the permit in whole or in part and stating the reasons therefor.

(b) No permit will be issued unless the regulatory authority finds that (1) all the requirements of this Act and the State or Federal Program have been complied with, and (2) the applicant has demonstrated that reclamation as required by this Act and the State or Federal Program can be accomplished under the Reclamation Plan contained in the permit application.

(c) The regulatory authority shall not issue any new surface mining permit or renew or revise any existing surface mining permit of any operator if it finds that the applicant or operator has failed and continues to fail to comply with any of the provisions of any State or Federal Program.

(d) Any person having an interest which is or may be adversely affected by the proposed surface mining and reclamation operations or any Federal, State, or local governmental agency having responsibilities affected by the proposed operations shall have the right to file written objections to any permit application within thirty days after the last publication of the advertisement pursuant to clause 208(a)(7). If written objections are filed, the regulatory authority shall hold a public hearing in the locality of the proposed surface mining and reclamation operations within thirty days of the receipt of such objections and after appropriate notice and publication of the date, time, and location of such hearing.

(e) Any person or government agency having an interest which is or may be adversely affected by the proposed surface mining operations, who has participated in the administrative procedures as an applicant, protestant, or objector, and who is adversely affected or aggrieved by the decision of the regulatory authority shall be entitled to judicial review of such decision by a court of competent jurisdiction in accordance with State or Federal law. Where Federal jurisdiction exists it shall be exercised by the United States district court for the district in which the proposed surface mining operation is situated.

SEC. 210. PERFORMANCE BONDS.—(a) After a surface mining and reclamation permit application has been approved but before such a permit is issued, the applicant shall file with the regulatory authority, on a form prescribed and furnished by the regulatory authority, a bond for performance payable, as appropriate, to the United States or to the State, and conditioned upon faithful performance of all the requirements of this Act and the permit. The bond shall cover that area of land within the permit area upon which the operator will initiate and conduct surface mining and reclamation operations within the initial term of the permit. As succeeding increments of surface mining and reclamation operations are to be initiated and conducted within the permit area, the permittee shall file with the regulator authority an additional bond or bonds to cover such increments in accordance with this section. The amount of the bond required for each bonded area shall depend upon the reclamation requirements of the approved permit and shall be determined by the regulatory authority on the basis of at least two independent estimates. The amount of the bond shall be sufficient to assure the completion of the reclamation plan if the work had to be performed by a third party in the event of forfeiture and in no case shall the bond be less than $10,000.

(b) Liability under the bond shall be for the duration of the surface mining and reclamation operation and for a period of five years thereafter, except in those areas where the average annual rainfall is 26 inches or less, the period of liability shall extend for ten years, unless sooner released as hereinafter provided in this Act. The bond shall be executed by the operator and a corporate surety licensed to do business in the State where such operation is located, except that the operator may elect to deposit cash, negotiable bonds of the United States Government or such State, or negotiable certificates of deposit of any bank organized or transacting business in the United States. The cash deposit or market value of such securities shall be equal to or greater than the amount of the bond required for the bonded area.

(c) The regulatory authority may require a deposit or accept the bond of the applicant itself, when the applicant demonstrates to the satisfaction of the regulatory authority the existence of a suitable agent to receive service of process and a history of financial solvency and continuous operation sufficient for authorization to self-insure or bond such amount.

(d) The amount of the bond or deposit required and the terms of each acceptance of the applicant's bond shall be adjusted by the regulatory authority from time to time as affected land acreages are increased or where the cost of future reclamation obviously changes.

SEC. 211. RELEASE OF PERFORMANCE BONDS OR DEPOSITS.—(a) The permittee may file a request with the regulatory authority for the release of all or part of the performance bond or deposit. Within thirty days after any application for bond or deposit release has been filed with the regulatory authority, the operator shall submit a copy of an advertisement placed on five successive days in a newspaper of general circulation in the locality of the surface mining operation. Such advertisement shall be considered part of any bond release application and shall contain a notification of the location of the land affected, the number of acres, the permit number and the date approved, the amount of the bond filed and the portion sought to be released, and the type of reclamation work performed. In addition, as part of any bond release application, the applicant shall submit copies of letters which he has sent to adjoining property owners, local governmental bodies, planning agencies, and sewage and water treatment authorities, or water companies in the locality in which the surface mining and reclamation activities took place, notifying them of his intention to seek release from the bond.

(b) The regulatory authority may release in whole or in part said bond or deposit if the authority is satisfied that reclamation covered by the bond or deposit or portion thereof has been accomplished as required by this Act: *Provided, however,* That—

(1) no bond shall be fully released until all reclamation requirements of this Act are fully met, and

(2) an inspection and evaluation of the affected surface mining and reclamation operations is made by the regulatory authority or its authorized representative prior to the release.

(c) If the regulatory authority disapproves the application for release of the bond or portion thereof, the authority shall notify the permittee, in writing, stating the reasons for disapproval and recommending corrective actions necessary to secure said release. The permittee shall be afforded a reasonable period of time to take such corrective actions.

(d) If requested by any person having an interest which is or may be adversely affected by the failure of the permittee to have complied with the requirements of this Act or by any Federal, State, or local governmental entity, the regulatory authority shall, within 30 days after appropriate public notice, hold a public hearing on the surface mining and

reclamation operations covered by a performance bond. Such hearing shall be held after the release of 50 per centum or more and prior to the release of 90 per centum of such bond.

SEC. 212. REVISION AND REVOCATION OF PERMITS.—(a) Once granted a permit may not be revoked unless: (1) the regulatory authority gives the permittee prior notice of violation of the provisions of the permit, the State Program or Federal Program, or this Act and affords a reasonable period of time of not less than fifteen days or more than one year within which to take corrective action; and (2) the regulatory authority determines, after a public hearing, if requested by the permittee, that the permittee remains in violation. The regulatory authority shall issue and furnish the permittee a written decision either affirming or rescinding the revocation and stating the reasons therefor.

(b) (1) During the term of the permit the permittee may submit an application, together with a revised reclamation plan, to the regulatory authority for a revision of the permit.

(2) An application for a revision of a permit shall not be approved unless the regulatory authority finds that reclamation as required by this Act and the State or Federal Program can be accomplished under the revised Reclamation Plan. The revision shall be approved or disapproved within a period of time established by the State or Federal Program. The regulatory authority shall establish guidelines for a determination of the scale or extent of a revision request for which all permit application information requirements and procedures, including notice and hearings, shall apply: *Provided*, That any revisions which propose a substantial change in the intended future use of the land or significant alterations in the Reclamation Plan shall, at a minimum, be subject to notice and hearing requirements.

(3) Any extensions to the area covered by the permit except incidental boundary revisions must be made by application for another permit.

(c) No transfer, assignment or sale of the rights granted under any permit issued pursuant to this Act shall be made without the written approval of the regulatory authority.

SEC. 213. CRITERIA FOR SURFACE MINING AND RECLAMATION OPERATIONS.—(a) Each Reclamation Plan submitted as part of a permit application pursuant to an approved State program or a Federal program under the provisions of this Act shall include, in the degree of detail necessary to demonstrate that reclamation required by the State or Federal Program can be accomplished, a statement of:

(1) the condition of the land to be covered by the permit prior to any mining including:

(A) the uses existing at the time of the application and, if the land has a history of previous mining, the uses which preceded any mining;

(B) the capability of the land prior to any mining to support a variety of uses giving consideration to soil and foundation characteristics, topography, and vegetative cover;

(2) the use which is proposed to be made of the land following reclamation, including a discussion of the utility and capacity of the reclaimed land to support a variety of alternative uses and the relationship of such use to existing land use policies and plans, and the comments of any State and local governments or agencies thereof which would have to approve or authorize the proposed use of the land following reclamation;

(3) the engineering techniques proposed to be used in mining and reclamation and a description of the major equipment; a plan for the control of surface water drainage and of water accumulation; a plan where appropriate for backfilling, soil stabilization, and compacting, grading, and appropriate revegetation (where vegetation existed immediately prior to mining); an estimate of the cost per acre of the reclamation, including a statement as to how the permittee plans to comply with each of the requirements set out in subsection (b) of this section;

(4) the steps to be taken to comply with applicable air and water quality laws and regulations and any applicable health and safety standards;

(5) the consideration which has been given to developing the Reclamation Plan in a manner consistent with local, physical, environmental, and climatological conditions and current mining and reclamation technologies;

(6) the consideration which has been given to insuring the maximum practicable recovery of the mineral resource;

(7) a detailed estimated timetable for the accomplishment of each major step in the reclamation plan;

(8) the consideration which has been given to making the surface mining and reclamation operations consistent with applicable State and local land use plans and programs;

(9) all lands, interests in lands, or options on such interests held by the applicant or pending bids on interests in lands by the applicant, which lands are contiguous to the area to be covered by the permit: *Provided*, That any information required by this section which is not on public file pursuant to State law shall be held in confidence by the regulatory authority; and

(10) the results of test borings which the applicant has made at the area to be covered by the permit, including the location of subsurface water, and an analysis of the chemical properties including acid forming properties of the mineral and overburden: *Provided*, That information about the mineral shall be withheld by the regulatory authority if the applicant so requests.

(b) Each State Program and each Federal Program shall include regulations which at a minimum require each permittee to—

(1) return all surface areas to a condition which does not present a hazard to public health, safety, or property and is capable of supporting (a) the uses which existed immediately prior to any mining, or if approved by the regulatory authority pursuant to the approval of the permit or any revision thereof, (b) other alternate uses suitable to the locality;

(2) backfill, compact (where advisable to insure stability or to prevent leaching of toxic materials) and grade to restore the approximate original contour of the land with all highwalls, spoil piles, and depressions eliminated, unless the operator demonstrates that the overburden is insufficient (giving due consideration to volumetric expansion) to restore the approximate original contour, in which case the backfilling, compacting, and grading required shall be sufficient to cover all acid-forming, saline, and toxic materials, to achieve an angle of repose based upon soil and climate characteristics for the area of land to be affected, and to achieve an environmentally sound condition and a desirable use of the reclaimed area;

(3) stabilize and protect all surface areas affected by the mining and reclamation operations to effectively control erosion and attendant air and water pollution, such stabilization and reclamation to include soil compaction, where advisable, and establishment of a stable and self-regenerating vegetative cover (where cover existed prior to mining) which, where advisable, shall be comprised of native vegetation;

(4) segregate and preserve topsoil unless replaced simultaneously as part of the mining operation and use the best available other soil material from the mining cycle to cover spoil material unless the permit applicant provides evidence in the Reclamation Plan sufficient to satisfy the regulatory authority that another method of soil conservation would be at least equally effective for revegetation purposes;

(5) protect offsite areas from slides or damage occurring during the surface mining and reclamation operations, and not deposit spoil material or locate any part of the operations or waste accumulations outside the permit area;

(6) insure that when performing surface mining on steep slopes, no debris, abandoned or disabled equipment, spoil material, or waste mineral matter be placed on the natural downslope below the bench or mining cut, except that soil or spoil material from the initial cut of earth in a new surface mining operation can be placed on a limited and specified area of the downslope below the initial cut if the permittee demonstrates that such soil or spoil material will not slide and that the other requirements of this subsection can still be met: *Provided*, That spoil material not required for the reconstruction of the approximate original contour on any site may be permanently stored at such offsite spoil storage areas as the regulatory authority shall designate and for the purposes of this Act such area shall be deemed in all respects to be a part of the lands affected by mining operations;

(7) protect the quality of water and consider the quantity of water in surface and ground water systems both during and after surface mining and reclamation operations by:

(A) avoiding acid mine drainage by (i) preventing or retaining drainage from acid producing deposits, or (ii) treating drainage to acceptable standards of acidity and iron content before releasing it to water courses;

(B) conducting surface mining operations so as to minimize to the extent practicable the adverse effects of water runoff from the disturbed area;

(C) casing, sealing, or otherwise managing boreholes, shafts, and wells to prevent acid drainage to ground and surface waters;

(D) not removing, interrupting, or destroying surface waters during the mining or reclamation process except that surface waters may be relocated where consistent with the operator's approved reclamation plan;

(E) restoring recharge capacity of the aquifer at the mine site and protecting alluvial valley floors; and

(F) such other actions as the regulatory authority may prescribe;

(8) insure the control of surface operations incident to underground mining for the purpose of protecting the surface area, and providing for the proper sealing of shafts, tunnels, and entryways and the filling of exploratory holes no longer necessary for mining, maximizing to the extent practicable return of mine and processing waste, tailings, and any other waste incident to the mining operation, to the mine workings or excavations, and, where such wastes are disposed of in other areas, providing for design and construction of water retention facilities so as to assure (a) that the location will not endanger public health and safety should failure occur (b) that construction will be so designed to achieve necessary stability with an adequate margin of safety compatible with that of structures constructed under the Act of August 4, 1954, as amended (16 U.S.C. 1001–09), to assure against failure; (c) that leachate will not pollute surface or ground water; and (d) that final contour of the waste accumulation will be compatible with the surrounding terrain;

(9) insure that all debris, acid forming materials, toxic materials, or materials constituting a fire hazard are treated or disposed of in a manner designed to prevent contamination of ground or surface waters or sustained combustion;

(10) insure that explosives are used only in accordance with existing State and Federal law and the regulations promulgated by the regulatory authority;

(11) insure that all reclamation efforts proceed in an environmentally sound manner and as contemporaneously as practicable with the surface mining operations;

(12) insure the construction, maintenance, and postmining conditions of access roads into and across the site of operations will control or prevent erosion and siltation, pollution of water, damage to fish or wildlife or their habitat, or public or private property: *Provided,* That the regulatory authority may permit the retention after mining of certain access roads where consistent with State and local land use plans and programs and where necessary may permit a limited exception to the restoration of approximate original contour for that purpose;

(13) meet such other criteria as are necessary to achieve reclamation in accordance with the purposes of this Act, taking into consideration the physical, climatological, and other characteristics of the site, and to insure the maximum practicable recovery of the mineral resources; and

(14) a detailed description of the measures to be taken during the mining and reclamation process to assure the protection of (A) the quantity and quality of surface and ground water systems, both on and off-site, from adverse effects of the mining and reclamation process, and (B) the rights of present users to such water.

(c)(1) Each State program may and each Federal program shall include procedures pursuant to which the regulatory authority may permit variances for the purposes set forth in this subsection.

(2) Where an applicant meets the requirements of subsection (c) (3) and (4), a variance from the requirement to restore to approximate original contour set forth in subsection 213(b)(2) of this section may be granted for the surface mining of coal where the mining operation will remove an entire coal seam running through the upper fraction of a mountain, ridge, or hill (except as provided in subsection (c)(4)(A) hereof) by removing all of the overburden and creating a level plateau or a gently rolling contour with no highwalls remaining and capable of supporting postmining uses in accord with the requirements of this subsection.

(3) The regulatory authority may grant a variance for a surface mining operation of the nature described in subsection (c)(2) where—

(A) the applicant has established that the proposed use of the land as reclaimed pursuant to the variance will be a use—

(i) the need for which is greater than the need for that use which would be served by returning to the approximate original contour; and

(ii) which will serve an equivalent or higher socially beneficial purpose.

(B) the applicant presents specific plans for the proposed postmining land use and appropriate assurances that such use will be achieved as specified in the reclamation plan;

(C) the proposed use would be consistent with adjacent land uses, and existing State and local land use plans and programs;

(D) the regulatory authority provides the government body of the unit of general-purpose government in which the land is located and any State or Federal agency which the regulatory agency, in its description, determines to have an interest in the proposed use, an opportunity of not more than sixty days to review and comment on the proposed use;

(E) a public hearing is held in the locality of the proposed surface mining operation prior to the grant of any permit including a variance; and

(F) all other requirements of this Act will be met.

(4) In granting any variance pursuant to this subsection the regulatory authority shall require that—

(A) for a variance granted pursuant to subsection (c)(2), the toe of the coal seam and the overburden associated with it are retained in place as a barrier to slides and erosion;

(B) the reclaimed area is stable;

(C) the resulting plateau or rolling contour drains inward from the outslopes except at specified points;

(D) no damage will be done to natural watercourses; and

(E) all other requirements of this Act will be met.

(5) The regulatory authority shall promulgate specific regulations to govern the granting of variances in accord with the provisions of this subsection 213(c).

SEC. 214. INSPECTIONS.—(a) The Secretary shall cause to be made such inspections of any surface mining and reclamation operations as are necessary to evaluate the administration of State Programs, or to develop or enforce any Federal Program, and for such purposes authorized representatives of the Secretary shall have a reasonable right of entry to any surface mining and reclamation operations.

(b) For the purpose of developing or assisting in the development, administration, and enforcement of any State or Federal Program under this Act or in the administration and enforcement of any permit under this Act, or of determining whether any person is in violation of any requirement of this Act—

(1) the regulatory authority shall require each permittee to (A) establish and maintain appropriate records, (B) make reports, (C) install, use, and maintain any necessary monitoring equipment, and (D) provide such other information relative to surface mining and reclamation operations as the regulatory authority deems reasonable and necessary; and

(2) the authorized representatives of the regulatory authority, upon presentation of appropriate credentials (A) shall have a right of entry to, upon or through any surface mining and reclamation operations or any premises in which any records required to be maintained under paragraph (1) of this subsection are located and (B) may at reasonable times have access to and copy any records, inspect any monitoring equipment or method of operation required under this Act.

(c) The inspections by the regulatory authority shall (i) occur on a random basis averaging not less than one inspection per month for the surface mining and reclamation operations covered by each permit; (ii) occur without prior notice to the permittee or his agents or employees and (iii) include the filing of inspection reports adequate to carry out the purposes of this Act. A copy of each inspection report shall be furnished to the permittee and be available for public review. The permittee or his agents or employees shall be given an opportunity to accompany the inspector during the inspection.

(d) Permits issued under State Programs or Federal Programs and the permittees' Reclamation Plans shall be filed on public record with appropriate officials in each county or other appropriate subdivision of the State in which surface mining and reclamation operations under such permits will be conducted.

(e) Each permittee shall conspicuously maintain at the entrances to the surface mining and reclamation operations a clearly visible sign which sets forth the name, business address, and phone number of the permittee and the permit number of the permit which covers such operations.

(f) Any records, reports, or information obtained under this section by the regulatory authority which are not within the exceptions of the Freedom of Information Act (5 U.S.C. 552) shall be available to the public.

SEC. 215. FEDERAL ENFORCEMENT.—(a) Whenever, on the basis of any information available to him, the Secretary has reason to believe that any person may be in violation of any requirement of this Act or any permit condition required by this Act, the Secretary shall notify the State regulatory authority in the State in which such alleged violation exists and the State shall proceed under the approved program.

(b) When, on the basis of Federal inspection, the Secretary determines that any person is in violation of any requirement of this Act or any permit condition required by this Act which violation creates a danger to life, health, or property, or would cause significant harm to the environment, the Secretary or his inspectors may immediately order a cessation of surface mining and reclamation operations or the portion thereof causing or contributing to the violation and provide such person a reasonable time to correct the violation. Such person shall be entitled to a hearing concerning such an order of cessation within three days of the issuance of the order. If such person shall fail to obey the order so issued, the Secretary shall immediately institute civil or criminal actions in accordance with this Act.

(c) Whenever the Secretary finds that violations of an approved State Program appear to result from a failure of the State to enforce such State Program effectively, he shall so notify the State. If the Secretary finds that such failure extends beyond the thirtieth day after such notice, he shall give public notice of such finding. During the period beginning with such public notice and ending when such State satisfies the Secretary that it will enforce such State program, the Secretary shall enforce any permit condition required under this Act with respect to any person by issuing an order to comply with such permit condition or by bringing a civil or criminal action, or both, pursuant to this section.

(d) Any order issued under this section shall take effect immediately. A copy of any order issued under this section shall be sent to the State regulatory authority in the State in which the violation occurs. Each order shall set forth with reasonable specificity the nature of the violation and the remedial action required, and establish a reasonable time for compliance, taking into account the seriousness of the violation, any irreparable harmful effects upon the environment, and any good faith efforts to comply with applicable requirements. In any case in which an order or notice under this section is issued to a corporation, a copy of such order shall be issued to appropriate corporate officers.

(e) At the request of the Secretary, the Attorney General may institute a civil action in the district court of the United States for the district in which the affected operation is located for a restraining order or injunction or other appropriate remedy to enforce any order issued pursuant to this section.

(f)(1) If any person shall fail to comply with any Federal program, any provision of this Act, or any permit condition required by this Act, after notice of such failure and expiration of any period allowed for corrective action, such person shall be liable for a civil penalty of not more than $1,000 for each and every day of the continuance of such failure. The Secretary may assess and collect any such penalty.

(2) Any person who knowingly and willfully violates a Federal program, any provision of this Act, or any permit condition required by this Act, or makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this Act, or who knowingly and willfully falsifies, tampers with, or knowingly and willfully renders inaccurate any monitoring device or method or record re-

quired to be maintained under this Act, shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than six months, or both.

(g) Wherever a corporation or other entity violates a Federal program, any provisions of this Act, or any permit condition required by this Act, any director, officer, or agent of such corporation or entity who authorized, ordered, or carried out such violation shall be subject to the same fines or imprisonment as provided for under subsection (f) of this section.

(h) The remedies prescribed in this section shall be concurrent and cumulative and the exercise of one does not preclude the exercise of the others. Further, the remedies prescribed in this section shall be in addition to any other remedies afforded by this Act or by any other law or regulation.

SEC. 216. DESIGNATION OF LAND AREAS UNSUITABLE FOR SURFACE MINING.—(a)(1) Each State Program or Federal Program shall include a process for review of potential surface mining areas capable of making objective decisions based upon competent and scientifically sound data and information as to which, if any, land areas of a State are unsuitable for all or certain types of surface mining operations. This process shall be integrated as closely as possible with existing land use plans and programs. The initial review shall be completed within three years after implementation of the State or Federal Program.

(2) An area may be designated unsuitable for all or certain types of surface mining operations if——

(A) reclamation pursuant to the requirements of this Act is not physically or economically possible;

(B) surface mining operations in a particular area would be incompatible with existing land use plans and programs; or

(C) the area is an area of critical environmental concern.

Provided, however, That no area shall be designated unsuitable for surface mining operations on which surface mining operations are being conducted on the date of enactment of this Act or under a permit issued pursuant to this Act, or as to which firm plans for and substantial legal and financial commitments in such operations are in existence prior to the date of enactment of this Act: *And provided further*, That prior to any designation pursuant to subsection (a)(2)(C), the regulatory authority shall prepare a detailed statement on (i) the potential coal resources of the area, (ii) the demand for coal resources, and (iii) the impact of such designation on the environment, the economy and the supply of coal: *And provided further*, That the designation process shall provide for an appeals process for any interested party as defined by law or regulation concerning the designation of any land as unsuitable for surface mining operations or the termination of such designation when such action is taken other than by Federal or State law.

(3) For purposes of this section the term "area of critical environmental concern" means areas as defined and designated by the State on non-Federal lands where uncontrolled or incompatible development could result in serious damage to the environment, life or property, or the long term public interest which is of more than local significance. Such areas, subject to State definition of their extent, shall include—

(A) "Fragile or historic lands" where uncontrolled or incompatible development could result in irreversible damage to important historic, cultural, scientific, or esthetic values or natural systems which are of more than local significance, such lands to include shorelands of rivers, lakes, and streams; rare or valuable ecosystems and geological formations; significant wildlife habits; and unique scenic or historic areas;

(B) "Natural hazard lands" where uncontrolled or incompatible development could reasonably endanger life and property, such lands to include flood plains and areas frequently subject to weather disasters, areas of unstable geological, ice, or snow formations, and areas with seismic or volcanic activity;

(C) "Renewable resource lands" where uncontrolled or incompatible development which results in the loss or reduction of continued long-range productivity could endanger future water, food, and fiber requirements of more than local concern, such lands to include watershed lands, aquifiers and aquifier recharge areas, significant agricultural and grazing lands, and forest lands; and

(D) such additional areas as the State determines to be critical environmental concern.

Provided, however, That if a State land use plan which designates "areas of critical environmental concern" is in effect, the designation in that plan shall be conclusive for the purposes of this section.

(4) Any interested citizen as defined by law and regulation shall have the right to petition the regulatory authority to have an area designated as unsuitable for surface mining operations, or to have such a designation terminated. Whenever such a petition contains allegations of facts with supporting evidence which would tend to establish the allegations, the regulatory authority shall make a written decision on the petition.

(b) The Secretary is authorized and directed to conduct a review of the Federal lands to determine, pursuant to the criteria set forth in clause (2) and subject to the other provisions of subsection (a) of this section, whether there are areas on Federal lands which are unsuitable for all or certain types of surface mining operations. When the Secretary determines an area on Federal lands to be unsuitable for all or certain types of surface mining operations, he shall withdraw such area or he may condition any mineral leasing in a manner so as to limit surface mining operations on such area.

(c) No surface mining operation except those which exist on the date of enactment of this Act shall be permitted—

(1) on any lands within the boundaries of units of the National Park System, the National Wildlife Refuge System, the National System of Trails, the National Wilderness Preservation System, the Wild and Scenic Rivers System, and National Recreation Areas designated by Act of Congress;

(2) which will adversely affect any publicly owned park unless approved jointly by the regulatory authority and the Federal, State, or local agency with jurisdiction over the park.

SEC. 217. FEDERAL LANDS.—(a) No later than six months after the date of enactment of this Act, the Secretary shall promulgate and implement a Federal Lands Program which shall be applicable to all surface mining and reclamation operations taking place pursuant to any Federal law on any Federal lands: Provided, That except as provided in section 403 the provisions of this Act shall not be applicable to Indian lands. The Federal Lands Program shall, at a minimum, incorporate all of the requirements of this Act and shall take into consideration the diverse physical, climatological, and other unique characteristics of the Federal lands in question. Where Federal lands in a State with an approved State Program are involved, the Federal Lands Program shall, at a minimum, include the requirements of the approved State Program.

(b) The requirements of this Act and the Federal Lands Program shall be incorporated by reference or otherwise in any Federal mineral lease, permit, or contract issued by the Secretary which may involve surface mining and reclamation operations. Incorporation of such requirements shall not, however, limit in any way the authority of the Secretary to subsequently issue new regulations, revise the Federal Lands Program to deal with changing conditions or changed technology, and to require any surface mining and reclamation operations to conform with the requirements of this Act and the regulations issued pursuant to this Act.

(c) The Secretary may enter into agreements with a State or with a number of States to provide for a joint Federal-State Program covering a permit or permits for surface mining and reclamation operations on land areas which contain lands within any State and Federal lands which are interspersed or checkerboarded and which should, for conservation and administrative purposes, be regulated as a single management unit. To implement a joint Federal State program the Secretary may enter into agreements with the States, may delegate authority to the States, or may accept a delegation of authority from the States for the purpose of avoiding quality of administration of a single permit for surface mining and reclamation operations.

(d) Except as specifically provided in subsection (c) this section shall not be construed as authorizing the Secretary to delegate to the States any authority or jurisdiction to regulate or administer surface mining and reclamation operations or other activities taking place on the Federal lands.

(e) After the date of enactment of this Act, no person shall open or develop any new or previously mined and abandoned site for coal surface mining operations on Federal lands, and no person shall expand by more than 15 per centum existing coal surface mining operations on Federal lands until the Secretary has promulgated and implemented the Federal Lands Program unless such person has first obtained an interim permit issued by the Secretary who may issue such interim permits from the date of enactment of this Act until twenty-two months after such date upon application made by the operator. Such application and permit shall be in accordance with the requirements of this Act.

SEC. 218. PUBLIC AGENCIES, PUBLIC UTILITIES, AND PUBLIC CORPORATIONS.—Any agency, unit or instrumentality of Federal, State, or local government, including any publicly owned utility or publicly owned corporation of Federal, State, or local government, which proposes to engage in surface mining operations which are subject to the requirements of this Act shall comply with the provisions of title II of this Act.

SEC. 219. (a) CITIZEN SUITS.—Except as provided in subsection (b) of this section, any person having an interest which is or may be adversely affected may commence a civil action on his own behalf—

(1) against any person including—

(A) the United States, and

(B) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution who is alleged to be in violation of the provisions of this Act or the regulation promulgated thereunder, or order issued by the regulatory authority; or

(2) against the Secretary or the appropriate State regulatory authority where there is alleged a failure of the Secretary or the appropriate State regulatory authority to perform any act or duty under this Act which is not discretionary with the Secretary or with the appropriate State regulatory authority.

(b) No action may be commenced—

(1) under subsection (a)(1) of this section—

(A) prior to sixty days after the plaintiff has given notice in writing under oath of the violation (i) to the Secretary, (ii) to the State in which the violation occurs, and (iii)

to any alleged violator of the provisions, regulations, or order, or

(B) if the Secretary or the State has commenced and is diligently prosecuting a civil action in a court of the United States or a State to require compliance with the provisions of this Act or the regulations thereunder, or the order, but in any such action in a court of the United States any person may intervene as a matter of right; or

(2) under subsection (a)(2) of this section prior to sixty days after the plantiff has given notice in writing under oath of such action to the Secretary, in such manner as the Secretary shall by regulation prescribe, or to the appropriate State regulatory authority, except that such action may be brought immediately after such notification in the case where the violation or order or lack of order complained of constitutes an imminent threat to the or safety of the plaintiff or would immediately affect a legal interest of the plaintiff.

(c)(1) Any action respecting a violation of this Act or the regulations thereunder may be brought only in the judicial district in which the surface mining operation complained of is located.

(2) In such action under this section, the Secretary, or the State regulatory authority, if not a party, may intervene as a matter of right.

(d) The court, in issuing any final order in any action brought pursuant to subsection (a) of this section, may award costs of litigation to any party, whenever the court determines such award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.

(e) Nothing in this section shall restrict any right which any person (or class of persons) may have under this or any statute or common law to seek enforcement of any of the provisions of this Act and the regulations thereunder, or to seek any other relief (including relief against the Secretary or the appropriate State regulatory authority).

TITLE III—ABANDONED AND UNRECLAIMED MINED AREAS

SEC. 301. ABANDONED MINE RECLAMATION FUND.—(a) There is hereby created in the Treasury of the United States a Fund to be known as the Abandoned Mine Reclamation Fund.

(b) There is authorized to be appropriated to the Fund initially the sum $80,000,000 and such other sums as the Congress may thereafter authorize to be appropriated.

(c) The following other moneys shall be deposited in the Fund—

(1) moneys derived from the sale, lease, or rental of land reclaimed pursuant to this title;

(2) moneys derived from any user charge imposed on or for land reclaimed pursuant to this title, after expenditures for maintenance have been deducted; and

(3) miscellaneous receipts accruing to the Secretary through the administration of this Act which are not otherwise encumbered.

(d) Moneys in the Fund subject to annual appropriation by the Congress, may be expended by the Secretary for the purposes of this title.

SEC. 302. ACQUISITION AND RECLAMATION OF ABANDONED AND UNRECLAIMED MINED AREAS.—(a) The Congress hereby declares that the acquisition of any interest in land or mineral rights in order to construct, operate, or manage reclamation facilities and projects constitutes acquisition for a public use or purpose, notwithstanding that the Secretary plans to hold the interest in land or mineral rights so acquired as an open space or for recreation, or to resell the land following completion of the reclamation facility or project.

(b) The Secretary may acquire by purchase, donation, or otherwise, land or any interest therein which has been affected by surface mining operations prior to the enactment of this Act and has not been returned to productive or useful purposes. Prior to making any acquisition of land under this section, the Secretary shall make a thorough study with respect to those tracts of land which are available for acquisition under this section and based upon those findings he shall select lands for purchase according to the priorities established in subsection (i). Title to all lands or interests therein acquired shall be taken in the name of the United States, but no deed shall be accepted or purchase price paid until the validity of the title is approved by the Attorney General. The price paid for land under this section shall take into account the unrestored condition of the land.

(c) For the purposes of this title, when the Secretary seeks to acquire an interest in land or mineral rights and cannot negotiate an agreement with the person holding title to such interest he shall request the Attorney General to file a condemnation suit and take such interest or right, following a tender of just compensation as awarded by a jury to such persons: *Provided, however,* That when the Secretary determines that time is of the essence because of the likelihood of continuing or increasingly harmful effects upon the environment which would substantially increase the cost of magnitude of reclamation or of continuing or increasingly serious threats to life, safety, or health, or to property, the Secretary may take such interest or rights immediately upon payment by the United States either to such person or into a court of competent jurisdiction of such amount as the Secretary shall estimate to be the fair market value of such interest or rights; except that the Secretary shall also pay to such person any further amount that may be subsequently awarded by a jury, with interest from the date of the taking.

(d) For the purposes of this title, when the Secretary takes action to acquire an interest in land or mineral rights and cannot determine which person or persons hold title to such interest or rights, the Secretary shall request the Attorney General to file a condemnation suit, and give notice and may take such interest or rights immediately upon payment into court of such amount as the Secretary shall estimate to be the fair market value of such interest or rights. If a person or persons establish title to such interest or rights within six years from the time of their taking, the court shall transfer the payment to such person or persons and the Secretary shall pay any further amount that may be agreed to pursuant to negotiations or awarded by a jury subsequent to the time of taking. If no person or persons establish title to the interest or rights within six years from the time of such taking, the payment shall revert to the Secretary and be deposited in the Fund.

(e) States are encouraged to acquire abandoned and unreclaimed mined lands within their boundaries and to donate such lands to the Secretary to be reclaimed under appropriate Federal regulations. The Secretary is authorized to make grants on a matching basis to States in such amounts as he deems appropriate for the purpose of carrying out the provisions of this title but in no event shall any grant exceed 90 per centum of the cost of acquisition of the lands for which the grant is made. When a State has made any such land available to the Federal Government under this title, such State shall have a preference right to purchase such lands after reclamation at fair market value less the State portion of the original acquisition price.

(f) The Secretary shall prepare specifications for the reclamation of lands acquired under this title. In preparing specifications, the Secretary shall utilize the specialized knowledge or experience of any Federal department or agency which can assist him in the development or implementation of the reclamation program required under this title.

(g) The Secretary shall reclaim the lands acquired under this title in accordance with the specifications prepared therefor pursuant to subsection (f) of this section as moneys become available to the Fund.

(h) Administration of all lands reclaimed under this title shall be in the Secretary until disposed of by him as set forth in this title.

(i) In selecting lands to be acquired pursuant to this title and in formulating regulations for the making of grants to the States to acquire lands pursuant to this title, the Secretary shall give priority (1) to lands which, in their unreclaimed state, he deems to have the greatest adverse effect on the environment or constitute the greatest threat to life, health, or safety and (2) to lands which he deems suitable for public recreational use. The Secretary shall direct that the latter lands, once acquired, shall be reclaimed and put to use for recreational purposes. Revenue derived from such lands, once reclaimed and put to recreational use, shall be used first to insure proper maintenance of such lands and facilities thereon, and any remaining moneys shall be deposited in the Fund.

(j) Where land reclaimed pursuant to this title is deemed to be suitable for industrial, commercial, residential, or private recreational development, the Secretary may sell such land pursuant to the provisions of the Surplus Property Act of 1949, as amended.

(k) The Secretary shall hold a public hearing with the appropriate notice, in the county or counties or the appropriate subdivisions of the State in which lands acquired to be reclaimed pursuant to this title are located. The hearing shall be held at a time which shall afford local citizens and governments the maximum opportunity to participate in the decision concerning the use of lands once reclaimed.

SEC. 303. FILLING VOIDS AND SEALING TUNNELS.—(a) The Congress declares that voids and open and abandoned tunnels, shafts, and entryways resulting from mining constitute a hazard to the public health and safety. The Secretary, at the request of the Governor of any State, is authorized to fill such voids and seal such abandoned tunnels, shafts, and entryways which the Secretary determines could endanger life and property or constitute a hazard to the public health and safety.

(b) The Secretary may acquire by purchase, donation, or otherwise such interest in land as he determines necessary to carry out the provisions of this section.

SEC. 304. CONTINUING REVIEW RELATIVE TO WATER QUALITY.—The Secretary of the Interior and the Secretary of Agriculture are directed to develop regulations and conduct a continuing review of mining regions to identify zones or watersheds where previously mined and unreclaimed coal surface mine operations due to erosion, siltation, or toxic discharge present a hazard to water quality and where due to inaccessibility, low land values, or unduly high reclamation costs timely reclamation under sections 301 and 302 is either economically or physically infeasible.

SEC. 305. AID TO STATES FOR RECLAMATION AND REHABILITATION OF NON-FEDERAL LANDS.—(a) In any zone designated under the review process of section 304 in order to assist States and their political subdivisions, soil and water conservation districts, in developing and carrying out within watershed and subwatershed areas plans for works and measures for the reclamation and rehabili-

tation of non-Federal lands which have been damaged by surface mining and which are presently in a scarred or unreclaimed condition, the Secretary of Agriculture is authorized, upon the request of States:

(1) to provide to the States and soil conservation districts technical assistance by the Soil Conservation Service for developing plans for the reclamation and rehabilitation of such lands, which plans may include works and measures such as revegetation, land smoothing, diversions, grade stabilization and gully-control structures, debris basins, bank sloping, drainage, access roads for maintenance, and any other works, measures, or practices deemed necessary by the Secretary of Agriculture; and

(2) to cooperate and enter into agreements with, and to make grants to and provide other aid as the Secretary of Agriculture deems necessary and appropriate in the public interest to effectuate the purposes of carrying out any such plan that has been approved by the Secretary of Agriculture and the Governor of the State, or his designated representative, subject to such conditions as may be prescribed by the Secretary of Agriculture: *Provided,* That the Federal share of the cost of the reclamation and rehabilitation of any such lands included in an approved plan shall not exceed 75 per centum of the estimated total cost thereof.

(b) The program herein authorized shall apply to the unreclaimed or unrehabilitated lands damaged by surface mining located in States which have heretofore enacted, or shall hereafter enact, legislation requiring reclamation or rehabilitation of lands damaged by surface mining when the Secretary of Agriculture determines that—

(1) significant public benefits will be derived from the reclamation and rehabilitation of such lands;

(2) such lands were damaged by surface mining prior to the date of enactment of this Act, sometimes referred to as "orphan lands"; and

(3) there does not exist a contractual or other legal requirement for the adequate reclamation or rehabilitation of such lands: *Provided,* That the Secretary of Agriculture may carry out a limited program of reclamation of lands damaged by surface mining for demonstration purposes in those States which do not have laws requiring reclamation or rehabilitation of such lands.

(c) The Secretary of Agriculture may require as a condition to the furnishing of assistance hereunder to any owner of lands included in an approved plan that such landowner shall:

(1) enter into an agreement of not to exceed ten years providing for the installation and maintenance of the needed works and measures specified in such plan; and

(2) install or cause to be installed such needed works and measures in accordance with technical specifications as approved by the Secretary.

(d) The Secretary of Agriculture is authorized to prescribe such rules and regulations as he deems necessary or desirable to carry out the purposes of this section.

(e) There is authorized to be appropriated to the Secretary of Agriculture for the purpose of this section $20,000,000 for fiscal year 1975.

TITLE IV—ESTABLISHMENT OF MINING AND MINERAL RESEARCH CENTERS

SEC. 401. ENVIRONMENTAL RESEARCH INSTITUTE FUNDS.—(a) There are authorized to be appropriated to the Secretary of the Interior for the fiscal year 1974 and each subsequent year thereafter sums adequate to provide $100,000 to each of the several States in the first year, $150,000 in the second year, $200,000 in the third year, and $250,000 each year thereafter to assist each participating State in establishing and carrying on the work of a competent and qualified mining, minerals, and related environmental research institute, center, or equivalent agency (hereinafter referred to as "institute") at one college or university in that State, which college or university shall be the tax-supported school of mines or shall have a college or school of mines, or a tax-supported college or university which has or hereafter establishes an administrative unit such as a school or department wherein education and research are being carried out in the minerals engineering field: *Provided,* That (1) such moneys when appropriated shall be made available to match, on a dollar for dollar basis, non-Federal funds which shall be at least equal to the Federal share to support the institute; (2) if there is more than one such college or university in a State, funds under this Act shall, in the absence of a designation to the contrary by act of the legislature of the State, be paid to the one such college or university designated by the Governor of the State to receive the same subject to the Secretary's determination that such college or university has, or may reasonably be expected to have, the capability of doing effective work under this Act; (3) two or more States may cooperate in the designation of a single interstate or regional institute, in which event the sums assignable to all of the cooperating States shall be paid to such institute; and (4) a designated college or university may, as authorized by appropriate State authority, arrange with other colleges and universities within the State to participate in the work of the institute.

(b) It shall be the duty of each such institute to plan and conduct or arrange for the conduct of competent research, investigations, and experiments of either a basic or practical nature, or both, in relation to mining, mineral, metallurgical, ceramic, fuel, scrap recycling, mined land reclamation, underground reservoir utilization, mineral economics and related environmental research, and to provide for the training of scientists, engineers, and technicians in these fields. Such research, investigations, experiments, and training may include, without being limited to, aspects of the supply and demand for various minerals; conservation and the best use of available supplies of minerals; health and safety in mining; improved methods of mineral extraction and exploration; mineral and mining economics; improved methods of mineral production, extraction, and exploration which will reduce and minimize adverse effects upon the environment; and legal, social, geographic, ecological, national defense, land use, and other considerations to help assure satisfaction of the national needs and requirements, in both the short and long term, for minerals and their products, having due regard to the avoidance of unnecessary and unproductive duplication of research being of the Federal and State governments or other institutes receiving support under this Act.

SEC. 402. GRANTS TO STATE INSTITUTES.—To assure that any institute established under this title is adequately equipped to perform mineral resource research and to train individuals in the mineral resource fields, the Secretary of the Interior is authorized to make grants to each institute to pay up to 75 per centum of the cost of purchasing equipment, facilities, and library materials. No portion of any such grant shall be applied to the acquisition by purchase or lease of any land or interests therein or the rental, purchase, construction, preservation, or repair of any building. There are hereby authorized to be appropriated not to exceed $5,000,000 annually, to remain available until expended, to carry out the purpose of this section.

SEC. 403. PAYMENT OF FUNDS.—Sums available to the States under the terms of this title shall be paid to their designated institutes at such time and in such amounts during each fiscal year as determined by the Secretary of the Interior, and upon vouchers approved by him. Each institute shall designate an officer appointed by its governing authority who shall receive and account for all funds paid under the provisions of this Act and shall make an annual report to the Secretary of the Interior on or before the first day of September of each year, on work accomplished and the status of projects underway, together with a detailed statement of the amounts received under any of the provisions of this Act during the preceding fiscal year, and of its disbursement, on schedules prescribed by the Secretary, and the Comptroller General or any of his duly authorized representatives shall have access, for the purpose of review and audit, to the supportive books, records, and other pertinent documents maintained by the grantee in the administration of any grant under this Act. If any of the moneys received by the authorized receiving officer of any institute under the provisions of this Act shall by action or contingency be found by the Secretary to have been improperly diminished, lost or misapplied, it shall be replaced by the State concerned and until so replaced no subsequent appropriation shall be allotted or paid to any institute of such State.

SEC. 404. AVAILABILITY OF RESEARCH.—No research, demonstration, or experiment shall be carried out under this Act by an institute financed by grants under this Act unless all uses, products, processes, patents, and other developments resulting therefrom with such exception or limitation, if any, as the Secretary may find necessary in the public interest, be available promptly to the general public. There are authorized to be appropriated such sums as are necessary for the printing and publishing of the results of activities carried out by institutes under the provisions of this Act and for administrative planning and direction, but such appropriations shall not exced $1,000,000 in any fiscal year.

SEC. 405. RESPONSIBILITY OF SECRETARY OF INTERIOR.—The Secretary of the Interior is charged with administration of this Act, and shall prescribe such rules and regulations as may be necessary to carry out its provisions. He shall furnish such advice and assistance as will best promote the purposes of this Act, participate in coordinating research initiated under this Act by the institutes, encourage and assist in the establishment and maintenance of cooperation by and between the institutes and between them and other research organizations, the United States Department of the Interior and other Federal establishments, and shall act as a central clearinghouse for the results of research conducted by the institutes.

SEC. 406. EXISTING RELATIONSHIPS.—Nothing in this Act shall be construed to impair or modify the relation existing between any of the colleges or universities under whose direction an institute is established and the government of the State in which it is located, and nothing in this Act shall in any way be construed to authorize Federal control or direction of education or training at any college or university.

SEC. 407. PUERTO RICO INCLUDED WITH STATES.—As used in this Act, the term "State" includes the Commonwealth of Puerto Rico.

TITLE V—STUDIES OF SURFACE MINING AND RECLAMATION

SEC. 501. STUDY OF RECLAMATION STANDARDS.—(a) The Chairman of the Council on Environmental Quality is directed to contract with the National Academy of Sciences-National Academy of Engineering, other Government agencies or private groups as appropriate, for an indepth study of current and developing technology for surface mining and reclamation for other minerals and open pit mining designed to assist in the establishment of effective and reasonable regulation of surface and open pit mining and reclamation. The study shall—

(1) assess the degree to which the requirements of this Act can be met by such technology and the costs involved;

(2) identify areas where the requirements of the Act cannot be met by current and developing technology; and

(3) in those instances describe requirements most comparable to those of this Act which could be met, the costs involved, and the differences in reclamation results between these requirements and those of this Act.

(b) The study together with specific legislative recommendations shall be submitted to the President and the Congress no later than eighteen months after the date of enactment of this Act; *Provided*, That, with respect to surface or open pit mining for sand and gravel the study shall be submitted no later than twelve months after the date of enactment of this Act.

(c) There are hereby authorized to be appropriated for the purpose of this section $500,000.

SEC. 502. STUDY OF IMPACT OF FEDERAL CONTROL ON CONTOUR SURFACE MINING.—(a) The Chairman of the Council on Environmental Quality is further directed, in conjunction and consultation with the National Academy of Sciences—National Academy of Engineering and such Federal agencies as he shall deem appropriate, to undertake an indepth review of the success and impact of the reclamation and environmental protection standards of this Act as they pertain to contour coal surface mining. The study shall—

(1) assess the impact of contour coal surface mining pursuant to the Act upon water quality;

(2) assess the impact of contour coal surface mining pursuant to the Act upon land value, productivity, and other economic factor in regions where such mining is conducted;

(3) assess the impact of the Act upon and the general development of alternative production techniques, including deep mining, and their relative impact upon the items in (a) (1) and (a) (2).

(b) It shall be the purpose of the study based upon the above data and other available information to evaluate the impact of a ban of all coal contour surface mining upon energy supply, the economy, and the environment.

(c) The study together with specific legislative recommendations shall be submitted to the President and the Congress no later than thirty-six months after the date of enactment of this Act.

(d) There are hereby authorized to be appropriated for the purpose of this section $500,000.

SEC. 503. A STUDY OF MEANS TO MAXIMIZE RESOURCE RECOVERY AND MINIMIZE ENVIRONMENTAL IMPACTS IN MINING FOR COAL AND OTHER MINERALS.—(a) The Chairman of the Council on Environmental Quality is directed to contract with the National Academy of Sciences-National Academy of Engineering, other Government agencies or private groups as appropriate, for an in-depth study of technologies for increasing the availability of coal and other minerals through improved efficiencies in mining, processing, and recycling in order to reduce environmental and land use impacts of resource recovery.

(b) The study shall, at a minimum—

(1) examine improved surface mining and reclamation techniques including the development of new techniques for surface mining, new applications of known techniques, and the differential impacts of these mining techniques when practiced in different climates and terrains, when used to recover different types of minerals, and in the context of a range of adjacent and subsequent planned land uses;

(2) examine improved underground mining techniques to increase resource recovery and to minimize surface disturbance, including the application of known techniques to new uses, and the development of new technologies for mining, including mining systems that will minimize or prevent the continuous polluting discharge of mine drainage following the cessation of mining activities, and the disposal of deep mine wastes;

(3) in each instance, describe the duration and reversibility of the anticipated impacts, and discuss ways in which mining and reclamation techniques can be adjusted during and after mining to minimize the impacts described. Possible alternatives to these mining and reclamation techniques, if any, shall also be described;

(4) identify alternative geographic sources and mining technologies for various specific commodities, which make possible resource recovery, with the least environmental impact. The study shall also describe the costs and benefits associated with shifting an industry's supply to such sources or technologies; and

(5) describe the specific measures necessary to fully integrate mining operations and reclamation, both in the short and long term, with land use management plans and programs on the State and Federal levels.

(c) After studying the technologies and impacts set forth in subsection (b) above, the study shall also examine and research the development of new mining technologies, or other technological means of increasing substantially the efficiency of mining, mineral processing, and other resource recovery practices. This study shall also include the best estimate of the authors as to the earliest date expected for industrial application of each new technique discussed and the net costs and benefits of implementation compared to present practices.

(d) The study shall examine, for major commodity classes, a range of alternatives to primary resource extraction, including the potential for recycling, salvage, reprocessing, byproduct recovery, material substitution, etc., the potential for Federal policy actions to encourage such actions, and the impact such practices would have on the need for primary extraction and the reduction of consequent environmental impacts.

(e) For all of the above, the study will assess the likely impact of altering present mining and reclamation practices on the supply and demand of various commodities, on labor and capital requirements for the various mining industries, and for various classes of producers within those industries.

(f) The study, together with specific recommendations for Federal and State policy needs and for action by the mining and mineral processing industries including recommended reclamation standards shall be submitted to the President and to Congress no later than three years from the date of enactment of this Act. Interim reports shall be submitted at the end of the first and second years.

(g) There are hereby authorized to be appropriated for the purposes of this section, $3,000,000.

SEC. 504. INDIAN LANDS STUDY.—(a) The Secretary is directed to study the question of the regulation of surface mining on Indian lands which will achieve the purposes of this Act and recognize the special jurisdictional status of these lands.

(b) In carrying out this study the Secretary shall consult with Indian tribes, and may contract with or grant to Indian tribes, qualified institutions, agencies, organizations, and persons.

(c) The study report shall be submitted to the Congress as soon as possible but not later than January 1, 1975.

TITLE VI—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

SEC. 601. DEFINITIONS.—For the purposes of this Act, the term—

(1) "Secretary" means the Secretary of the Interior;

(2) "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, and Guam;

(3) "Office" means the Office of Surface Mining, Reclamation, and Enforcement established pursuant to section 202;

(4) "Commerce" means trade, traffic, commerce, transportation, transmission, or communication among the several States, or between a State and any other place outside thereof, or between points in the same State which directly or indirectly affect interstate commerce;

(5) "surface mining operations" means—

(A) activities conducted on the surface of lands in connection with a surface coal mine or surface operations incident to an underground coal mine, the products of which enter commerce or the operations of which directly or indirectly affect commerce. Such activities include excavation for the purpose of obtaining coal by contour, strip auger, or other form of mining (but not open pit mining); and the cleaning or other processing or preparation (excluding refining and smeltering), and loading for interstate commerce of coal at or near the mine site. Such activities do not include (i) the extraction of coal in a liquid or gaseous state by means of wells or pipes unless the process includes in situ distillation or retorting or (ii) the extraction of coal incidental to extraction of other minerals where coal does not exceed 16⅔ per centum of the tonnage of mineral removed; and

(B) the areas upon which such activities occur or where such activities disturb the natural land surface. Such areas shall also include land affected by coal exploration operations which substantially disturb the natural land surface, and any adjacent land the use of which is incidental to any such activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of such activities and for haulage, and excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas and other areas upon which are sited structures, facilities, or other property or materials on the surface, resulting from or incident to such activities.

(6) "surface mining and reclamation operations" means surface mining operations and all activities necessary and incident to the reclamation of such operations after the date of enactment of this Act;

(7) "lands within any State" or "lands within such State" means all lands within a State other than Federal lands and Indian lands;

(8) "Federal lands" means any land owned by the United States without regard to how the United States acquired ownership of the land and without regard to the agency having responsibility for management thereof, except Indian lands;

(9) "Indian lands" means all lands within the exterior boundaries of any Indian reservation, notwithstanding the issuance of any patent, and including rights-of-way, and all lands held in trust for or supervised by any Indian tribe;

(10) "Indian tribe" means any Indian tribe, band, group, or community having a governing body recognized by the Secretary;

(11) "State Program" means a program established by a State pursuant to section 204 to regulate surface mining and reclama-

tion operations for coal or for other minerals, whichever is relevant, on lands within such State in accord with the requirements of this Act and regulations issued by the Secretary pursuant to this Act;

(12) "Federal Program" means a program established by the Secretary pursuant to section 205 to regulate surface mining and reclamation operations for coal or for other minerals, whichever is relevant on lands within a State in accordance with the requirements of this Act;

(13) "Federal Lands Program" means a program established by the Secretary pursuant to section 217 to regulate surface mining and reclamation operations on Federal lands;

(14) "Reclamation Plan" means a plan submitted by an applicant for a permit under a State program or Federal program which sets forth a plan for reclamation of the proposed surface mining operations pursuant to section 213;

(15) "State regulatory authority" means the department or agency in each State which has primary responsibility at the State level for administering this Act;

(16) "regulatory authority" means the State regulatory authority where the State is administering this Act under an approved State program or the Secretary where the Secretary is administering this Act under a Federal program;

(17) "person" means an individual, partnership, association, society, joint stock company, firm, company, corporation, or other business organization;

(18) "permit" means a permit to conduct surface mining and reclamation operations issued by the State regulatory authority pursuant to a State program or by the Secretary pursuant to a Federal program;

(19) "permit applicant" or "applicant" means a person applying for a permit;

(20) "permittee" means a person holding a permit;

(21) "Fund" means the Abandoned Mine Reclamation Fund established pursuant to section 301;

(22) "other minerals" means clay, stone, sand, gravel, metalliferous and nonmetalliferous ores, and any other solid material or substances of commercial value excavated in solid form from natural deposits on or in the earth, exclusive of coal and those minerals which occur naturally in liquid or gaseous form;

(23) "approximate original contour" means that surface configuration achieved by backfilling and grading of the mined area so that it closely resembles the surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain, with all highwalls, spoil piles, and depressions eliminated except that water impoundments may be permitted where the regulatory authority determines that they are necessary or desirable for reclamation or public recreation purposes; and

(24) "Open pit mining" means surface mining in which (1) the amount of material removed is large in proportion to the surface area disturbed; (2) mining continues in the same area proceeding downward with lateral expansion of the pit necessary to maintain slope stability or as necessary to accommodate the orderly expansion of the total mining operation; (3) the operations take place on the same relatively limited site for an extended period of time; (4) there is no practicable method to reclaim the land in the manner required by this Act; and (5) there is no practicable alternative method of mining the mineral or ore involved.

SEC. 602. ADVISORY COMMITTEES.—(a) The Secretary shall appoint a National Advisory Committee for purposes of this Act. The Advisory Committee shall consist of not more than seven members and shall have a balanced representation of Federal, State, and local officials, and persons qualified by experience or affiliation to present the viewpoint of operators of surface mining operations, of consumers, and of conservation and other public interest groups, to advise him in carrying out the provisions of this Act. The Secretary shall designate the chairman of the Advisory Committee.

(b) Members of the Advisory Committee other than employees of Federal, State, and local governments, while performing Advisory Committee business, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding $100 per day, including traveltime. While serving away from their homes or regular places of business, members may be paid travel expenses and per diem in lieu of subsistence at rates authorized by section 5703 of title 5, United States Code, for persons intermittently employed.

SEC. 603. GRANTS TO THE STATES.—(a) The Secretary is authorized to make annual grants to any State for the purpose of assisting such State in developing, administering, and enforcing State programs under this Act: *Provided*, That such grants shall not exceed 80 per centum of the total costs incurred during the first year; 70 per centum of the total costs incurred during the second and third years; and 60 per centum each year thereafter.

(b) The Secretary is authorized to cooperate with and provide assistance to any State for the purpose of assisting it in the development, administration, and enforcement of its State programs. Such cooperation and assistance shall include—

(1) technical assistance and training, including provision of necessary curricular and instruction materials, in the development, administration, and enforcement of the State programs; and

(2) assistance in preparing and maintaining a continuing inventory of information on surface mining and reclamation operations for each State for the purposes of evaluating the effectiveness of the State programs. Such assistance shall include all Federal departments and agencies making available data relevant to surface mining and reclamation operations and to the development, administration, and enforcement of State programs concerning such operations.

SEC. 604. RESEARCH AND DEMONSTRATION PROJECTS.—(a) The Secretary is authorized to conduct and promote the coordination and acceleration of research, studies, surveys, experiments, and training in carrying out the provisions of this Act. In conducting the activities authorized by this section, the Secretary may enter into contracts with, and make grants to qualified institutions, agencies, organizations, and persons.

(b) The Secretary is authorized to enter into contracts with, and make grants to, the States and their political subdivisions, and other public institutions, agencies, organizations, and persons to carry out demonstration projects involving the reclamation of lands which have been disturbed by surface mining operations. Such demonstration projects may include the use of solid and liquid residues from sewage treatment processes.

(c) There are authorized to be appropriated to the Secretary $5,000,000 annually for the purposes of this section.

SEC. 605. RESEARCH AND DEMONSTRATION PROJECTS ON ALTERNATIVE COAL MINING TECHNOLOGIES.—(a) The Secretary is authorized to conduct and promote the coordination and acceleration of research, studies, surveys, experiments, demonstration projects, and training relative (1) to the development and application of coal mining technologies which provide alternatives to surface disturbance and which maximize the recovery of available coal resources, including the improvement of present underground mining methods, methods for the return of underground mining wastes to the mine void, methods for the underground mining of thick coal seams and very deep coal seams, and such other means of mining as may be recommended in the studies authorized under section 503, and (2) to safety and health in the application of such technologies, methods, and means. In conducting the activities authorized by this section, the Secretary may enter into contracts with and make grants to qualified institutions, agencies, organizations, and persons.

(b) There are authorized to be appropriated to the Secretary $20,000,000 annually for the purposes of this section.

SEC. 606. GRANT AUTHORITY FOR OTHER MINERALS.—The Secretary may, when carrying out his responsibilities under sections 603 and 604 of this Act, grant funds and provide assistance to States who presently have a program or are preparing a program which regulates the surface mining of other minerals (including coal) when he determines such State programs effectively control the adverse environmental and social effects of such mining operations.

SEC. 607. ANNUAL REPORT.—The Secretary shall submit annually to the President and the Congress a report concerning activities conducted by him, the Federal Government, and the States pursuant to this Act, among other matters, the Secretary shall include in such report recommendations for additional administrative or legisaltive action as he deems necessary and desirable to accomplish the purposes of this Act.

SEC. 608. AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary for administration of this Act and for the purposes of section 603 for the first fiscal year after the enactment of this Act, the sum of $10,000,000 and for each of the next two succeeding fiscal years, the sum of $20,000,000.

SEC. 609. TEMPORARY SUSPENSION.—(a) The President of the United States is hereby authorized to suspend for a period not to exceed ninety days any requirement of this Act concerning surface mining and reclamation operations when he determines it necessary to do so because of (i) a national emergency, (ii) a critical national or regional electrical power shortage, or (iii) a critical national fuels or mineral shortage.

(b) Any action by the President pursuant to subsection (a) shall be based upon findings and recommendations of the Secretary of the Interior, the Chairman of the Council on Environmental Quality, and the Chairman of the Federal Power Commission.

(c) Any action taken by the President pursuant to this section shall be followed by a report to the Congress within five days on the nature of the emergency, the action taken, and any legislative recommendations he may deem necessary.

SEC. 610. OTHER FEDERAL LAWS.—(a) Nothing in this Act shall be construed as superseding, amending, modifying, or repealing the Mining and Minerals Policy Act of 1970 (30 U.S.C. 21a), the National Environmental Policy Act of 1969 (42 U.S.C. 4321–47), or existing State or Federal law relating to mine health and safety, and air and water quality including, but not limited to.

"(1) the Federal Metal and Nonmetallic Mine Safety Act (80 Stat. 772; 30 U.S.C. 721–740);

"(2) the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742);

"(3) the Federal Water Pollution Control Act (79 Stat. 903), as amended, the State laws enacted pursuant thereto, or other Federal laws relating to preservation of water quality;

"(4) the Clean Air Act, as amended (79 Stat. 992; 42 U.S.C. 1857); and

"(5) the Solid Waste Disposal Act, as amended (79 Stat. 997; 42 (U.S.C. 3251)."

(b) Nothing in this Act shall affect in any way the authority of the Secretary or the

heads of other Federal agencies under other provisions of law to include in any lease, license, permit, contract, or other instrument such conditions as may be appropriate to regulate surface mining and reclamation operations on lands under their jurisdiction.

(c) To the greatest extent practicable each Federal agency shall cooperate with the Secretary and the States in carrying out the provisions of this Act.

(d) Approval of the State programs, pursuant to 204(b), promulgation of Federal programs, pursuant to 205, and implementation of the Federal lands programs, pursuant to 217, shall constitute a major action within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

SEC. 611. STATE LAWS.—(a) No State law or regulation in effect on the date of enactment of this Act, or which may become effective thereafter, shall be superseded by any provision of this Act or any regulation issued pursuant thereto, except insofar as such State law or regulation is inconsistent with the provisions of this Act.

(b) Any provision of any State law or regulation in effect upon the date of enactment of this Act, or which may become effective thereafter, which provides for more stringent land use and environmental controls and regulations of surface mining and reclamation operations than do the provisions of this Act or any regulation issued pursuant thereto shall not be construed to be inconsistent with this Act. Any provision of any State law or regulation in effect on the date of enactment of this Act, or which may become effective thereafter, which provides for the control and regulation of surface mining and reclamation operations for which no provision is contained in this Act shall not be construed to be inconsistent with this Act.

SEC. 612. PROTECTION OF THE SURFACE OWNER.—(a) Except as provided in subsection (b) of this section, in those instances in which the surface owner is not the owner of the mineral estate proposed to be mined by surface mining operations the application for a permit shall include the following:

(1) the written consent of, or a waiver by, the owner or owners of the surface lands involved to enter and commence surface mining operations on such land, or, in lieu thereof,

(2) the execution of a bond or undertaking to the United States or the State, whichever is applicable, for the use and benefit of the surface owner or owners of the land, to secure the immediate payment equal to any damages to the surface estate, which the operation will cause to the crops, or to the tangible improvements of the surface owner as may be determined by the parties involved or as determined and fixed in an action brought against the permittee or upon the bond in a local court of competent jurisdiction. This bond is in addition to the performance bond required for reclamation by this Act.

(b) All coal deposits, title to which is in the United States, in lands with respect to which the United States is not the surface owner thereof are hereby withdrawn from all forms of surface mining operations and open pit mining, except surface operations incident to an underground coal mine.

SEC. 613. PREFERENCE FOR PERSONS ADVERSELY AFFECTED BY THE ACT.—(a) In the award of contracts for the reclamation of abandoned and unreclaimed mined areas pursuant to title III and for research and demonstration projects pursuant to section 604 of this Act the Secretary shall develop regulations which will accord a preference to surface mining operators who can demonstrate that their surface mining operations, despite good-faith efforts to comply with the requirements of this Act, have been adversely affected by the regulation of surface mining and reclamation operations pursuant to this Act.

(b) Contracts awarded pursuant to this section shall require the contractor to afford an employment preference to individuals whose employment has been adversely affected by this Act.

SEC. 614. SEVERABILITY.—If any provision of this Act or the applicability thereof to any person or circumstance is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

SEC. 615. AUTOMATIC INCREASES IN ALLOWABLE PRICE OF COAL.—Notwithstanding any provision of the Economic Stabilization Act of 1970, as amended, the Cost of Living Council or other appropriate delegate of the President shall grant automatic increases in the allowable price of coal which may be charged to users of coal, which shall reflect on a dollar for dollar basis any increases in the cost of producing coal due in whole or in part to the requirements of this Act.

SEC. 616. AVAILABILITY OF FABRICATED STEEL FOR USE IN COAL MINES.—It is the sense of the Congress that the Department of the Interior, the Cost of Living Council, the Office of Preparedness, and the Office of Energy Policy shall take immediate action to increase the supply of fabricated steel available for the manufacture of coal mine roof bolts and roof plates essential to maintaining the operation of coal mines at the level necessary to provide adequate supplies of coal in the immediate future. If necessary, such action shall include granting increases in the price of fabricated steel to a level which will insure the manufacture of sufficient supplies of roof bolts and roof plates.

SEC. 617. (a) ASSISTANCE TO PERSONS UNEMPLOYED AS A RESULT OF THIS ACT.—The President is authorized and directed to make grants to States to provide to any individual unemployed, if such unemployment resulted from the administration and enforcement of this Act and was in no way due to the fault of such individual, such assistance as the President deems appropriate while such individual is unemployed. Such assistance as a State shall provide under such a grant shall be available to individuals not otherwise eligible for unemployment compensation and individuals who have otherwise exhausted their eligibility for such unemployment compensation, and shall continue as long as unemployment in the area caused by such administration and enforcement continues (but not less than six months) or until the individual is reemployed in a suitable position, but not longer than two years after the individual becomes eligible for such assistance. Such assistance shall not exceed the maximum weekly amount under the unemployment compensation program of the State in which the employment loss occurred and shall be reduced by an amount of private income protection insurance compensation available to such individual for such period of unemployment.

(b) The President is authorized and directed to make grants to States to provide assistance on a temporary basis in the form of mortgage or rental payments to or on behalf of individuals and families who, as a result of financial hardship caused by any such unemployment, have received written notice of dispossession or eviction from a residence by reason of foreclosure of any mortgage or lien, cancellation of any contract of sale, or termination of any lease, entered into prior to the employment loss. Such assistance shall be provided for a period of not to exceed one year or for the duration of the period of financial hardship, whichever is the lesser.

(c)(1) Whenever the President determines that, as a result of any such employment loss, low-income households are unable to purchase adequate amounts of nutritious food, the President is authorized, under such terms and conditions as it may prescribe to distribute through the Secretary of Agriculture coupon allotments to such households pursuant to the provisions of the Food Stamp Act of 1964, as amended, and to make surplus commodities available.

(2) The President, through the Secretary of Agriculture, is authorized to continue to make such coupon allotments and surplus commodities available to such households for so long as he determines necessary, taking into consideration such factors as he deems appropriate, including the consequences of the employment loss on the earning power of the households to which assistance is made available under this section.

(3) Nothing in this subsection shall be construed as amending or otherwise changing the provisions of the Food Stamp Act of 1964, as amended, except as they relate to the availability of food stamps in such an employment loss.

(d) The Secretary of Labor is authorized and directed to provide reemployment assistance services under other laws of the United States to any such individual so unemployed. As one element of such reemployment assistance services, such Secretary shall provide to any such employed individual who is unable to find reemployment in a suitable position within a reasonable distance from home, assistance to reallocate in another area where such employment is available. Such assistance may include reasonable costs of seeking such employment and the cost of moving his family and household to the location of his new employment.

(e)(1) The President, acting through the Small Business Administration, is authorized and directed to make loans (which for purposes of this subsection shall include participations in loans) to aid in financing any project in the United States for the conduct of activities or the acquisition, construction, or alteration of facilities (including machinery and equipment) required by the administration or enforcement of this Act, for applicants both private and public (including Indian tribes), which have been approved for such assistance by an agency or instrumentality of the State or political subdivision thereof in which the project to be financed is located, and which agency or instrumentality (including units of general purpose local government) is directly concerned with problems of economic development in such State or subdivision, and which have been certified by such agency or instrumentality as requiring the loan successfully to remain in operation or at previous levels of employment

(2) Financial assistance under this section shall be on such terms and conditions as the President determines, except that

(A) no loan shall be made unless it is determined that there is reasonable assurance of repayment;

(B) no loan, including renewals or extension thereof, may be made hereunder for a period exceeding thirty years;

(C) loans made shall bear interest at a rate determined by the Secretary of the Treasury but not more than 3 per centum per annum;

(D) loans shall not exceed the aggregate cost to the applicant of acquiring, constructing, or altering the facility or project;

(E) the total of all loans to any single applicant shall not exceed $1,000,000; and

(F) the facility or project has been certified by the regulatory authority as necessary to comply with the requirements of this Act.

(f) Where the loss, curtailment, removal, or closing of any industrial or commercial facility resulting from the administration and enforcement of this Act causes an unusual and abrupt rise in unemployment in any area, community, or neighborhood, the Small Business Administration in the case of a nonagricultural enterprise and the Farmers Home Administration in the case of

an agricultural enterprise, are authorized to provide any industrial, commercial, agricultural, or other enterprise, which has the potential to be a major source of employment for a substantial period of time in such area, a loan in such amount as may be necessary to enable such enterprise to assist in restoring the economic viability of such area, community, or neighborhood. Loans authorized by this section shall be made without regard to limitations on the size of loans which may be otherwise be imposed by any other provision of law or regulation promulgated pursuant thereto.

(g) The President is authorized to make grants to any local government which, as a result of the administration and enforcement of this Act, has suffered a substantial loss of total revenue (including both real and personal property tax revenue). Grants made under this section may be made for the tax year in which the loss occurred and for each of the following two tax years. The grant for any tax year shall not exceed the difference between the annual average of all revenues received by the local government during the three-tax-year period immediately preceding the tax year in which such loss occurred and the actual revenue received by the local government for the tax year in which the loss occurred and for each of the two tax years following such loss but only if there has been no reduction in the tax rates and the tax assessment valuation factors of the local government. If there has been a reduction in the tax rates or the tax assessment valuation factors then, for the purpose of determining the amount of a grant under this section for the year or years when such reduction is in effect, the President shall use the tax rates and tax assessment valuation factors of the local government in effect at the time of such loss without reduction, in order to determine the revenues which would have been received by the local government but for such reduction.

(h) Any owner or operator of a surface coal mine, or employee (or former employee) of a surface coal mine, who would otherwise be eligible for assistance under this section, in lieu of such assistance may utilize the preference accorded in section 613 of this Act in receiving contracts or employment in the conduct of reclamation activities authorized by section 302 of this Act.

(i) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

(j) The Secretary shall report to the Congress on the implementation of this section not later than thirty months after the enactment of this Act, and annually thereafter. The report required by this subsection shall include an estimate of the funds which would be necessary to implement this section in each of the succeeding three years.

(k) The Secretary shall report to the Congress not later than July 1, 1976, on the impact of the administration and enforcement of this Act on owners or operators of firms with gross capital values of less than $500,000, together with a recommendation on a program granting relief to such owners or operators for losses in capital value sustained as a consequence of the administration and enforcement of this Act.

Mr. METCALF. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

Mr. METCALF. Mr. President, we have just passed a very complex and complicated piece of legislation. It was my privilege to preside over the hearings and most of the markup—a sort of catalyst.

I want to pay tribute especially to the staff of the Interior and Insular Affairs Committee who participated in the legislation. Going through the committee prints, we found time after time that a staff amendment was recommended, was approved, and was clarifying and more definitive than the original legislation.

I want especially to commend Mike Harvey, who was special counsel for the committee, Fred Craft, assistant minority counsel, and Lucille Langlois, of the committee staff.

I want to emphasize that this is a consensus bill. It was a bill that the Senator from Washington (Mr. JACKSON) introduced. It is his basic legislation. He was supported with complete and thorough cooperation at all times—but not with complete acquiescence—by the Senator from Arizona (Mr. FANNIN).

This is not a majority-minority bill or a Democratic-Republican bill; every member of the committee worked and participated in putting this complex and complicated piece of legislation out.

I do not think enough tribute can be paid to the whole group of members of the Senate Committee on Interior and Insular Affairs. They stayed, they participated in the markup, they held a quorum even when the Republicans were sometimes completely outvoted on party line votes. Everyone wanted the legislation. Not enough praise can be given, especially to the minority, for the work they have done in making this piece of legislation an accomplished fact.

ORDER FOR ADJOURNMENT TO 11 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 11 a.m. tomorrow.

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

LEAVE OF ABSENCE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, in accordance with the requirements of paragraph 1, rule 5 of the Standing Rules of the Senate, that the Senator from Nevada (Mr. CANNON) be granted leave of absence from the Senate today. He is attending the funeral of a close friend and associate at Reno, Nev.

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

ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the distinguished Senator from Alabama (Mr. ALLEN) is recognized on tomorrow, there be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements limited therein to 3 minutes.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistance 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 LIMITATION OF TIME ON WAR POWERS CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as the conference report on the war powers bill is called up and made the pending business before the Senate, there be a time limitation thereon of 3 hours to be equally divided between the Senator from Missouri (Mr. EAGLETON) and the Senator from Arkansas (Mr. FULBRIGHT).

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

ORDER FOR LIMITATION OF TIME ON AGRICULTURAL APPROPRIATIONS CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as the conference report on the agricultural appropriations bill is called up and made the pending business before the Senate, there be a time limitation thereon of 2 hours to be equally divided between the Senator from Maine (Mr. MUSKIE) and the Senator from Wyoming (Mr. MCGEE). This meets with the approval of the ranking minority member, the Senator from Hawaii (Mr. FONG).

I further ask unanimous consent that there be an option, upon the expiration of that time, of an additional hour to be equally divided in the same way.

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

ORDER FOR TIME LIMITATION ON USIA CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as the USIA conference report is called up and made the pending business before the Senate, there be a time limitation thereon of 1 hour to be equally divided between the distinguished majority leader and the distinguished minority leader or their designees.

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

ORDER FOR CONSIDERATION OF AGRICULTURAL APPROPRIATIONS CONFERENCE REPORT TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, at the conclusion of the routine morning business, the Senate proceed to the consideration of the conference report on the agricultural appropriations bill.

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

ORDER FOR CONSIDERATION OF CONFERENCE REPORT ON WAR POWERS BILL TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, upon the disposition of the conference report on the agricultural appropriations bill tomorrow, the Senate proceed to the consideration of the conference report on the war powers bill.

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

ORDER FOR ADJOURNMENT FROM TOMORROW TO THURSDAY, OCTOBER 11, 1973, AT 12 NOON

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business tomorrow, it stand in adjournment until the hour of 12 o'clock noon on Thursday.

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

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at the hour of 11 a.m. tomorrow.

The Senator from Alabama (Mr. ALLEN) will be recognized for not to exceed 15 minutes, after which there will be routine morning business for a period of not to exceed 15 minutes, with the usual 3-minute limitation on statements therein.

After conclusion of the routine morning business, the conference report on H.R. 8619, the agricultural appropriations bill, will be taken up under a time limitation.

Upon the disposition of the agricultural appropriations conference report, the Senate will take up the conference report on House Joint Resolution 542, the war powers bill, under a time limitation.

Other conference reports, together with any legislative measures cleared for action, may be called up.

Yea-and-nay votes will occur during the day.

ADJOURNMENT TO 11 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move in accordance with the previous order that the Senate stand in adjournment until the hour of 11 a.m. tomorrow.

The motion was agreed to; and at 6:44 p.m., the Senate adjourned until tomorrow, Wednesday, October 10, 1973, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate October 9, 1973:

IN THE PUBLIC HEALTH SERVICE

The following candidates for personnnel action in the Regular Corps of the Public Health Service subject to qualifications therefor as provided by law and regulations:

1. For permanent promotion:

MEDICAL DIRECTOR

Harry Allen
Samuel Baron
William K. Carlile
Frederick Dykstra
George G. Glenner
Lloyd Guth
Harold E. Hall
Peter V. Hamill
F. Gentry Harris
Stephen J. Herbert
M. Walter Johnson
James C. King
Frank E. Lundin, Jr.
Frank R. Mark
Donald M. Mason
Harry M. Meyer, Jr.
William C. Mohler
Stuart H. Mudd
Lewis E. Patrie
R. Gerald Suskind
Eugene T. van der Smissen

TO BE SENIOR SURGEON

N. Burton Attico
Gerald D. Aurbach
Vincent H. Bono, Jr.
Richard L. Brent
Bertram S. Brown
Willard R. Brown
Paul P. Carbone
John L. Cutler
Delbert H. Dayton, Jr.
Vincent A. Discala
S. Paul Ehrlich, Jr.
W. King Engel
Leland Fairbanks
James P. Fields
Lorenzo Guzman
John H. Hammann
Alfonso H. Holguin
Robert L. Kaiser
Leonard J. Karlin
James H. Kauth
Edward L. Michals
Bayard H. Morrison III
Winsor V. Morrison
John B. Muth
Richard I. Myers
Ernest V. Nau
Milton Z. Nichaman
Stuart C. Nottingham
Michael Ogden
Gerald H. Payne
James K. Penry
H. McDonald Rimple
James A. Rose
Wesley W. Sikkema
Richard A. Smith
Dean F. Tirador
Robert C. Vander Wagen

TO BE SURGEON

James M. Andre
Alberto Arrillaga
Gerald D. Buker
Glyn G. Caldwell
David J. Harris
Allan S. Hild
Charles J. Hudson
Jerry M. Lyle
Frank L. Mitchell
Daniel W. Nebert
William W. Niemeck
Thomas J. Porter
Lee M. Schmidt
Albert T. Snoke

TO BE DENTAL DIRECTOR

John C. Greene
Edward J. McCarten
James J. McMahon
Kenneth T. Strauch
John D. Suomi

TO BE SENIOR DENTAL SURGEON

Stephen J. Garza
Alfred Hamel
James E. Hamner III
Joe T. Hillsman
Herschel S. Horowitz
Phillip K. Humphreys
Samuel Kakehashi
Kenneth C. Lynn
James A. McTaggart
Joseph P. Moffa, Jr.
Dale W. Podshadley
Donald C. Reel
Charles R. Robinson
Charles D. Sneed
George B. Spruce, Jr.
Theodore G. Strenski
Leo Trusewitsch
Daniel F. Whiteside
Robert O. Wolf

TO BE DENTAL SURGEON

John P. Clark
Jerry L. Dickson
Robert P. Fogarty
Stephen Gobel
Gene F. Grewell
Jerry L. Gribble
John H. Nasi
Michael W. Roberts
John P. Short
Harry D. Smole
James B. Sweet
George T. Ward
Steven A. Weiss

TO BE NURSE DIRECTOR

Mary G. Damian
Eileen G. Jones
A. Naomi Kennedy

TO BE SENIOR NURSE OFFICER

Marion N. Keagle
Agnes M. Newell

TO BE NURSE OFFICER

Katherine A. Callaway

TO BE SANITARY ENGINEER DIRECTOR

Frederick A. Flohrschutz, Jr.
Ernest D. Harward
George F. Mallison
Donald W. Marshall
E. Munzer
Francis L. Nelson
Gene B. Welsh

TO BE SENIOR SANITARY ENGINEER

Thomas N. Hushower
Paul A. Kenline
Delbert A. Larson
Leroy G. Martin
John D. Weeks

TO BE SANITARY ENGINEER

Robert L. Bolin, Jr.
William L. Brinck
John D. Clem
Jackie Demarco
Clyde J. Dial
Leslie M. Dunn
Tommie E. Flora
Walter E. Gundaker
Michael E. Jensen
Raymond H. Johnson, Jr.
William F. Johnson
Richard Liberace
Edwin C. Lippy
Troy Marceleno
Billy F. Martin
James C. Meredith
F. Warren Norris, Jr.
Donald T. Oakley
James G. Payne, Jr.
Fred M. Reiff
Claude A. J. Schleyer
Roger T. Shigehara
Chester L. Tate, Jr.
James E. Warren

TO BE SENIOR ASSISTANT SANITARY ENGINEER

Herbert J. Caudill
Ted W. Fowler

TO BE SCIENTIST DIRECTOR

Frank D. Arnold
William J. Beck
Ibrahim J. Hindawi
W. Daniel Sudia
Gerald C. Taylor

TO BE SENIOR SCIENTIST

Richard L. Blanchard
Richard W. Gerhardt
Stanley Glenn
George R. Healy
Billie E. Jones
Fortune V. Mannino
Jerome S. Miller
Peter B. Smith
Conrad E. Yunker

TO BE SCIENTIST

Ashley Foster

TO BE SANITARIAN DIRECTOR

Raymond A. Belknap
William F. Bower
Edison E. Newman
Kenneth L. Pool
Warren V. Powell
George E. Prime

TO BE SENIOR SANITARIAN

Ramon E. Barea
Gerald D. Brooks
John L. Dietemann
Gerald I. Goldschmidt
Harold E. Knight
David S. Reid
J. W. Stacy
Charles S. Stanley
Robert A. Stevens
William F. Sundin
Robert W. Wilson

TO BE SANITARIAN

William S. Clinger
Orin O. Evans
Conrad P. Ferrara
F. Gene Headley
William E. Knestis
Eugene W. Lewis
Jon R. Perry
Donavan C. Shook
Theodore A. Ziegler

TO BE VETERINARY DIRECTOR

John E. Lynn
Richard E. Stanley
James F. Wright

TO BE SENIOR VETERINARY OFFICER

Robert P. Botts
Jose R. Held
Roy F. Kinard, Jr.
Paul D. Lambert
Carl E. Miller
Wellington Moore, Jr.
Carl D. Olsen
Robert K. Sikes
Jerry F. Stara
Raymond D. Zinn

TO BE VETERINARY OFFICERS

James W. Ebert
John G. Orthoefer

TO BE SENIOR PHARMACIST

Edgar N. Duncan
Donald B. Hare

TO BE PHARMACIST

Gordon R. Aird
Emil L. Cekada
Joseph H. Deffenbaugh, Jr.
John T. Gimon
Sydney H. Hamet
Samuel C. Ingraham III
Kent T. Johnson
Jackie L. Knight
Jules M. Meisler
James E. Mills
Richard A. Moss
Andrew J. Passeri, Jr.
William H. Peterson, Jr.
Francis A. Quam
Robert J. Schollard

TO BE SENIOR ASSISTANT PHARMACIST

Tillman H. Hughes
William C. Robinson
Joseph C. Whitaker

TO BE DIETITIAN DIRECTOR

Lois G. Robinson

TO BE SENIOR DIETITIAN

Esther C. Namian
Audrey J. Paulbitski

TO BE DIETITIAN

Barbara H. Dennis

TO BE THERAPIST DIRECTOR

John R. Desimio
Jean M. Gosselin
Howard A. Haak

TO BE SENIOR THERAPIST

John L. Echternach — Michael J. Oliva
Norma J. Ewan — Donald E. Shipley

TO BE THERAPIST

William W. Haley — Jonathan T. Spry
Donald S. Henderson — Leonard A. Stone

TO BE SENIOR ASSISTANT THERAPIST

Robert E. Mansell

TO BE HEALTH SERVICES DIRECTOR

Daniel A. Hunt — Clarence F. Szwed
Lucia N. Mason — James L. Verber
Roberta E. Peay

TO BE SENIOR HEALTH SERVICES OFFICER

Martha G. Barclay — Carol A. Lewis
Karst J. Besteman — Joseph K. Owen
Lawrence D. Burke — Pauline N. Rabaglino
Dwight W. Glenn — John F. Roatch
Isom H. Herron III — Chandler C. Waggoner

TO BE HEALTH SERVICES OFFICER

Harold A. Bond — Stanley A. Edlavitch
Joseph A. Brennan, Jr. — Barbara A. Maxwell
William J. Brown — Bert L. Murphy
David W. Callagy — Edward B. Radden
James E. Davis — Elmer G. Renegar, Jr.
David L. Duncan — Carolyn Rolston
Edwin P. Yarnell — Edwin P. Yarnell

HOUSE OF REPRESENTATIVES—*Tuesday, October 9, 1973*

The House met at 12 o'clock noon.

Rev. Vernon N. Dobson, Union Baptist Church, Baltimore, Md., offered the following prayer:

O God, we take too seriously our problems and too lightly the affliction of others.

In these deliberations, help us to help the helpless, the bruised and burdened, the aged and afflicted, little children who have no lobby and their mothers.

Stab us fiercely with the sense that our votes may be the difference between a person eating or starving, being ignorant or educated; having the opportunity to vote or not to vote.

And should we fail them, never fail to demand that we seek an excellence for which we were made but may never know.

Lest our feet stray from the places our God where we met Thee; lest in our hearts drunk with the wine of the world we forget Thee, shadowed beneath Thy hand, may we forever stand firm.

True to Thee God, our Rock and our Redeemer. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Marks, one of his secretaries, who also informed the House that on October 4, 1973, the President approved and signed bills of the House of the following titles:

H.R. 5451. An act to amend the Oil Pollution Act, 1961 (75 Stat. 402), 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;

H.R. 8917. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending June 30, 1974, and for other purposes; and

H.J. Res. 753. Joint resolution making further continuing appropriations for the fiscal year 1974, and for other purposes.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate passed without amendment bills of the House of the following titles:

H.R. 1716. An act for the relief of Jean Albertha Service Gordon;

H.R. 1965. An act for the relief of Theodore Barr;

H.R. 2212. An act for the relief of Mrs. Nguyen Thi Le Fintland and Susan Fintland;

H.R. 2215. An act for the relief of Mrs. Purita Paningbatan Bohannon;

H.R. 1315. An act for the relief of Jesse McCarver, Georgia Villa McCarver, Kathy McCarver, and Edith McCarver;

H.R. 1322. An act for the relief of Jay Alexis Caligdong Siaotong;

H.R. 1366. An act for the relief of Juan Marcos Cordova-Campos;

H.R. 1377. An act for the relief of Michael Joseph Wendt;

H.R. 1378. An act for the relief of James E. Bashline;

H.A. 1462. An act for the relief of John R. Poe;

H.R. 4507. An act to provide for the striking of medals in commemoration of Jim Thorpe; and

H.R. 7699. An act to provide for the filling of vacancies in the Legislature of the Virgin Islands.

The message also announced that the Senate had passed with amendments, in which the concurrence of the House is requested. bills of the House of the following titles:

H.R. 1321. An act for the relief of Mrs. Doninga Pettit;

H.R. 5106. An act for the relief of Flora Datiles Tabayo; and

H.R. 8877. An act making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1974, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 8877) entitled "An act making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1974, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. McCLELLAN, Mr. MAGNUSON, Mr. STENNIS, Mr. BIBLE, Mr. ROBERT C. BYRD, Mr. PROXMIRE, Mr. MONTOYA, Mr. HOLLINGS, Mr. EAGLETON, Mr. YOUNG, Mr. COTTON, Mr. CASE, Mr. FONG, Mr. BROOKE, Mr. STEVENS, and Mr. SCHWEIKER to be the conferees on the part of the Senate.

The message also announced that the Senate agrees to the amendments of the House to bills of the Senate of the following titles:

S. 278. An act for the relief of Manuela C. Bonito; and

S. 1016. An act to provide a more democratic and effective method for the distribution of funds appropriated by the Congress to pay certain judgments of the Indian Claims Commission and the Court of Claims, and for other purposes.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 795) entitled "An act to amend the National Foundation on the Arts and the Humanities Act of 1965, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1141) entitled "An act to provide a new coinage design and date emblematic of the Bicentennial of the American Revolution for dollars, half dollars, and quarter dollars, to authorize the issuance of special gold and silver coins commemorating the Bicentennial of the American Revolution, and for other purposes."

The message also announced that the Senate had passed bills and joint and concurrent resolutions of the following titles, in which the concurrence of the House is requested:

S. 205. An act for the relief of Jorge Mario Bell;

S. 798. An act to reduce recidivism by providing community-centered programs of supervision and services for persons charged with offenses against the United States, and for other purposes;

S. 912. An act for the relief of Mahmood Shareef Suleiman;

S. 1064. An act to improve judicial machinery by amending title 28, United States Code, to broaden and clarify the grounds for judicial disqualification;

S. 1075. An act for the relief of Imre Pallo;

S. 1728. An act to increase benefits provided to American civilian internees in Southeast Asia;

S. 1852. An act for the relief of Georgina Henrietta Harris;

S. 1871. An act to amend the Youth Conservation Corps Act of 1972 (Public Law 92-597, 86 Stat. 1319) to expand and make permanent the Youth Conservation Corps, and for other purposes;

S. 2399. An act to amend title 44, United States Code, to provide immunity for the