H.R. 10871. A bill to amend the Economic Stabilization Act of 1970 to make mandatory the systematic allocation of petroleum products in accordance with the procedures established under that act; to the Committee on Banking and Currency.

By Mr. MATSUNAGA:

H.R. 10872. A bill to provide a minimum level for retirement salaries of certain Federal judges in territories and possessions; to the Committee on the Judiciary.

By Mr. MOAKLEY:

H.R. 10873. A bill to amend the Elementary and Secondary Education Act of 1965 to assist school districts to carry out locally approved school security plans to reduce crime against children, employees, and facilities of their schools; to the Committee on Education and Labor.

By Mr. ULLMAN:

H.R. 10874. A bill to provide assistance to the owners of forest land for the reforestation of areas infested by pests; to the Committee on Agriculture.

By Mr. DENT:

H.R. 10875. A bill to amend the Federal Food, Drug, and Cosmetic Act to include a definition of food supplements, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. ROE:

H.R. 10876. A bill to require that impact-resistant eyeglasses be issued under the medical program for members of the uniformed services on active duty; to the Committee on Armed Services.

H.R. 10877. A bill to authorize the President to call and conduct a White House Conference on Energy; to the Committee on Interstate and Foreign Commerce.

H.R. 10878. A bill to amend the Railroad Retirement Act of 1937 so as to increase the amount of the annuities payable thereunder to widows and widowers; to the Committee on Interstate and Foreign Commerce.

H.R. 10879. A bill to amend title 38 of the United States Code to clarify the circumstances under which the Administrator of Veterans' Affairs may pay for care and treatment rendered to veterans by private hospitals in emergencies; to the Committee on Veterans' Affairs.

H.R. 10880. A bill to provide for assistance in international drug control through the use of trade policy; to the Committee on Ways and Means.

By Mr. STAGGERS (for himself and Mr. DEVINE):

H.R. 10881. A bill to amend the Federal Aviation Act of 1958 so as to extend the tariff filing period for proposed tariff changes and to provide that the Board cannot suspend a proposed tariff for interstate or overseas air transportation less than 15 days before the time when the tariff would otherwise go into effect; to the Committee on Interstate and Foreign Commerce.

By Mr. ASHBROOK (for himself, Mr. RHODES, Mr. TIERNAN, Mr. DEVINE, Mr. STEIGER of Arizona, Mr. ROUSSELOT, Mr. LONG of Maryland, Mr. KETCHUM, Mr. CONLAN, Mr. TREEN, Mr. HUBER, Mr. THONE, Mr. SYMMS, Mr. RARICK, Mr. MILLER, Mr. ROBINSON of Virginia, and Mr. EDWARDS of Alabama):

H.J. Res. 765. Joint resolution proposing an amendment to the Constitution of United States relative to force and effect of treaties; to the Committee on the Judiciary.

By Mr. BRADEMAS:

H.J. Res. 766. Joint resolution to authorize and request the President to call a White House Conference on Library and Information Services in 1976; to the Committee on Education and Labor.

By Mr. EDWARDS of Alabama:

H.J. Res. 767. Joint resolution to designate the second week of February of each year as "National Vocational Education, and National Vocational Industrial Clubs of America (VICA) Week"; to the Committee on the Judiciary.

By Mr. MIZELL:

H.J. Res. 768. Joint resolution to designate February 10 to 16, 1974, as "National Vocational Education, and National Vocational Industrial Clubs of America (VICA) Week"; to the Committee on the Judiciary.

By Mr. HUBER (for himself and Mr. MITCHELL of Maryland):

H. Con. Res. 347. Concurrent resolution offering honorary citizenship of the United States to Alexander Solzhenitsyn and Andrey Sakharov; to the Committee on the Judiciary.

By Mr. MOAKLEY:

H. Con. Res. 348. Concurrent resolution expressing the sense of the Congress that in concert with efforts toward a cease-fire and upon the cessation of hostilities in the Middle East, the President and the Secretary of State shall focus the diplomatic efforts of the United States toward effecting direct negotiations among all parties to the conflict; to the Committee on Foreign Affairs.

By Mr. McSPADDEN:

H. Res. 592. Resolution providing for a review by the Board of Engineers for Rivers and Harbors of the report of the Chief of Engineers on the Polecat Creek, Okla.; to the Committee on Public Works.

SENATE—*Thursday, October 11, 1973*

The Senate met at 12 o'clock noon and was called to order by the President pro tempore (Mr. EASTLAND).

PRAYER

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

Almighty God, our Guard and Guide and Judge, look in mercy upon this Nation in its time of anguish and uncertainty. Draw us close to Thee and to one another in humility and in prayer that we may bear one another's burdens and so fulfill the law and the gospel. Spare us from arrogating to ourselves the judgments which belong to God alone, but equip us in mind and soul to bear the responsibilities we cannot assign to others, but must carry in the strength Thou dost impart. As we agonize with the wounds and the surprises of history, so prepare us for the healing interventions which Thou dost give to the people who love Thee and serve Thee.

May the redemptive messages of Mount Sinai and Mount Calvary penetrate the soul of America that the law of grace and love may prevail. O Lord, in Thee do we put our trust now and evermore.

We pray in the name of the Great Redeemer. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, October 10, 1973, be dispensed with.

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

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

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

The second assistant legislative clerk proceeded to call the roll.

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

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

AUTHORIZATION FOR THE SPECIAL COMMITTEE ON SECRET AND CONFIDENTIAL DOCUMENTS TO HAVE UNTIL MIDNIGHT, OCTOBER 15, 1973, TO FILE REPORT

Mr. MANSFIELD. Mr. President, I ask unanimous consent, pursuant to Senate Resolution 13 of the 93d Congress, that the special committee to study questions relating to secret and confidential Government documents have until midnight, October 15, 1973, to file its report.

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

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar.

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

The PRESIDENT pro tempore. The nominations on the Executive Calendar will be stated.

NATIONAL LABOR RELATIONS BOARD

The second assistant legislative clerk read the nomination of Howard Jenkins, Jr., of Colorado, to be a member of the National Labor Relations Board.

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

ACTION

The second assistant legislative clerk read the nomination of Marjorie W. Lynch, of Washington, to be an Associate Director of ACTION.

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

RAILROAD RETIREMENT BOARD

The second assistant legislative clerk read the nomination of Wythe D.

Quarles, Jr., of Virginia, to be a member of the Railroad Retirement Board.

The PRESIDING OFFICER (Mr. HASKELL). Without objection, the nomination is considered and confirmed.

NATIONAL SCIENCE FOUNDATION

The second assistant legislative clerk read the nomination of Lowell J. Paige, of California, to be an Assistant Director of the National Science Foundation.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

The second assistant legislative clerk read the nominations in the National Commission on Libraries and Information Science, as follows:

Bessie Boehm Moore, of Arkansas, to be a member of the National Commission on Libraries and Information Science.

Julia Li Wu, of California, to be a member of the National Commission on Libraries and Information Science.

Daniel William Casey, Sr., of New York, to be a member of the National Commission on Libraries and Information Science.

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

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of the legislative business.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 432, 433, 436, and 437.

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

COST-OF-LIVING INCREASES IN CIVIL SERVICE RETIREMENT

The bill (H.R. 3799), to liberalize eligibility for cost-of-living increases in civil service retirement, was considered, ordered to a third reading, read the third time, and passed.

TRAVEL AGENTS REGISTRATION

The bill (S. 2300) to amend the International Travel Act of 1961 to provide for Federal regulation of the travel agency industry was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 2300

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the International Travel Act of 1961 (22 U.S.C. 2121 et seq.) is amended (1) by inserting "TITLE I—INTERNATIONAL TRAVEL; UNITED STATES TRAVEL SERVICE" immediately before the first section thereof; (2) by striking out "this Act" or "This Act" each place where it appears and inserting in lieu thereof "this title" or "This title", respectively; and (3) by adding at the end thereof the following:

"TITLE II—TRAVEL AGENTS REGISTRATION

"SEC. 201. (a) Whereas the travel agency industry is interstate and international in scope; and whereas the travel agency industry has become a significant part of the economy of the United States; and whereas the traveling public is becoming increasingly dependent on travel agents to make travel arrangements, the Congress finds that it is in the public interest to strengthen the travel agency industry and maintain public confidence in travel agents by regulating travel agents.

"(b) The purposes of this title are to protect the convenience, safety, and well-being of persons who patronize travel agencies in the United States by making adequate provisions for the granting of registration certificates to travel agents.

"SEC. 202. This title may be cited as the 'Travel Agents Registration Act of 1973'.

"SEC. 203. As used in this title—

"(1) 'Secretary' means the Secretary of Transportation.

"(2) 'Person' means an individual, partnership, corporation, association, or other form of business enterprise.

"(3) 'Engage in the business of conducting a travel agency' means and refers to holding out by any person, other than—

"(A) a common carrier of passengers regulated by an agency of the Federal Government or an employee of such carrier when engaged in his employer's business;

"(B) the owner or employee of a hotel, motel, inn, or other such establishment offering accommodations to travelers, when making arrangements for accommodations in his own or other such establishment or when making arrangements for local sightseeing tours;

"(C) a person making travel arrangements for his employees; and

"(D) a religious, charitable, educational, or fraternal organization, described in section 501(c) (3) and (8) of the Internal Revenue Code of 1954, and exempt from tax under section 501(a) of that Code, making arrangements for its members for travel which is related to religious, charitable, or educational programs being carried out by such organization if any net proceeds resulting therefrom are used only for the purposes of such organization: *And provided further,* That the travel and lodging reservations or accommodations for travel or tours by such organizations are arranged by a travel agent certified under this title;

to any other person, directly or indirectly, as being able or offering or undertaking by any means or method, whether acting as principal, agent, broker, or otherwise to acquire for a fee, commission, or other valuable consideration, of any sort, travel reservations or accommodations, tickets for domestic or foreign travel by air, rail, ship, bus, or other medium of transportation, hotel, or other lodging reservations or accommodations.

"(4) 'Registered travel agent' means any person to whom a registration certificate has been issued pursuant to this title.

"(5) 'Carrier' means a person engaged in the passenger transportation business.

"SEC. 204. (a) On and after January 1, 1974, no person shall, directly or indirectly, engage in the business of conducting a travel agency, as herein defined, without having first received a registration certificate as hereinafter provided.

"(b) On and after such date and after receiving notice from the Secretary that a person is not a registered travel agent a carrier shall not enter into any contract or other arrangement with such person for the provision of travel to others.

"SEC. 205. (a) There is hereby established in the Department of Transportation a Bureau of Travel Agents Registration. The Chief Executive Officer of such Bureau, who shall be appointed by the Secretary, shall be known as the Director of Travel Agents Registration. The Secretary shall carry out his functions under this title through such Director.

"(b) To advise the Director there shall be a Travel Agents Registration Board consisting of eight members appointed by the Secretary of Transportation. Two members thereof shall actively be engaged in the travel agency business; one member thereof shall be a representative of the general public; and four members thereof shall be representatives from the following agencies: the Federal Maritime Commission, the Civil Aeronautics Board, the Insterstate Commerce Commission, and the Department of Transportation. The Director or his duly authorized representative shall be an ex officio member of the Board with one vote. The Board shall meet at least once a year at an appropriate time to be fixed by the Director. It shall be the duty of the Board to advise the Director on all matters related to this title and on such other matters as the Director shall request. The Director shall designate an employee of the Bureau to act as Secretary of the Board.

"(c) The members of the Board, except those employed by the Federal Government, shall be entitled to compensation at a rate not to exceed $100 per day for each meeting or for each day actually spent on the work of the Board. The shall also be paid their reasonable and necessary traveling and other expenses while engaged in the performance of their duties.

"(d) The Director, with the advice of the Board, shall promulgate such rules and regulations, including, but not limited to, those reasonable and necessary to establish the necessary qualifications for and sound financial practices by registered travel agents and those considered necessary to carry out the purposes of this title.

"SEC. 206. (a) The Secretary shall establish such rules and regulations as may be necessary—

"(1) to provide for applications in such form and containing such information as may be necessary to obtain registration pursuant to this title;

"(2) to require that each applicant make an adequate showing of the necessary qualifications and financial responsibility to engage in the business of conducting a travel agency in order to obtain such registration; and

"(3) to require that such necessary qualifications and financial responsibility be established in accordance with objective criteria prescribed in such rules and regulations.

"(b) No registration certificate pursuant to this act shall be issued to any person who has been convicted in any State, the District of Columbia, the Commonwealth of Puerto Rico, or possession of the United States, of a felony.

"(c) The Secretary may withhold the issuance of a certificate of registration pursuant to this title upon making a specific determination that the applicant has not made an adequate showing of the necessary qualifications and financial responsibility for the purpose of this title.

"(d) The Secretary may charge such reasonable fees for the issuances of certificates, and renewals thereof, for the purpose of this title as he determines.

"SEC. 207. (a) All registration certificates issued pursuant to this title shall expire on the fourth anniversary of the date of issuance.

"(b) Registration certificates issued pursuant to this title shall not be assignable or transferable.

"(c) A bona fide purchaser or transferee of a travel agency business from the holder, or the legal representative of a deceased holder of a registration certificate issued pursuant to this title may continue to use such registration certificate for a period of not more than ninety days from the date of the sale, transfer, or death of the holder, under such conditions as may be prescribed by the Secretary.

"(d) On or before the date of its expiration, any registration certificate issued pursuant to this title which has not been suspended or revoked may, upon the payment of any renewal fee, be renewed by the Secretary for an additional period of two years upon the filing of an application for such renewal in such form as is prescribed by the Secretary.

"(e) If an application for a registration certificate by a person who is engaged in the business of conducting a travel agency on July 1, 1973, or by any person referred to in subsection (c) of this section, has been filed with the Secretary pursuant to the provisions prescribed herein, the applicant shall be entitled to continue to engage in the travel agency business until action is taken on the application.

"SEC. 208. A registration certificate issued pursuant to this title may be suspended or revoked by the Secretary, and a civil penalty not to exceed $1,000 may be imposed by the Secretary upon a determination after a hearing in the State of the travel agent's principal place of business, that the holder of a registration certificate has engaged in any of the following practices:

"(1) Fraud or bribery in securing a registration certificate issued pursuant to this title.

"(2) The making of any false statement as to a material matter in any application or other statement required by or pursuant to this title.

"(3) Violation of any provision of this title or any code, rule, or regulation adopted hereunder.

"(4) Any fraud or fraudulent practice in the operation and conduct of a travel agency business including, but not limited to, intentionally misleading advertising.

"(5) Activities prohibited by this title leading to conviction of a misdemeanor.

"(6) Activities leading to conviction of a felony.

"(7) Breach of fiduciary duty to a principal.

"SEC. 209. In any case where the Secretary has authority to suspend or revoke a registration certificate issued pursuant to this title or to impose a civil penalty, in lieu thereof he may accept from the holder of the certificate assurance of discontinuance of any act or practice for which the certificate may be suspended or revoked.

"SEC. 210. (a) In a case of actual controversy as to the validity of any order, affirmative or negative, issued by the Secretary under this title, any person disclosing a substantial interest in such order may at any time before the sixtieth day after such order is issued file a petition for judicial review of such order by the court of appeals of the United States for the circuit in which the petitioner resides or has his place of business or the United States Court of Appeals for the District of Columbia Circuit. After the expiration of sixty days, such a petition may be filed only by leave of the court upon the showing of reasonable grounds for failure to file a petition timely.

"(b) A copy of the petition shall upon filing be forthwith transmitted to the Secretary by the clerk of the court and the Secretary shall thereupon certify and file a copy of the record, if any, upon which the order of the Secretary was entered.

"(c) Upon transmittal of the petition, the court shall have exclusive jurisdiction to affirm, modify, or set aside the order, in whole or in part, and if need be to order further proceedings by the Director.

"(d) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive. No objection to an order of the Secretary shall be considered by the court, unless such objection shall have been urged before the Secretary or, if it was not so urged, unless there were reasonable grounds for failure to do so or unless newly discovered facts shall be revealed.

"(e) The judgment decree of the court affirming, modifying, or setting aside any such order of the Secretary shall be subject only to review by the Supreme Court of the United States upon certification or certiorari as provided in section 1254 of title 28, United States Code.

"SEC. 211. (a) Any person who knowingly and willfully violates any provision of this title or any order, rule, or regulation issued under any such provision, shall, if it is the first such offense, be fined not more than $500 or imprisoned not more than six months, or both, and for any subsequent such offense, shall be fined not more than $2,000 or imprisoned not more than two years, or both. If such violation is a continuing one, each day of such violation shall constitute a separate offense.

"(b) If any person violates any provision of this title, or any rule, regulaton, requirement, or order thereunder, or any term, condition, or limitation of any certificate issued under this title, the Secretary may request the Attorney General to commence an action in the district court of the United States, for any district wherein such person carries on his business or wherein the violation occurred, for the enforcement of such provision of this title, or of such rule, regulation, requirement, order, term, condition, or limitation; and such court shall have jurisdiction to enforce obedience thereto by a writ of injunction or other process, mandatory or otherwise, restraining such person, his officers, agents, employees, and representatives, from further violation of such provision of this title or of such rule, regulation, requirement, order, term, condition, or limitation, and requiring their obedience thereto.

"(c) Upon the request of the Secretary, any United States Attorney, to whom the Secretary may apply is authorized to institute in the proper court and to prosecute under the direction of the Attorney General all necessary proceedings for the enforcement of the provisions of this title or any rule, regulation, requirement, or order thereunder, or any term, condition, or limitation of any certificate, and for the punishment of all violations thereof, and the costs and expenses of such prosecutions shall be paid out of the appropriations for the expenses of the courts of the United States.

"SEC. 212. Effective on and after January 1, 1974, no State or subdivision thereof shall adopt or enforce any law regulating, or setting any standards with respect to, the activity of engaging in the business of conducting a travel agency.

"SEC. 213. If any provision of this title, or the application of such provision to any person or circumstances, shall be held invalid, the remainder of this title, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

"SEC. 214. The provisions of this title shall be in addition to, and not in lieu of, the rules, regulations and orders of any other Federal agency which may by law regulate carriers or Conferences of air or steamship carriers."

APPRECIATION OF CONGRESS TO VIETNAM VETERANS

The concurrent resolution (S. Con. Res. 51) expressing the appreciation of Congress to Vietnam veterans on Veterans Day 1973, was considered and agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, is as follows:

Whereas October 22, 1973, will mark the first observance of Veterans Day since the cessation of hostilities in Vietnam; and

Whereas more than forty-six thousand Americans lost their lives and more than three hundred thousand were wounded in action in the Vietnam conflict; and

Whereas the Vietnam engagement was the longest war in the history of the United States and was marked with controversy both at home and abroad; and

Whereas the American military man withstood these adverse conditions and served with valor and courage; and

Whereas the loyalty and devotion to duty of the American serviceman was of the highest order and played an important role in making peace negotiations possible: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress hereby expresses its gratitude, and pays its respects, to Vietnam veterans on Veterans Day 1973 for their gallant part in attaining peace in Vietnam and making it possible to observe Veterans Day 1973 in peace.

CONGRESSIONAL FRANKING REFORM

The Senate proceeded to consider the bill (H.R. 3180) to amend title 39, United States Code, to clarify the proper use of the franking privilege by Members of Congress, and for other purposes which had been reported from the Committee on Post Office and Civil Service with amendments on page 3, line 24, after the word "information", insert "or"; on page 4, line 2, after the word "nonpartisan", strike out "manner;" and insert "manner."; after line 2, insert:

"(4) It is the intent of Congress that mail matter which is frankable by a Member of Congress (in addition to matter otherwise frankable under this subsection) or a Member-elect to Congress includes—

At the beginning of line 7, strike out "(I)" and insert "(A)"; at the beginning of line 18, strike out "(J)" and insert "(B)"; on page 5, at the beginning of line 4, strike out "(4)" and insert "(5)"; at the beginning of line 11, strike out "(5)" and insert "(6)"; in line 24, strike out "or"; on page 6, after line 6, insert:

"(iii) any card expressing holiday greetings from a Member or Member-elect;

In line 12, after the word "public" strike out "office." and insert "office; or"; after line 12, insert:

"(C) mail matter which specifically solicits political support for the sender or any other person or any political party, or a vote or financial assistance for any candidate for any public office; or

"(D) any mass mailing when the same is mailed less than 31 days immediately before the date of any primary or general election (whether regular or special or run off) in which the Member or Member-elect is a candidate for public office. For the purpose of

this clause (D), the term 'mass mailing' shall mean newsletters and similar mailings of more than 500 pieces in which the content of the matter mailed is identical. The term shall not, however, include mailings which are in direct response to direct inquiries or requests from whom the matter is mailed.

On page 7, line 3, after the word "the", where it appears the second time, strike out "30th day of June" and insert "1st day of February"; in line 5, after the word "Legislative", strike out "Counsel" and insert "Counsels"; in line 6, after the word "Representatives", insert "and the Senate."; in line 9, after the word "under", strike out "subsection (a) (2) and (3)" and insert "subsection (a) (2), (3), and (4)"; in line 15, after the word "Representatives", insert "or the Senate,"; in line 23, after the word "under", strike out "subsection (a) (4) and (5)" and insert "subsection (a) (5) and (6)"; at the top of page 8, strike out:

"(d)(1) A Member of the House may mail franked mail with a simplified form of address for delivery—

"(A) within that area constituting the congressional district from which he was elected; and

"(B) on and after the date or which the proposed redistricting of congressional districts in his State by legislative or judicial proceedings is initially completed (whether or not the redistricting is actually in effect), within any additional area of each congressional district proposed or established in such redistricting and containing all or part of the area constituting the congressional district from which he was elected, unless and until the congressional district so proposed or established is changed by legislative or judicial proceedings.

"(2) A Member elected to the House of Representatives may mail franked mail with a simplified form of address for delivery within that area constituting the congressional district from which he was elected.

"(3) A Delegate, Delegate-elect, Resident Commissioner, or Resident Commissioner-elect to the House of Representatives may mail franked mail with a simplified form of address for delivery within the area from which he was elected.

"(4) Franked mail mailed with a simplified form of address under this subsection—

"(A) shall be prepared as directed by the Postal Service; and

"(B) may be delivered to—

"(i) each box holder or family on a rural or star route;

"(ii) each post office box holder; and

"(iii) each stop or box on a city carrier route.

"(5) For the purposes of this subsection, a congressional district includes, in the case of a Representative at Large or Representative at Large-elect, the State from which he was elected.

On page 9, after line 11, insert:

"(d) Franked mail may not be mailed with a simplified form of address for delivery.

In line 25, after the word "such", strike out "funds."." and insert "funds."; at the top of page 10, insert:

"(f) Notwithstanding any other provision of Federal, State, or local law, or any regulation thereunder, the equivalent amount of postage determined under section 3216 of this title on franked mail mailed under the frank of the Vice President or a Member of Congress, and the cost of preparing or printing such frankable matter for such mailing under the frank, shall not be considered as a contribution, to or an expenditure by, the Vice President or a Member of Congress for the purpose of determining any limitation on expenditures or contributions with respect to any such official, imposed by any Federal, State, or local law or regulation, in connection with any campaign of such official for election to any Federal office.".

After the wording following line 16, insert a new section, as follows:

SEC. 2. Section 3211 of title 39, United States Code, is amended by striking out "the Clerk of the House of Representatives, and the Sergeant at Arms of the House of Representatives, until the thirtieth day of June" and inserting in lieu thereof "each of the elected officers of the House of Representatives (other than a Member of the House) until the first day of February".

On page 11, at the beginning of line 3, change the section number from "(2)" to "(3)"; at the beginning of line 14, change the section number from "3" to "4"; on page 12, at the beginning of line 6, change the section number from "4" to "5"; on page 13, line 22, after the word "complaint", insert "by any person"; on page 14, in line 19, after the word "Commission." strike out "findings of fact by the Commission on which its decision is based are binding and conclusive for all judicial and administrative purposes, including purposes of any judicial challenge or review. Any judicial review of such decision, if ordered on any ground, shall be limited to matters of law."; in line 25, after the word "a", strike out "serious and willful"; on page 15, in line 11, after the word "franking", strike out "privilege, except judicial review of the decisions of the Commission under this subsection."; and insert "privilege until such time as the Commission has rendered a decision under this subsection."; on page 16, after line 21, insert a new section, as follows:

SEC. 6. (a) The Select Committee on Standards and Conduct of the Senate shall provide guidance, assistance, advice and counsel, through advisory opinions or consultations, in connection with the mailing or contemplated mailing of franked mail under section 3210, 3211, 3212, 3213(2) or 3218, and in connection with the operation of section 3215, of title 39, United States Code, upon the request of any Member of the Senate or Member-elect, surviving spouse of any of the foregoing, or other Senate official, entitled to send mail as franked mail under any of those sections. The select committee shall prescribe regulations governing the proper use of the franking privilege under those sections by such persons.

(b) Any complaint filed by any person with the select committee that a violation of any section of title 39, United States Code, referred to in subsection (a) of this section is about to occur or has occurred within the immediately preceding period of one year, by any person referred to in such subsection (a), shall contain pertinent factual material and shall conform to regulations prescribed by the select committee. The select committee, if it determines there is reasonable justification for the complaint, shall conduct an investigation of the matter, including an investigation of reports and statements filed by the complainant with respect to the matter which is the subject of the complaint. The committee shall afford to the person who is the subject of the complaint due notice and, if it determines that there is substantial reason to believe that such violation has occurred or is about to occur, opportunity for all parties to participate in a hearing before the select committee. The select committee shall issue a written decision on each complaint under this subsection not later than thirty days after such a complaint has been filed or, if a hearing is held, not later than thirty days after the conclusion of such hearing. Such decision shall be based on written findings of fact in the case by the select committee. If the select committee finds, in its written decision, that a violation has occurred or is about to occur, the committee may take such action and enforcement as it considers appropriate in accordance with applicable rules, precedents, and standing orders of the Senate, and such other standards as may be prescribed by such committee.

(c) Notwithstanding any other provision of law, no court or administrative body in the United States or in any territory thereof shall have jurisdiction to entertain any civil action of any character concerning or related to a violation of the franking laws or an abuse of the franking privilege until a complaint has been filed with the select committee and the committee has rendered a decision under subsection (b) of this section.

(d) The select committee shall prescribe regulations for the holding of investigations and hearings, the conduct of proceedings, and the rendering of decisions under this subsection providing for equitable procedures and the protection of individual, public, and Government interests. The regulations shall, insofar as practicable, contain the substance of the administrative procedure provisions of sections 551–559 and 701–706, of title 5, United States Code. These regulations shall govern matters under this subsection subject to judicial review thereof.

(e) The select committee shall keep a complete record of all its actions, including a record vote is demanded. All records, data, and files of the select committee shall be the property of the Senate and shall be kept in the offices of the select committee or such other places as the committee may direct.

On page 19, at the beginning of line 11, change the section number from "5" to "7"; after line 13, strike out:

"(a) The equivalent amount of postage on, and the equivalent amount of fees and charges in connection with, mail matter sent through the mails—

And in lieu thereof, insert:

"(a) The equivalent of—

"(1) postage on, and fees and charges in connection with, mail matter sent through the mails—

At the beginning of line 20, strike out "(1)" and insert "(A)"; in the same line, after the word "privilege", insert "(other than under section 3219 of this title)"; on page 20, line 1, after the word "Legislative", strike out "Counsel" and insert "Counsels"; in line 2, after the word "Representatives", insert "and the Senate"; at the beginning of line 3, strike out "(2)" and insert "(B)"; in line 4, after the word "title:", insert "and

"(2) those portions of fees to be paid for delivery by the Postal Service of mailgrams and other items transmitted by electronic means and considered as franked mail under section 3219 of this title;";

On page 21, at the beginning of line 6, change the section number from "6" to "8"; at the beginning of line 19, change the section number from "7" to "9"; on page 22, at the beginning of line 3, change the section number from "8" to "10"; after line 10, strike out:

SEC. 9. (a) The House Commission on Congressional Mailing Standards is directed to promptly make a study and evaluation of

the problems relating to and the arguments for and against a policy which would prohibit mass mailings by any Member of, Delegate to, or Resident Commissioner in, the House of Representatives, under section 3210(a) of title 39, United States Code, or mailings with a simplified form of address under section 3210(d) of such title, during a specific period ending on the date of any primary or general election in which a Member, Delegate, or Resident Commissioner is a candidate for any public office. The Commission shall report, not later than January 1, 1974, to the House, or to the Clerk of the House if the House is not in session, the results of its study, together with such recommendations as the Commission considers appropriate, with respect to such mailings in connection with such primary elections in 1974, but in no event shall the report recommend, regardless of the numbers of communications involved—

(1) the prohibition of the deposit of such mail matter in the mail more than thirty days immediately before the date of any primary or general election in which a Member is a candidate for any public office;

(2) the prohibition of the mailing under the frank of replies to inquiries of communications of constituents;

(3) The prohibition of the mailing under the frank of mail matter to colleagues in the Congress or to government officials (whether Federal, State, or local), or the prohibition of the mailing under the frank of news releases; or

(4) the prohibition of the mailing under the frank of nonpartisan voter registration or voting information.

(b) This section shall expire on January 1, 1976, unless extended or continued by Act of Congress.

On page 23, after line 19, insert:

SEC. 11. Section 3218 of title 39, United States Code, is amended by inserting "nonpolitical" immediately before "correspondence".

After line 22, insert:

SEC. 12. (a) Chapter 32 of title 39, United States Code, is amended by adding at the end thereof the following new section:

"§ 3219. MAILGRAMS AND SIMILAR TRANSMITTALS

"Any mailgram or other item transmitted by electronic means by the Vice President, a Member of or Member-elect to Congress, the Secretary of the Senate, the Sergeant at Arms of the Senate, an elected officer of the House of Representatives (other than a Member of the House), or the Legislative Counsel of the House of Representatives or the Senate, and then delivered by the Postal Service, shall be considered as franked mail, subject to section 3216(a)(3) of this title, if such mailgram or item contains matter of the kind authorized to be sent by that official as franked mail under section 3210(a) of this title.".

(b) The table of sections of such chapter 32 is amended by adding at the end thereof the following:

"3219. Mailgrams and similar transmittals.".

On page 24, after line 14, insert:

SEC. 13. The last sentence of section 1303(d) of the Revenue Act of 1918 (2 U.S.C. 277) is repealed.

At the beginning of line 17, change the section number from "10" to "14"; and, on page 25, at the beginning of line 1, change the section number from "11" to "15".

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

GOLDEN GAVEL AWARD TO SENATOR JESSE HELMS

Mr. HUGH SCOTT. Mr. President, today at 12:15 the majority leader and I will be present in the formal office of the Vice President of the United States when the Senate pages will present to the distinguished Senator from North Carolina, the Honorable JESSE HELMS, a gavel, which in the past has been known as the "Golden Gavel Award."

This award has been made in the past to a Senator who has served as the Presiding Officer at any session of the Senate for 100 hours.

I am very happy to congratulate Senator HELMS, not only for his service of 100 hours in the chair, which he completed at 3 o'clock on yesterday, but also because he is the first Republican Senator to receive this honor.

Previous recipients of the award have been Senators CHILES, ALLEN, and HOLLINGS.

The pages are also to be congratuated for the part which they have always played in this pleasant and enjoyable ceremony.

ORDER OF BUSINESS

The PRESIDING OFFICER (Mr. HASKELL). The Senator from West Virginia is recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, I have no desire to use time. If any Senator wishes me to yield some of the time, I shall be glad to yield to him.

Mr. CHILES. Mr. President, will the distinguished Senator yield 5 minutes to me?

Mr. ROBERT C. BYRD. Mr. President, I am happy to yield 5 minutes to the distinguished Senator from Florida.

PROPOSED PROCEDURE ON CONSIDERATION OF A NOMINATION FOR VICE PRESIDENT

Mr. CHILES. Mr. President, I send to the desk a resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legislative clerk read as follows:

Resolved, That rule XXXVIII of the Standing Rules of the Senate is amended by adding at the end thereof the following:

"7. Any nomination submitted to Congress by the President under the twenty-fifth article of amendment to the Constitution, to fill a vacancy in the office of Vice President, shall be considered by the Senate and shall not be referred to any committee of the Senate. The consideration of any such nomination shall be a privileged matter."

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

Mr. GRIFFIN. Mr. President, is a unanimous consent pending?

The PRESIDING OFFICER. Yes.

Mr. GRIFFIN. What is the unanimous consent request?

The PRESIDING OFFICER. That the Senate proceed to the immediate consideration of the resolution.

Mr. GRIFFIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object—and I shall object. Under rule XXV of the Standing Rules of the Senate, matters affecting the election of the President and the Vice President of the United States come under the jurisdiction of the Committee on Rules and Administration.

I am not at this point saying that I shall oppose the resolution. At this point, I think I am opposed to it, but I am not going so far as to say that I would not give it consideration and study. There is no question but that it has some merit—perhaps considerable merit. After study, it may be the viewpoint of the majority of the Members of this body that they would want to proceed in this fashion. However, I do not believe this is a matter that should be taken up and disposed of by unanimous consent.

As I understand it, the majority leader was not informed, and I certain was not informed, that there was going to be a unanimous consent request to proceed to the immediate consideration of this resolution at this time.

I do think that Mr. CANNON, the chairman of the Committee on Rules and Administration, should be contacted, if he has not already been contacted. He should be given a chance to interpose an objection; and there are members of the Committee on the Judiciary who feel that they should be given some consideration with respect to hearings, if committee hearings are going to be conducted, in connection with a nomination for the office of Vice President.

Yesterday, the distinguished chairman of the Committee on Rules and Administration, Mr. CANNON, asked me to interpose an objection if any unanimous consent request were made which would have the effect of creating a special committee or pursuing a course of action which would have the effect of bypassing the committee he chairs. I am honorbound to make that objection; and I must be frank to say that I would make such an objection in any event, without having assured Mr. CANNON that I would do so in his behalf, because I do think it is a matter that ought to be given some consideration by the leadership and by the chairmen of committees who, under the Standing Rules of the Senate, have the authority and the jurisdiction over subject matters such as this. The resolution should not be considered immediately and without advance notice to all Senators.

I hope the distinguished Senator from

Florida will understand that there is no personal animus toward him in my doing this. I think he is following the dictates of his own conscience. But I have to do this, and I hope he will understand.

Mr. HUGH SCOTT. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. HUGH SCOTT. Mr. President, I think we owe it to the Senate to indicate that discussions have been going on, and will go on this afternoon, regarding the proper procedures. We are trying to arrive at unanimity in this matter.

As the rules are read, it would appear that the Committee on Rules and Administration has jurisdiction. However, members of the Committee on the Judiciary have other suggestions to make. Other Members have suggestions to make.

I will say, speaking as an individual, not as a party leader, that I happen to like the idea of submitting this nomination to the full 100 Senators, each Senator to have an hour to debate it. I think that is the best way to do it. It eliminates a great deal of nitpicking or unfortunate delays and all the rest. But that is not going to be the view of a number of Senators.

I believe the chairman of the Committee on Rules and Administration and ranking members should be here. The chairman of the Committee on the Judiciary is here. The ranking member should be here and others who have indicated to the leadership that they wish to be heard.

There are several alternatives, and I do not think that the leadership can divest itself of the responsibility of trying to decide the method which seems the fairest and most expeditious and which is most likely to be in accord with the wishes of the Senate.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

Mr. ROBERT C. BYRD. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The resolution will go over, under rule XIV.

Mr. ROBERT C. BYRD. On my own time, Mr. President, I yield to the distinguished majority leader, and I thank the distinguished Republican leader.

Mr. MANSFIELD. Mr. President, the distinguished Senator from Florida did see me today and did tell me that he was going to submit this resolution. He may have told me that he was going to ask for immediate consideration. If he did, I did not hear him; and if he did, I apologize for not hearing him.

I did tell him, though, that he had a perfect right to go ahead and offer this resolution. I pointed out to him that this was one of the proposals I made at the informal meeting of the joint leadership of the Senate on yesterday, with the chairmen and ranking members of the Committee on the Judiciary and the Committee on Rules and Administration, plus several other Senators who were interested.

So I want to state for the record that this one proposal was advanced tentatively on yesterday. Other proposals were advanced. None of them seemed to meet with anything approaching unanimous approval.

Therefore, this afternoon, informal hearings will continue. Hopefully, some tentative agreement can be reached, or at least an agreement of sorts, and it would be the Democratic leader's intention, after this meeting is concluded, to call a Democratic conference sometime tomorrow, which I believe the distinguished Senator from Florida (Mr. CHILES), among others, is interested in convening.

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

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished Senator from Florida.

Mr. CHILES. I thank the distinguished Senator from West Virginia. I should like to make a parliamentary inquiry.

Mr. ROBERT C. BYRD. I yield to the Senator for that purpose.

The PRESIDING OFFICER. The Senator will state it.

Mr. CHILES. As I understand, the Senator did yield me 5 minutes so that I would have an opportunity to have something to say on this.

Mr. ROBERT C. BYRD. Yes.

Mr. CHILES. My inquiry is this: What is now the status of the resolution offered by the Senator from Florida, under the rule?

The PRESIDING OFFICER. The unanimous consent request was objected to, and the resolution goes over a legislative day, when it again will be laid before the Senate for further consideration.

Mr. CHILES. The resolution would be laid before the Senate tomorrow?

The PRESIDING OFFICER. If the Senate adjourns tonight, as opposed to recessing, the resolution will come up immediately following morning business tomorrow, before the close of morning business.

Mr. CHILES. I thank the Chair. So the effect of it is that it would be before the Senate tomorrow.

Mr. President, the purpose of submitting the resolution is to provide a process whereby the entire Senate can consider the nomination of the Vice President. The 25th amendment to the Constitution is only 6 years old. It is completely new. The procedure as to how we will handle it is cloudy. There are no definite articles. Certainly, an argument can be made that the Committee on Rules and Administration has jurisdiction, and an argument can be made that other committees have jurisdiction. Rule XXXVIII spells out that the appropriate committees shall be tendered a nomination, unless otherwise ordered. So the Senate could otherwise order now it would consider a nomination.

My concern and reason for making the motion is, with the state in which we find the country today, I think we are all searching to find the best, most qualified person we could find to serve as Vice President of the United States. I think that is a decision which the junior Senator from Florida wants to participate in, and I find every other Senator I talk to wants to participate in, and which Senators feel they have a duty and obligation to participate in.

I know of no place where that could be done better than if the Senate considers the matter; that it be done in open session; that we be able to find out the propensities and thinking of the person who is to be the nominee or ultimately the Vice President.

I feel this is the best method to handle that nomination rather than to send it to any one committee or committees of the Senate because of the import of the matter with which we are dealing. We are not dealing with a Justice of the Supreme Court or one particular appointee. We are dealing with the Vice Presidency and the country is looking to us to find someone in whom they can repose their confidence and in whom we can repose the trust of this office.

I think that obligation is so solemn and binding upon us that we would be much better off if we received ourselves into a Committee of the Senate as a whole and each of us participated.

Many Senators are talking about finding a committee that is representative of the Senate. Some have suggested, as has the Senator from South Dakota, that it should be a select committee that is representative. I know of nothing that could be more representative than the 100 Senators sitting in this body, and I know of no business that could be more important that the Senate could take up now than discussions relative to the nomination. That is the purpose of the Senator from Florida making the resolution and proposing its immediate consideration; so that we could go forward with the discussion of this matter. Objection having been proposed, the matter can go over until tomorrow.

Mr. ROBERT C. BYRD. I have no desire to discuss the merits of the proposal advanced by the distinguished Senator from Florida at this time. As the distinguished majority leader has indicated, there will be ample opportunity for discussion of this whole subject matter and the procedures that will be followed at such time as the nomination is sent to the Senate.

The Senator from Florida has proceeded in a way that is within his right and within the rules of the Senate to get his proposal on the calendar; and he is also correct in saying that the Senate can "otherwise order" the referral to committee in a way other than that which is set forth in rule XXV. The Senate can "otherwise order" such referral by unanimous consent or by majority vote.

My only reason for objecting here is that this is not a resolution that should be taken up and considered by unanimous consent at this time. I am sure the Senator understood when he offered it that it would not get unanimous consent and his purpose was to get it on the calendar.

Mr. CHILES. And to inform all Senators.

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

Mr. ROBERT C. BYRD. I yield if I have time remaining.

Mr. HUMPHREY. Mr. President, I just came into the Chamber when the distinguished Senator from Florida was completing his remarks. I went to the desk to look at the substance and the language of the resolution. I commend the Senator from Florida.

It is my judgment that because of the unusual circumstances which face us under the 25th amendment, and we would be establishing precedent whatever action we take, the normal procedures of this body and the other body are not sufficient and adequate.

It is my judgment that we should have a joint committee of the House and the Senate that represents broad representation of political philosophies in this body, the two parties, their geographical distribution, to take whatever action is necessary in terms of hearings and testimony relating to the nominee of the President for the office of the Vice President.

There is no reason that we need to go through the traditional processes of each House separately making separate inquiry. It is my judgment we would be better served and that the Nation would be better served by one set of hearings, one inquiry, one investigation so to speak, in the sense of the qualifications and credentials of the nominee.

It will be my intention to propose by appropriate resolution that we establish a joint committee of the House and the Senate for the purpose of considering the nomination of Vice President under the terms and under the language of the 25th amendment to the Constitution; that that joint committee shall undertake whatever hearings are required and make recommendations to the separate bodies of the House and the Senate. This would serve the national interest and place this whole matter of the nomination of a Vice President in the proper stature and context, lifting it out of normal legislative procedures, and putting it on a higher plane of constitutional prerogative. In that way we are fulfilling the provisions of the 25th amendment.

I thank the Senator from West Virginia. This is just a suggestion of mine. I think these suggestions likewise must be given mature and thoughtful consideration of the proper institutions and committees of Congress.

Mr. President, I ask unanimous consent to have printed in the RECORD the text of the resolution that I intend to submit.

The resolution is as follows:

SENATE CONCURRENT RESOLUTION 53

Resolved by the Senate (the House of Representatives concurring), That a temporary select joint committee of the Congress is hereby established, to be known as the Select Joint Committee on the Vice Presidency (hereafter referred to as the "Select Joint Committee"), to study and investigate the qualifications of any individual or individuals nominated by the President to fill the present vacancy in the Office of the Vice President, in accordance with provisions of the Twenty-fifth Amendment to the Constitution wherein such nomination is made subject to confirmation by a majority vote of both Houses of Congress.

In recognition of the vital national interest that careful deliberation be given by the respective Houses of Congress to the qualifications of the individual or individuals nominated as Vice President by the President, and that a vacancy in the Office of the Vice President be filled at the earliest practicable date, public hearings by the Select Joint Committee shall be deferred for a period of two weeks following the submission of such nomination by the President, to permit appropriate study and investigation by the Select Joint Committee, and such study, investigation, and hearings shall be completed not later than 30 days following the submission of such nomination by the President. Upon the completion of such study, investigation, and hearings, the Select Joint Committee shall forthwith transmit its recommendations on such nomination by the President, to the respective Houses of Congress for their immediate consideration.

SEC. 2. (a) The Select Joint Committee shall be composed of thirty-three Members of Congress as follows:

(1) the Speaker of the House of Representatives;

(2) the majority and minority leaders of the Senate and the House of Representatives;

(3) the assistant majority and assistant minority leaders of the Senate and the House of Representatives;

(4) the chairman and ranking minority member of the Senate Committee on Rules and Administration;

(5) the chairman and ranking minority member of the House Committee on the Judiciary;

(6) Ten Members of the Senate appointed by the President pro tempore of the Senate, six of whom shall be members of the majority party and four of whom shall be members of the minority party, and reflecting geographical representation similar to standard Federal regions;

(7) Ten Members of the House of Representatives appointed by the Speaker, six of whom shall be members of the majority party and four of whom shall be members of the minority party, and reflecting geographical representation similar to standard Federal regions.

For the purposes of paragraph 6 of rule XXV of the Standing Rules of the Senate, service of a Senator as a member, chairman, or vice chairman of the Select Joint Committee shall not be taken into account.

(b) The Select Joint Committee shall select a chairman and vice chairman from among its members, and adopt rules of procedure to govern its proceedings. The vice chairman shall preside over meetings of the select committee during the absence of the chairman or upon assignment by the chairman, and discharge such other responsibilities as may be assigned to him by the Select Joint Committee or the chairman. Vacancies in the membership of the Select Joint Committee shall not affect the authority of the remaining members to execute the functions of the Select Joint Committee and shall be filled in the same manner as original appointments to it are made.

(c) A majority of the members of the Select Joint Committee shall constitute a quorum for the transaction of business, but the Select Joint Committee may fix a lesser number as a quorum for the purpose of taking testimony or depositions.

SEC. 3. (a) To enable the Select Joint Committee to make the study and investigation authorized and directed by this concurrent resolution, the Senate (the House of Representatives concurring) hereby empowers the Select Joint Committee as an agency of the Congress (1) to employ and fix the compensation of such clerical, investigatory, legal, technical, and other assistants as it deems necessary or appropriate; (2) to sit and act at any time or place during sessions, recesses, and adjournment periods of the Senate or House of Representatives; (3) to hold hearings for taking testimony on oath or to receive documentary or physical evidence relating to the matters and questions it is authorized to investigate or study; (4) to require by subpena or otherwise the attendance as witnesses of any persons who the Select Joint Committee believes have knowledge or information concerning any of the matters or questions it is authorized to investigate and study; (5) to require by subpena or order any department, agency, officer, or employee of the executive branch of the United States Government, or any private person, firm, or corporation, or any officer or former officer or employee of any political committee or organization to produce for its consideration or for use as evidence in its investigation and study any books, checks, canceled checks, correspondence, communications, document, papers, physical evidence, records, recordings, tapes, or materials relating to any of the matters or questions it is authorized to investigate and study which they or any of them may have in their custody or under their control; (6) to make to the Senate and to the House of Representatives any recommendations it deems appropriate in respect to the willful failure or refusal of any person to appear before it in obedience to a subpena or order, or in respect to the willful failure or refusal of any person to answer questions or give testimony in his character as a witness during his appearance before it, or in respect to the willful failure or refusal of any officer or employee of the executive branch of the United States Government or any person, firm, or corporation, or any officer or former officer or employee of any political committee or organization, to produce before the committee any books, checks, canceled checks, correspondence, communications, document, financial records, papers, physical evidence, records, recordings, tapes, or materials in obedience to any subpena or order; (7) to take depositions and other testimony on oath anywhere within the United States or in any other country; and (8) to expend to the extent it determines necessary or appropriate any moneys made available to it by the Senate and the House of Representatives to perform the duties and exercise the powers conferred upon it by this resolution and to make the investigation and study it is authorized by this resolution to make.

(b) Subpenas may be issued by the Select Joint Committee acting through the chairman or any other member designated by him, and may be served by any person designated by such chairman or other member anywhere within the borders of the United States. The chairman of the Select Joint Committee, or any other member thereof, is hereby authorized to administer oaths to any witnesses appearing before the committee.

SEC. 4. On the thirtieth day after the nomination of a Vice President is confirmed by a majority vote of both Houses of Congress, the Select Joint Committee shall cease to exist.

SEC. 5. The minority members of the Select Joint Committee shall have one-third of the professional staff of the Select Joint Committee (including a minority counsel) and such part of the clerical staff as may be adequate.

SEC. 6. The expenses of the Select Joint Committee under this concurrent resolution shall not exceed $500,000. Such expenses shall be paid from the contingent funds of the Senate and the House of Representatives upon vouchers approved by the chairman of the Select Joint Committee.

Mr. ROBERT C. BYRD. I thank the distinguished Senator for his suggestion. He is quite correct; these suggestions should be considered thoroughly and fully, so that the Senate will, through its collective wisdom, approach this very important and vital and historic matter—which, indeed, is going to be a prece-

dent—in a way that would give it that dignity, attention, and mature consideration it deserves.

For the information of Senators, if the Senate adjourns today, the proposal which has been offered by the Senator from Florida (Mr. CHILES) will come up automatically on tomorrow at the close of morning business, and if debated until the hour 2 o'clock, of course, would then go on the calendar.

I think every Senator knows what the objective is of the distinguished Senator from Florida. He seeks to get this matter on the calendar without its being referred to a committee. This is not untoward and it is within the Senator's rights and within the rules.

But tomorrow after the laying down of the measure by the clerk, the measure will automatically go to the calendar at the end of the morning hour—if not disposed of—and it will remain on the calendar, as does any other measure, until called up by motion or by unanimous consent.

Mr. President, may I ask the Chair if I have a correct understanding of the matter?

The PRESIDING OFFICER. If the Senate adjourns this evening the Chair is informed by the Parliamentarian that the resolution would be automatically considered on tomorrow as the Senator has stated.

Mr. ROBERT C. BYRD. And it would go on the calendar automatically?

The PRESIDING OFFICER. The Chair is informed by the Parliamentarian that the resolution would be considered from the end of morning business to the end of the morning hour and thereafter, if not disposed of, would automatically be placed on the Calendar.

Mr. ROBERT C. BYRD. If there is unfinished business, the unfinished business would automatically come down at the expiration of the 2 hours which constitute the morning hour.

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. And at that time the matter would go on the Calendar?

The PRESIDING OFFICER. And at that time the matter would go on the Calendar.

Mr. ROBERT C. BYRD. It could be debated during the 2 hours?

The PRESIDING OFFICER. That is the Chair's understanding.

Mr. ROBERT C. BYRD. I am glad the Chair has clarified the matter for the information of all Senators.

Mr. President, my time has expired. I assume morning business will be the next order of business.

TRANSACTION OF ROUTINE MORNING BUSINESS

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

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House insisted upon its amendments to the bill (S. 1443) to authorize the furnishing of defense articles and services to foreign countries and international organizations disagreed to by the Senate; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. MORGAN. Mr. ZABLOCKI, Mr. HAYS, Mr. FASCELL, Mr. MAILLIARD, Mr. FRELINGHUYSEN, and Mr. BROOMFIELD were appointed managers on the part of the House at the conference.

ENROLLED BILLS SIGNED

The message also announced that the Speaker of the House had affixed his signature to the following enrolled bills:

S. 1317. An act to authorize appropriations for the United States Information Agency;

H.R. 7645. An act to authorize appropriations for the Department of State, and for other purposes; and

H.R. 8619. An act making appropriations for Agriculture-Environmental and Consumer Protection programs for the fiscal year ending June 30, 1974, and for other purposes.

The above bills were subsequently signed by the President pro tempore.

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.

REPORT ENTITLED "ACTIVITIES OF THE COMMITTEE ON GOVERNMENT OPERATIONS"—REPORT OF A COMMITTEE—(S. REPT. NO. 93-463)

Mr. ERVIN, from the Committee on Government Operations, submitted a report entitled "Activities of the Committee on Government Operations," which was ordered to be printed.

EXECUTIVE REPORTS OF COMMITTEES

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

By Mr. SPARKMAN, from the Committee on Banking, Housing, and Urban Affairs:

William John Fellner, of Connecticut, to be a member of the Council of Economic Advisers.

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

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

Daniel Parker, of Wisconsin, to be Administrator of the Agency for International Development;

Henry A. Byroade, of Indiana, a Foreign Service officer of the class of career minister, to be Ambassador Extraordinary and Plenipotentiary to Pakistan; and

Stanley R. Resor, of Connecticut, representative of the United States of America for Mutual and Balanced Force Reductions Negotiations, for the rank of Ambassador.

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

Mr. SYMINGTON. From the Committee on Armed Services, I report favorably the nomination of Lt. Gen. Donavon F. Smith, U.S. Air Force, to be placed on the retired list in that grade; Lt. Gen. Durward L. Crow, U.S. Air Force, to be appointed as senior U.S. Air Force member of Military Staff Committee of United Nations; Maj. Gen. Robert E. Huyser, U.S. Air Force, to be lieutenant general as Deputy Chief of Staff, Plans and Operations, Headquarters, U.S. Air Force; and Maj. Gen. Felix M. Rogers, U.S. Air Force, to be lieutenant general as commander, Air University. I ask that these names be placed on the Executive Calendar.

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

Mr. SYMINGTON. Mr. President, in addition, there are 5,365 in the Army for promotion to the grade of colonel and below; and in the Navy, 3,500 in the grade of captain and below. Since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing on the Executive Calendar, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

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

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

John William Ackerman, and sundry other officers, for promotion in the Navy and Army.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. BURDICK (for himself and Mr. COOK):

S. 2565. A bill to revise and reform title 11 of the United States Code; and for other purposes. Referred to the Committee on the Judiciary.

By Mr. MOSS:

S. 2566. A bill to authorize the Atomic Energy Commission to enter into a cooperative agreement with the State of Utah to contain and render harmless uranium mill tailings, and for other purposes. Referred to the Joint Committee on Atomic Energy.

By Mr. BURDICK:

S. 2567. A bill to amend the Internal Revenue Code of 1954 to exempt certain agricultural aircraft from the aircraft use tax, to provide for the refund of the gasoline tax to the agricultural aircraft operator with the consent of the farmer, and for other purposes. Referred to the Committee on Finance.

By Mr. McINTYRE:

S. 2568. A bill to extend daylight savings time during the period from the last Sunday in October 1973, through the last Sunday in April 1974. Referred to the Committee on Commerce.

By Mr. MONDALE:

S. 2569. A bill establishing an Office of Congressional Legal Counsel. Referred to the Committee on Government Operations.

By Mr. GRIFFIN:

S. 2570. A bill to amend title 28, United States Code (Judiciary and Judicial Procedure), to establish a Labor Court, and for other purposes. Referred to the Committee on the Judiciary, by unanimous consent.

STATEMENTS ON INTRODUCED BILLS

By Mr. BURDICK (for himself and Mr. COOK):

S. 2565. A bill to revise and reform title 11 of the United States Code; and for other purposes. Referred to the Committee on the Judiciary.

REFORM OF THE BANKRUPTCY ACT

Mr. BURDICK. Mr. President, today Senator COOK and I are introducing, by request, a bill to revise the bankruptcy laws of the United States.

The bill that is being introduced today is the end product of more than 2 years of work by the Bankruptcy Commission. The Commission conducted 21 working meetings lasting a total of 44 days. It conducted public hearings in Washington, New York, Chicago, and Los Angeles. It received information from private and governmental organizations which were expressly concerned with the bankruptcy system in this country. In addition to these efforts the Commission staff, which numbered some 27 persons, engaged in legal and practical studies supplemented by extensive research conducted by several private contractors.

The Congress of the United States created the Bankruptcy Commission, because the present bankruptcy system has proved archaic and ineffective. Enacted in 1898 and extensively revised in 1938, the present bankruptcy system has received only sporadic attention from the Congress. In fact, despite the staggering increase in bankruptcy filings, 10,000 in 1946 to 20,000 in 1972, a quarter century has passed without major amendment to the Bankruptcy Act. It is not surprising then that serious flaws have developed.

The Bankruptcy Commission felt that to remedy the faults of the present system, a new bankruptcy law establishing a new organization and new procedures was required. The bill being introduced would seek to modernize the administration structure of the bankruptcy courts and, in general, set uniform standards and laws throughout the United States.

While I am not unalterably wed to each and every provision of this bill, I believe it will serve as an excellent vehicle for needed reforms of the Federal bankruptcy law. Therefore I urge that it receive prompt hearings, upon proper referral, as well as full consideration and debate, so that we may enact worthy legislation in this area.

By Mr. MONDALE:

S. 2569. A bill establishing an Office of Congressional Legal Counsel. Referred to the Committee on Government Operations.

Mr. MONDALE. Mr. President, over the past few years we have become acutely aware of the dangers of arbitrary and illegal executive branch actions in thwarting the execution of the laws of the United States. We have witnessed a tremendous upsurge in the use of the courts—both by private citizens and by Members of the Congress—in attempts to force the executive branch to act in accordance with the laws and Constitution of the United States.

The types of illegal executive branch actions which have been tested have been varied, but all have been important. They have ranged from challenges to the continuation of the longest and most divisive war in our history, to the massive impoundment of funds appropriated by the Congress, to the withholding of information under the Freedom of Information Act, to the submitting of nominations for the advice and consent of the Senate.

The bond linking these cases has been the inability to obtain redress of grievances through any means other than the courts. Their common achievement has been a greater awareness of the part of Members of the Congress—and the American people—of the dangers of illegal executive branch actions, and the potential of court challenges as a means of correcting such illegality.

A number of lawsuits stand out in this regard, and are worthy of particular mention for their accomplishments. In some instances, these accomplishments came about through the successful conclusion of the legal action; in others, while the legal action itself was not successful, the awareness of the American people has been heightened.

LAWSUITS AGAINST THE EXECUTIVE BRANCH IMPOUNDMENT

Early this year, 22 Senators and 5 Representatives filed a brief amici curiae in the case of State Highway Commission of Missouri against Volpe, challenging the legality of the Department of Transportation's withholding of funds for road construction in the State of Missouri. Both the U.S. district court and the U.S. court of appeals have held that the action of the Secretary of Transportation in withholding such funds to control inflation is contrary to law.

This is only one of over two cases which have been decided on various questions dealing with impoundment of congressionally appropriated funds. These cases have dealt with housing funds, with OEO funds, with funds appropriated under the Water Pollution Control Act amendments, with Agriculture Department emergency loan funds, with veterans cost-of-instruction funds, with Indian education funds, with mental health and education and Neighborhood Youth Corps and Library Services funds.

And in virtually every instance the outcome of this litigation has been the same—ruling after ruling that the impoundment of funds appropriated by the Congress was contrary to law.

WAR POWERS

A number of important suits have been filed by members of Congress in attempts to end the war in Indochina.

In 1972, Representative PARREN MITCHELL, joined by 12 other Members of the House of Representatives, filed an action seeking an injunction against prosecution of the war in Indochina, unless the war was authorized by the Congress within 60 days. The case, though unsuccessful, brought the issue of war powers of Congress to the public eye.

This summer, Representative ELIZABETH HOLTZMAN, of New York, filed suit against the bombing of Cambodia in the absence of congressional authorization. This suit, while ultimately not successful in ending the bombing before the congressionally-imposed deadline of August 15, was argued successfully at both the district court and the appeals court level. The wide publicity attendant to this suit brought a new level of public awareness regarding the problem of Presidential prerogatives in the war-powers area.

EXECUTIVE BRANCH NOMINATIONS

In March of this year, I joined Senator WILLIAMS, Senator PELL and Senator HATHAWAY in suing in U.S. District Court for the District of Columbia for the removal of Howard Phillips from the post of Acting Director of the Office of Economic Opportunity. Our suit, filed with the aid of Public Citizens, Inc., sought Mr. Phillips' removal on grounds that his name had not been sent to the Senate for confirmation, and that he was therefore serving illegally in office.

As a result of this and other actions against Mr. Phillips, he was ultimately removed as Acting Director of OEO, and hundreds of millions of dollars in pending applications for OEO grants were disbursed, moneys which Mr. Phillips during his illegal tenure in office had refused to disburse.

CONGRESSIONAL ACCESS TO INFORMATION

A number of actions in the past 2 years have been by Members of Congress attempting to gain access to information, under provisions of the Freedom of Information Act.

In suits brought by Representatives PATSY MINK against the Environmental Protection Agency; by Representative RONALD DELLUMS against the Department of Health, Education, and Welfare; by Representative JOHN ASHBROOK against the Secretary of Defense; and by Representative LES ASPIN against the Department of Defense, Members of Congress have challenged executive branch secrecy on matters ranging from administration of the medicare program to the failure to release the official report on the Mylai massacre of 1968.

Frankly, most of these actions have not been successful in obtaining release of the information sought. They have, however, brought to public attention the problems inherent in Government secrecy, and the possible need for additional legislative action to insure congressional access to information vital to the Nation.

These are merely some of the areas in which Members of Congress have played important roles in challenging arbitrary,

illegal and unwarranted executive branch actions.

ABSENCE OF IN-HOUSE COUNSEL

One crucial element has been missing from this effort, however. For although congressional involvement in these types of historic lawsuits has increased dramatically in recent years, we still find ourselves without an inhouse capability in this area. The lawsuits which Members of Congress have brought, or in which they have filed briefs amicus curiae, have all been handled by lawyers not in the employ of Congress.

These attorneys have performed magnificently, and deserve our gratitude. But we in Congress, if we are to truly reassert the prerogatives of the legislative branch, must not be eternally reliant on the good will of resources in the private sector.

NEED FOR CONGRESSIONAL COUNSEL

This year, we have enacted significant legislative measures designed to stop illegality in the executive branch. A war powers bill has been passed by both Houses which, if enacted into law, would bring a momentous reassertion of the equality of branches within American Government in this vital area. Anti-impoundment bills have been passed by both Houses. Again, if enacted into law, this legislation would make clear Congress power in control of moneys appropriated by the legislative branch.

In addition, important proposals have been introduced to broaden the Freedom of Information Act. And legislation now in conference would provide senatorial approval for executive agreements, which the executive branch had been using to bypass the constitutional requirement for Senate ratification of all treaties.

All of these acts, however, if and when they become law, will need enforcement power. Hopefully, this power need never be utilized. But we must be ready to seek enforcement of the new legislation which has been enacted, the older legislation already in place, and Congress inherent powers under the Constitution of the United States.

Mr. President, I firmly believe that only if we have an Office of Congressional Legal Counsel within the Congress will we be able to fully use the potential of the judicial branch in reestablishing an equality of power between the Congress and the Executive.

PROVISIONS OF LEGISLATION

I am therefore introducing legislation today which would help achieve this end by creating an Office of Congressional Legal Counsel.

The major features of this legislation are as follows:

An Office of Congressional Legal Counsel would be established, with the head of the office appointed by the Speaker of the House and President pro tempore of the Senate, from among names submitted by the majority and minority leaders of the House and Senate.

The duties of the Congressional Legal Counsel would include a variety of informational and representational acitvities.

First, he would be required, upon request of either House of Congress, a joint committee, a committee, at least 3 Senators or 12 Representatives, to render a legal opinion on questions arising under the Constitution and laws of the United States. These questions would include whether:

A request for information or inspection of records under the Freedom of Information Act was properly denied by an agency of the U.S. Government;

A nomination, or an agreement with a foreign country or regional or international organization, should have been submitted to the Senate for its advice and consent;

An activity has been undertaken or continued, or not undertaken or continued, by the executive branch of the U.S. Government in violation of the law or the Constitution or without any required authorization of law;

Executive privilege exists, and, if so, whether it has been properly asserted; and

Funds appropriated by Congress have been impounded in accordance with law.

Second, he would be required, upon requests from any of the same types of parties above, to advise and cooperate with other private parties bringing civil actions against officers and employees of the executive branch, or any agency or department thereof, regarding their execution of the laws and Constitution.

Third, he would be required, upon a similar request, to intervene or appear as amicus curiae in pending actions in Federal or State courts in which the issue is the constitutionality or interpretation of a law of the United States, or the validity of any official proceeding of or official action taken by either House of Congress, joint committees, committees or members, or any officer or employee of the Congress.

Fourth, upon request, he would be required to represent either House, a joint committee, committee, member of employee of Congress in any legal action pending to which such House, committee or employee is a party, and in which there is placed in issue the validity of any official proceeding of, or official action taken by, such House, committee, member of employee.

Fifth, and most importantly, if the Congressional Legal Counsel has rendered a legal opinion, and if requested by either House, a joint committee, a committee, at least 6 Senators or at least 24 Representatives, he would be required "to bring a civil action, without regard to the sum or value of the matter in controversy, in a court of the United States to require an officer or employee of the executive branch of the U.S. Government, or any agency or department thereof, to act in accordance with the Constitution and laws of the United States as interpreted in such opinion."

The Congressional Legal Counsel, therefore, would be empowered to undertake a wide variety of activity, including representing the Congress and individual Members both as plaintiffs and defendants.

Most importantly, the bill would provide the Congress with an effective legal voice in combating illegal executive branch actions such as impoundment, overly broad claims of Executive privilege, failure to submit nominations to the Senate for confirmation and other similar abuses.

The statute would confer broad standing on the Office of Congressional Counsel in its representational activity, so as to afford the Congress with wide ranging authority in challenging executive branch action in the courts.

Just as the Office of Legislative Counsel has, over the years, aided Members of the House and Senate in developing important legislation, so should an Office of Congressional Legal Counsel aid us in reasserting the power which we need to ensure that this legislative function is carried out by an often balky executive branch.

Mr. President, I ask unanimous consent that the text of this legislation I am introducing be printed at this point in the RECORD.

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

S. 2569

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for purposes of this Act—

(1) "Member of Congress" means a Senator, Representative, Delegate, or Resident Commissioner;

(2) "Member of the House of Representatives" includes a Representative, Delegate, or Resident Commissioner;

(3) "State" includes any territory or possession of the United States; and

(4) "Impounding of budget authority" includes

(A) withholding, delaying, deferring, freezing, or otherwise refusing to expend any part of budget authority made available (whether by establishing reserves or otherwise) and the termination or cancellation of authorized projects or activities to the extent that budget authority has been made available;

(B) withholding, delaying, deferring freezing or otherwise refusing to make any allocation of any part of budget authority (where such allocation is required in order to permit the budget authority to be expended or obligated);

(C) withholding, delaying, deferring, freezing, or otherwise refusing to permit a grantee to obligate any part of budget authority (whether by establishing contract controls, reserves or otherwise); and

(D) any type of Executive action or inaction which effectively precludes or delays the obligation or expenditure of any part of authorized budget authority.

SEC. 2. (a) There is established within the Congress the Office of Congressional Legal Counsel, which shall be under the direction and control of the Congressional Legal Counsel. The Congressional Legal Counsel shall be appointed by the Speaker of the House of Representatives and the President pro tempore of the Senate from among recommendations submitted by the majority and minority leaders of the House of Representatives and the Senate. Such appointment shall be made without regard to political affiliation and solely on the basis of his fitness to perform the duties of his office. The Congressional Legal Counsel shall receive basic pay at the rate provided for level III of the Executive Schedule under section 5314 of title 5, United States Code.

(b) The Congressional Legal Counsel may appoint and fix the compensation of such Assistant Legal Counsels and other personnel as may be necessary to carry on the work

of his office. All such appointments shall be made without regard to political affiliation and solely on the basis of fitness to perform the duties of their offices.

(c) The Congressional Legal Counsel shall promulgate for his office such rules and regulations as may be necessary to carry out the duties imposed upon him by this Act. He may delegate authority for the performance of any such duty to any officer or employee of the Office of the Congressional Legal Counsel. No person serving as an officer or employee of such office may engage in any other business, vocation, or employment while so serving.

(d) The Congressional Legal Counsel shall cause a seal of office to be made for his office, of such design as the Speaker of the House of Representatives and the President pro tempore of the Senate shall approve, and judicial notice shall be taken thereof.

SEC. 3. (a) It shall be the duty of the Congressional Legal Counsel—

(1) to render, upon request of either House of Congress, a joint committee of Congress, any committee of either House of Congress, at least 3 Senators, or 12 members of the House of Representatives, legal opinions upon questions arising under the Constitution and laws of the United States, including but not limited to, whether—

(A) a request for information or inspection of a record or other matter under section 552 of title 5, United States Code was properly denied by an agency of the United States Government;

(B) a nomination, or an agreement with a foreign country or regional or international organization, should have been submitted to the Senate for its advice and consent;

(C) an activity has been undertaken or continued, or not undertaken or continued, by the executive branch of the United States Government in violation of the law or the Constitution or without any required authorization of law;

(D) executive privilege exists, and, if so, whether it has been properly asserted; and

(E) a budget authority has been impounded in accordance with law;

(2) upon the request of either House of Congress, a joint committee of Congress, any committee of either House of Congress, at least 3 Senators, or at least 12 Members of the House of Representatives—

(A) to advise and to consult and cooperate with parties bringing civil actions against officers and employees of the executive branch of the United States Government or any agency or department thereof, with respect to their execution of the laws, and the Constitution of the United States; and

(B) to intervene or appear as amicus curiae on behalf of persons making such request in any action pending in any court of the United States or of a State or political subdivision thereof, in which there is placed in issue the constitutionality or interpretation of any law of the United States, or the validity of any law of the United States, or the validity of any official proceeding of, or official action taken by, either House of Congress, a joint committee of Congress, any committee of either House of Congress, or a Member of Congress, or any officer, employee. office, or agency of the Congress;

(3) to represent, upon request, either House of Congress, a joint committee of Congress, any committee of either House of Congress, a Member of Congress, or any officer, employee, office, or agency of the Congress in any legal action pending in any court of the United States or of a State or political subdivision thereof to which such House, joint committee, committee Member, officer, employee, office, or agency is a party and in which there is placed in issue the validity of any official proceeding of or official action taken by, such House, joint committee, committee, Member, officer, employee, office, or agency; and

(4) If an opinion has been rendered in accordance with subparagraph (1) of this section, and upon request of either House of Congress, a joint committee of Congress, any committee of either House of Congress at least 6 Senators, or at least 24 Members of the House of Representatives, to bring civil action; without regard to the sum or value of the matter in controversy, in a court of the United States to require an officer or employee of the executive branch of the United States Government, or any agency or department thereof, to act in accordance with the Constitution and laws of the United States as interpreted in such opinion.

(b) Upon receipt of written notice from the Congressional Legal Counsel to the effect that he has undertaken, pursuant to subsection (a)(3) of this section, to perform any such specified representational service with respect to any designated action or proceeding pending or to be instituted, the Attorney General shall be relieved of responsibility and shall have no authority to perform such service in such action or proceeding except at the request or with the approval of the Congressional Legal Counsel.

SEC. 4. (a) Permission to intervene or to file a brief amicus curiae under section 3(a)(2)(B) of this Act shall be of right, and may be denied by a court only upon an express finding that such intervention or filing is untimely and would significantly delay the pending action.

(b) Where an actual case or controversy exists, persons making requests under section 3(a)(4) of this Act shall have the right to obtain judicial review of the conduct in question without regard to the requirements for standing as set forth in any statutes, rules or other requirement of standing.

(c) For the purpose of all proceedings incident to the trial and review of any action described by subsection (a)(3) of section 3 with respect to which the Congressional Legal Counsel has undertaken to provide representational service, and has so notified the Attorney General, the Congressional Legal Counsel shall have all powers conferred by law upon the Attorney General, any subordinate of the Attorney General, or any United States attorney.

(d) The Congressional Legal Counsel, or any attorney of his office designated by him for that purpose, shall be entitled for the purpose of performing duties imposed upon him pursuant to this Act to enter an appearance in any such proceeding before any court of the United States without compliance with any requirement for admission to practice before such court, except that the authorization conferred by this subsection shall not apply with respect to the admission of any person to practice before the United States Supreme Court.

SEC. 5. All legal opinions rendered by the Congressional Legal Counsel under section 3(a)(1) of this Act shall be published and made available fo public inspection under such rules and regulations as the Congressional Legal Counsel shall promulgate.

SEC. 6. (a) Section 3210 of title 39, United States Code, is amended—

(1) by inserting immediately after "respective terms of office" the following: "the Congressional Legal Counsel,"; and

(2) by inserting immediately before "or Legislative Counsel" the following: "Congressional Legal Counsel,"

(b) Section 3216(a) of such title is amendeded by inserting immediately before "and Legislative Counsel" the following: "Congressional Legal Counsel,".

SEC. 7. There are authorized to be appropriated to the Office of the Congressional Legal Counsel such sums as may be necessary for the performance of the duties of the Congressional Legal Counsel under this Act. Amounts so appropriated shall be disbursed by the Secretary of the Senate on vouchers approved by the Congressional Legal Counsel.

By Mr. GRIFFIN:

S. 2570. A bill to amend title 28, United States Code (Judiciary and Judicial Procedure), to establish a Labor Court, and for other purposes. Referred to the Committee on the Judiciary, by unanimous consent.

Mr. GRIFFIN. Mr. President, I introduce a bill and ask unanimous consent that it be referred to the Committee on the Judiciary.

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

ADDITIONAL COSPONSORS OF BILLS

S. 482

At the request of Mr. TAFT, the senior Senator from Utah (Mr. BENNETT), the Senator from Utah (Mr. MOSS), the junior Senator from Illinois (Mr. STEVENSON), the senior Senator from Illinois (Mr. PERCY), the senior Senator from New Jersey (Mr. CASE), and the junior Senator friom New Mexico (Mr. DOMENICI) were added as cosponsors of S. 482, to amend the Internal Revenue Code of 1954 to allow an income tax credit for the costs of maintaining the exterior appearance and structural soundness of certain historic buildings and structures.

S. 483

At the request of Mr. TAFT, the senior Senator from Utah (Mr. BENNETT), the junior Senator from Utah (Mr. Moss), the senior Senator from Illinois (Mr. PERCY), the junior Senator from Illinois (Mr. STEVENSON), the senior Senator from New Jersey (Mr. CASE), the junior Senator from Minnesota (Mr. HUMPHREY), the junior Senator from New Mexico (Mr. DOMENICI), and the junior Senator from Iowa (Mr. CLARK) were added as cosponsors to S. 483, to amend the act of October 15, 1966, relating to the preservation of certain historic properties in the United States.

S. 1737

Mr. ERVIN. Mr. President, I am pleased to announce that the following Senators have joined in cosponsoring S. 1737, a bill I introduced to put an end to the senseless forced busing of schoolchildren and to prohibit unwarranted Federal interference with the Nation's public school systems: Senator JAMES EASTLAND, of Mississippi; Senator HERMAN TALMADGE, of Georgia; Senator SAM NUNN, of Georgia; and Senator JOHN TOWER, of Texas. Senator JIM ALLEN, of Alabama, and Senator JESSE HELMS, of North Carolina, have previously been added as cosponsors of this legislation.

S. 1844

At the request of Mr. ABOUREZK, the Senator from Louisiana (Mr. LONG), the Senator from New York (Mr. JAVITS), the Senator from Delaware (Mr. BIDEN), the Senator from North Dakota (Mr.

BURDICK), the Senator from Iowa (Mr. CLARK), the Senator from Colorado (Mr. DOMINICK), and the Senator from New Hampshire (Mr. MCINTYRE) were added as cosponsors of S. 1844, the American Folklife Preservation Act.

S. 2318

At the request of Mr. ERVIN, the Senator from Maryland (Mr. MATHIAS) was added as cosponsor of S. 2318, to enforce the first amendment and fourth amendment to the Constitution, and the constitutional right of privacy by prohibiting any civil or military officer of the United States or the militia of any State from using the Armed Forces of the United States or the militia of any State to exercise surveillance of civilians or to execute the civil laws, and for other purposes.

S. 2446

At the request of Mr. PASTORE, the Senator from Rhode Island (Mr. PELL), the Senator from Indiana (Mr. BAYH), and the Senator from Texas (Mr. TOWER) were added as cosponsors of S. 2446, a private bill for the relief of Charles William Thomas, deceased.

SENATE RESOLUTION 185—SUBMISSION OF A RESOLUTION TO HAVE VICE-PRESIDENTIAL NOMINATIONS CONSIDERED BY THE FULL SENATE

(Ordered to lie over under the rule.)

Mr. CHILES submitted the following resolution:

S. RES. 185

Resolved, That rule XXXVIII of the Standing Rules of the Senate is amended by adding at the end thereof the following:

"7. Any nomination submitted to Congress by the President under the twenty-fifth article of amendment to the Constitution, to fill a vacancy in the office of Vice President, shall be considered by the Senate and shall not be referred to any committee of the Senate. The consideration of any such nomination shall be a privileged matter."

(The discussion of this resolution appears earlier in the RECORD.)

ADDITIONAL COSPONSOR OF RESOLUTION

SENATE RESOLUTION 173

At the request of Mr. MCINTYRE, the Senator from Nevada (Mr. BIBLE) was added as a cosponsor of Senate Resolution 173, directing the Securities and Exchange Commission to examine its rules and regulations and 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 U.S. securities markets.

SENATE CONCURRENT RESOLUTION 53—SUBMISSION OF A CONCURRENT RESOLUTION ESTABLISHING A SELECT JOINT COMMITTEE OF THE CONGRESS ON THE VICE PRESIDENCY

(Referred to the Committee on Rules and Administration.)

Mr. HUMPHREY submitted a concurrent resolution (S. Con. Res. 53) establishing a Select Joint Committee of the Congress on the Vice Presidency to consider the qualifications of any individual or individuals nominated under the 25th amendment to fill the present vacancy in the Office of Vice President.

(The remarks of Senator HUMPHREY with reference to the above resolution are printed earlier in the RECORD.)

ADDITIONAL COSPONSOR OF A CONCURRENT RESOLUTION

SENATE CONCURRENT RESOLUTION 50

At the request of Mr. HUMPHREY, the Senator from Minnesota (Mr. MONDALE) was added as a cosponsor of Senate Concurrent Resolution 50, expressing the sense of the Congress favoring a world food conference and U.S. participation therein.

ADDITIONAL STATEMENTS

DESTITUTE OF REASON

Mr. HELMS. Mr. President, I commend to the attention of my colleagues an article by Brooks McGirt, published recently in the Charlotte News, the largest evening newspaper in North Carolina. The title of the article is "Loner."

It reports that the Charlotte-Mecklenburg school system is routing one of its buses 22-miles each morning and 22-miles each afternoon to transport one lone student to and from school. This is costing the North Carolina taxpayer more than $3,700 a year.

This situation, while unusual, is not unique. This school system is operating two other buses transporting a total of four students to school and back.

This absurd condition exists because of the dictates of Federal Judge James B. McMillan, who this summer ordered a major modification of this school system's desegregation plan. The court ordered that 600 of the 38,000 children enrolled in the Charlotte-Mecklenburg system be assigned to the West Charlotte High School. The method of selection was completely void of educational merit. The 600 were chosen by lottery.

The court also ordered that none of these students could be reassigned to another school for any reason. When the family of one of the students moved 22-miles away, the court held to its position. Under North Carolina law, a student not residing within walking distance of his or her school must be provided transportation.

This is an enlightening example of the lengths to which the Federal courts have gone under the guise of equal educational opportunities through forced busing. It is totally destitute of reason.

This absurdity would be comic were it not so frightening. The flagrant disregard for the rights of these students and their families is completely foreign to the American concept of freedom. If this type of incomprehensive buffoonery is the so-called law of the land, perhaps as Kipling said, we should relearn the law.

The American people are tired of this sort of intrusion into their lives. They resent the shuffling of their children from one school to another without rhyme or reason. They want an end to the educational uncertainties fostered by inconsistent rulings by the Federal courts as illustrated in the Charlotte News article.

I call the attention of my colleagues to the Public Schools Jurisdiction Act, a bill which I introduced earlier in this session. This bill will return control of the public schools to local authorities. It will remove the Federal courts from continuing jurisdiction and it provides a reasonable means of restoring stability to our public schools. I invite the support of my colleagues in this endeavor.

Mr. President, I ask unanimous consent that Mr. McGirt's article, published in the Charlotte News be printed in the RECORD.

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

LONER—BILL'S THE ONLY PASSENGER ON SCHOOL BUS NO. 417

(By Brooks McGirt)

The caller to West Charlotte High School wanted to speak to a student: Robert Johnson.

"Oh," said a secretary with instant recognition. "He's Billy McNeilly's bus driver."

And Bill McNeilly is Robert Johnson's passenger—his only passenger.

The one-passenger bus service, which both students say they "don't really mind," is a result of lottery assignments of some 600 white students to West Charlotte this fall.

Shortly before school began Bill's family moved from where it was living when the lottery picked him as a West Charlotte student to Lake Norman and northernmost Mecklenburg County.

The latest desegregation order doesn't permit students who have been assigned to West Charlotte by lottery to transfer—even if they move to another part of town.

And since the school system must provide transportation to students who don't live within walking distance of their school, bus No. 417 was assigned to make the daily trip to Bill's stop off Torrence Church Rd.

"At first it felt kind of funny," said Bill, 17, a junior who didn't attend school for the first two weeks while officials tried to figure out what to do.

"I was kind of worried about West Charlotte at first too, but it didn't turn out that bad," he said.

"I like it pretty good," he said of the "private" bus service.

Bus driver Johnson, who gets up at 5:30 every morning to make the 22-mile run to Lake Norman from his Hidden Valley home, says it isn't that bad a route.

The 17-year-old West Charlotte senior liked his previous route better, one with about 23 passengers. And the fact that most of them were girls didn't hurt one bit.

One wouldn't expect him to miss the racket of a loaded bus. But surprisingly, Robert, who drove buses his sophomore and junior years, says the lack of distraction is distracting.

"It's kind of boring," he said. "There's not anything going on with just one person on the bus.

"He sleeps and I drive," Robert added good-naturedly.

Bill admits he catches 40 more winks during the morning ride; with a whole bus to himself there are plenty of places to stretch out. In the afternoon he could do his homework, but doesn't, he added.

"I don't really mind it," Robert said. "I get paid for it and I've got to go to school anyhow."

Still, he misses all those girls . . .

The situation is not unique this year, school officials say.

Similar situations involving about four students and two buses have also arisen at Harding High, also affected by the court order. "We've had several so far," said schools' Transportation Director J. W. Harrison. "I don't know what to expect in the future."

It's not an ideal solution, he said, but it was all they could do for the present. Meanwhile, officials are looking for other answers.

"There are a lot of possibilities," Harrison said, including perhaps contracting another carrier, private or commercial, for the service.

In the meantime, the crew and passenger of bus No. 417 are expecting the passenger list on their bus to increase—by one.

Another West Charlotte student is expected to move to northern Mecklenburg County, shortly.

PULASKI DAY

Mr. PASTORE. Mr. President, October 11, Pulaski Day, has been designated a holiday in my State in honor of the Polish nobleman and patriot and hero of the American Revolution, Count Casimir Pulaski, who died 194 years ago today fighting for American independence. In 1768, Count Pulaski helped organize Polish patriots to resist and fight against Russia and Austria-Hungary as they dismembered Poland. For years, as commander in chief of Polish forces, he led a campaign of partisan warfare against armies occupying his homeland. Ultimately, he was outlawed, a price was put on his head, his estates were confiscated, and he was forced into exile.

In the summer of 1777, Count Pulaski joined Washington's army as a volunteer soldier and he immediately distinguished himself in the Battle of Brandywine. Four days after the battle, the Congress appointed him a brigadier general in command of the American cavalry. Shortly afterward, while the American army was fighting near Warren's Tavern near Philadelphia, General Pulaski saved the revolutionary forces from being surprised and overwhelmed by the British.

He fought in the Battle of Germantown, Pa., and in the winter of 1777–78, he cooperated with Gen. Anthony Wayne in deploying troops from Valley Forge. In 1778, the Congress authorized General Pulaski to raise a contingent of cavalry and infantry that became famous as Pulaski's Legion. In the Siege of Savannah, he commanded the French and American cavalry. In an assault upon British positions there on October 9, 1779, General Pulaski was mortally wounded.

Tomorrow, the holiday will be officially proclaimed in Rhode Island and I now want to join with our thousands of friends of Polish ancestry in my State in paying tribute to so great a patriot who gave his life in the cause of American freedom.

GEOTHERMAL POWER

Mr. FANNIN. Mr. President, the Committee on Interior and Insular Affairs has held hearings on the development of energy from geothermal sources. During the course of these hearings, it became apparent to many committee members that some assistance was needed to aid the private sector in the development of this valuable resource.

To meet this problem, I was pleased to cosponsor, with Senator BIBLE, S. 2465. This measure would authorize the Secretary of the Interior to guarantee loans for the financing of commercial ventures in geothermal energy and promote coordination among various Federal agencies for geothermal exploration, research and development.

In the August, 1973 issue of Barron's, Mr. David A. Loehwing wrote an excellent article detailing many of the problems private industry has encountered in its attempt to develop geothermal energy. Because this article is of direct legislative interest, I would like to share it with my colleagues.

Mr. President, 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 Barron's, Aug. 13, 1973]

"NATURE'S TEAKETTLE"—GEOTHERMAL POWER IS GETTING UP A HEAD OF STEAM

(By David A. Loehwing)

SAN FRANCISCO.—Is business getting you down? Is Phase IV the straw that's about to break your back? Perhaps you're in the wrong line of work. Take a few tips from Dan A. McMillan Jr., president of Thermal Power Co., whose biggest worry at the moment is where to go for a vacation. "If you live in San Francisco," he says, "it's hard to think of anyplace you'd rather be."

As for the everyday vexations that plague most businessmen, Dan McMillan (he is 78 and very wise) has learned to avoid them. For instance, some people fret about demand for their products falling off, but there's none of that around the Thermal shop. Its business is steam, which it takes out of the ground at a place called The Geysers, 85 miles north of here, and sells to the Pacific Gas & Electric Co. to power its turbines. PG&E is anxious to buy every wisp of steam Thermal can find.

DRILLING MORE WELLS

It's the same with supply—just a question of drilling more wells at The Geysers. So far, 114 have been drilled and only two have failed to yield steam. Drilling wells, of course, is hard work, and expensive, but Union Oil Co., a partner in the venture, takes care of all that. Thermal doesn't even own a hard hat.

Price? It's tied to PG&E's other fuel costs and thus is uncontrolled. A built-in escalator in the contract obviates the need for any haggling. Labor relations? Thermal's work force consists of Mr. McMillan and his secretary. She is not unionized.

Income taxes? Thermal pays none. Loss carry-forwards and depletion allowances (although steam reserves may turn out to be inexhaustible) will take care of the firm's tax liability for years to come. Pollution? Geothermal steam is the cleanest power source there is, next to hydroelectric, and eco-freaks criticize PG&E for not using more of it.

The list goes on. Mr. McMillan adds that he has no worries about inventories, his credit risk is non-existent, his advertising budget zilch. He doesn't bother with new styles or updated models and employs no salesmen. His marketing program is strictly come-and-get-it.

AUTOMATIC PROFITS GROWTH

Finally, there's the question of the bottom line. Profits growth at Thermal, Mr. McMillan explains gently, as though his visitor were a stranger in Shangri-La, is automatic. That's all taken care of by the energy crisis. As long as it lasts, it will drive up the price of competing fuels and heighten demand for low-cost geothermal steam. Analysts expect Thermal to net 60 cents per share this year, up from 37 cents in 1972, and to score another 50% gain next year.

Not surprisingly, a good many businessmen, including some harassed souls from the oil industry, are jumping into geothermal steam with both feet. Investors are proving no more cautious, despite a lack of seasoned stock issues which offer a play in the new field. Following a 2-for-1 split on May 9, Thermal shares are now selling at about 20 times this year's projected earnings; other pure geothermal issues are even higher-priced. More stock offerings are being readied for market.

Caution, nonetheless, should be the watchword for investors, as well as for government officials who may be counting on geothermal power to ease the fuel crisis. While there can be no doubt that it is one of the cheapest and most attractive sources of energy available, getting it out of the ground and into the turbines is not always as simple as Dan McMillan makes it seem. Indeed, the most advanced geothermal project in the U.S. outside The Geysers, San Diego Gas & Electric Co.'s pilot plant operation at Niland, Calif., has just been consigned to a back-to-the-drawing-board status.

DEPLETION ALLOWANCES

Moreover, Washington still has not activated the Geothermal Steam Act of 1970, opening up government lands to exploration, and the courts have yet to decide whether steam that comes out of the ground is in fact a mineral resource and can be exploited as such. Also, there are nagging doubts about depletion allowances. As for the technology of locating and proving up geothermal reserves, it's about where the oil industry was at the turn of the century.

Promoters of geothermal stock issues insist that, viewed as an investment opportunity, they are similarly situated. At the moment, The Geysers is the only KGRA (known geothermal resources area) in the U.S. that actually is producing electric power, but there are KGRAs all over the western part of the country. The Department of the Interior has identified 43 of them, and the agency also lists 59 million acres of land which it believes to be potentially valuable. Some authorities are now forecasting that by 1985, as much as 10% of U.S. power generating capacity will be geothermal. That would mean outlays of at least $15 billion for well drilling alone, plus some $40 billion for generating plants.

Such an investment, to be sure, is a drop in the bucket compared to the vast sums utilities are preparing to spend for nuclear power. And from a technological standpoint, geothermal power is infinitely less complicated. It's simply a matter of utilizing the heat from what has been called (by Hy Dee Small, in a new book published by Geothermal Information Services) "nature's teakettle"—the molten rock, or magma, which lies beneath the earth's crust. In a sense, it is atomic power, too, since a well-established theory holds that the magma's heat derives from the decay of radioactive elements at the earth's core.

OLD FAITHFUL

In most parts of the world, the magma lies too deep for its energy to be tapped by known drilling techniques, but in volcanic

regions like the Western U.S., it frequently comes closer to the surface through weaknesses in the earth's crust. A geothermal resource occurs where an intrusion of magma heats a deep underground reservoir of water trapped in porous rock above it. Where faults or fissures allow some of the water to escape, there are hot springs and geysers, like Old Faithful in Yellowstone National Park. At The Geysers in northern California, as it happens, there are no geysers, but only fumaroles—outpourings of steam. It was discovered in 1847 by a bear hunter who thought he had advertently stumbled upon the gates of hell. A stream called Sulphur Creek, which runs through the area, giving off a strong odor of brimstone, added to the illusion.

The first use of geothermal steam for production of electric power was in Larderello, Italy, where a plant built in 1904 now produces 380,000 kilowatts. Others are in New Zealand, Japan and Iceland, and one is being built in Mexico. In the 'Twenties, the operators of a resort at The Geysers, which had become famous for its "waters" and mineral baths, set up a small generating plant, powered by two reciprocating steam engines, to meet their own electricity needs.

The possibility of using steam from The Geysers to power utility turbines, as at Larderello, had been debated by engineers for many years, but no one did anything about it until 1955, when Barkman C. McCabe, a Los Angeles stock broker, became interested in the project. He and his life-long friend Dan McMillan, who was also his partner in a Redwood lumbering operation, bought up leases on 5,500 acres in the area and began drilling test wells on the property. After six successful ones were brought in, they talked Pacific Gas & Electric into setting up a pilot generating plant using an old 12,000-kw generator from a dismantled Sacramento street tramway system.

ONLY PURE PLAY

To finance their leasing and drilling programs, McCabe and McMillan first set up Magma Power Co., and later Thermal Power Co., selling stock in both to anyone they could buttonhole in California financial centers. Along with Magma Energy Co., a subsidiary of Magma Power and American Thermal Resources, the two companies still offer investors the only pure plays in geothermal power. McCabe, with headquarters in an old 19th Century house in Los Angeles, heads the two Magma firms, while McMillan runs Thermal from San Francisco.

Meanwhile, Pure Oil Co., which was later merged into Union Oil, had been buying up leaseholds in The Geysers adjacent to the Magma and Thermal holdings. In 1967, a joint venture was formed with 13,000 acres under its control. Union Oil does all the drilling. Costs and profits are shared under a formula whereby the first 200,000 kw of generating capacity belong to Magma and Thermal on a 50–50 basis, the second 200,000 kw is shared equally by all three partners, and the third 200,000 kw belongs entirely to Union. Everything after that is shared equally again.

For a number of technical reasons, progress toward bringing the Geysers field up to its full potential has been agonizingly slow. One difficulty is that even a relatively small change of pressure in a steam well loosens small rocks which shoot out with bullet-like force against the turbine blades. To prevent such damage, wells are first vented into the air for as long as 24 hours, with a shriek which can be heard for miles around. Mr. McCabe is partially deaf as a result of his long association with "those banshees." Mufflers had to be developed to tone them down.

CORROSIVE GASES

Moreover, the steam contains corrosive gases which damaged early machinery. After it passes through the turbines the steam is condensed into water and put through huge cooling towers, whence it is first used to cool the condenser and then reinjected into the ground. Besides ridding the environment of corrosive chemicals, this procedure helps prolong the life of the well.

The most difficult technological hurdle geothermal engineers have encountered, however, was that of proving up the potential of a field. It costs about $14 million to erect a 110,000-kw generating plant, and conservative utility managements do not commit funds of that size unless assured of sufficient steam to run the plant for at least 30 years. Dr. Carel Otte, a geologist who heads Union Oil's geothermal division, says that until recently this meant that all the wells in a field had to be drilled and tested—roughly a five-year effort—before orders would be placed for the generating equipment. Venting tests, during which all 21 wells in one field were allowed to blow off for three weeks, were required to prove their power.

ANNUAL INCREMENTS

What Dr. Otte describes as a major breakthrough came when the management of PG&E decided to accept reserve estimates based on criteria developed in natural gas fields. "We in the petroleum business are familiar with fluid behavior in rocks, and testing the rate and quantity of the fluids that can be withdrawn," says Dr. Otte. "Steam is no different from gas—it is a gas—and it performs according to well-known physical laws. It was the acceptance of the principles of reservoir engineering that provided a breakthrough at The Geysers."

Thanks to this development, electric power output at The Geysers now is rising in 110,000-kw annual increments. Although the first 12,000-kw generator went into operation in 1960, it wasn't until 1971 that the field achieved 192,000 kw with the startup of units five and six. Two more 55-megawatt plants went into operation last year, and within a few weeks, nine and 10 will be cranked up. At that point, The Geysers will surpass Larderello to become the world's largest geothermal field, with capacity of 412,000 kw, or roughly two-thirds the power requirements of San Francisco. PG&E projects 1,300,000 kw by 1980, and geologists are confident the field can produce at least double that wattage.

What makes geothermal steam so attractive, from PG&E's viewpoint, is primarily its low cost. Capital investment at The Geysers runs to only $110 per kw, against an average $176 for conventional fossil fuel plants, $270 for hydroelectric and $250–$500 for nuclear. Operating expenses run to 3.46 mills per kilowatt-hour based upon a current rate of 3.15 mills, the price paid to the Union-Magma-Thermal combine for steam. By way of contrast, PG&E's Humboldt nuclear plant has an operating cost of 4.74 mills per kwh, and its most efficient fossil fuel plants run 20% higher.

Steam or hot water from other geothermal fields is likely to cost a bit more. A Union Oil Co. executive says the price at The Geysers unduly favors the utility because it was set at a time when the promoters, Messrs. McCable, McMillan and others, were seeking desperately to interest PG&E in geothermal steam as an energy source. However, as noted earlier, the price at The Geysers is adjusted upward each year under a complex formula based on PG&E's other fuel costs, and Mr. McMillan figures it will rise to 3.9 mills in 1975. Thereafter, it will increase about 10% per year.

REALIZING A RETURN

In any case, now that The Geysers is getting up a good head of steam, Magma Power Co. and Thermal Power Co. are starting to realize a return on their long, lean years of pioneering work. In 1971, when 192,000 kw were being generated at the field, the two firms were able to split up only $1.4 million. After expenses, that worked out to a loss of $147,000, or 18 cents per share, for Thermal and $217,458, or three cents per share, for Magma. Last year, in contrast, the joint venture received $3.7 million as its share of the proceeds from more than 300,000 kw. Thermal earned $607,000, or 37 cents per share on the 1,647,242 shares now outstanding, while Magma netted $525,728, or seven cents on 8,866,590 shares.

This year, the two companies will benefit from another 110,000 kw of power brought on steam somewhat after mid-year, but they must share the profits with Union. Next year, and presumably through much of 1975, all of the incremental output will accrue to Union's benefit, but Magma and Thermal will profit from higher rates. Neither Mr. McMillan nor Mr. McCabe will hazard a guess as to what this will mean in terms of earnings, but a San Francisco brokerage firm, Henry F. Swift Co., forecasts 60 cents a share for Thermal in the current year and 85 cents in 1974.

OTHERS GET LEASES

Along with not setting a high enough price for their steam, the joint venture partners at The Geysers made another mistake. They failed to obtain leaseholds on all the land in the area. Three other companies have bought up leases and now are in a position to exploit them. They include Signal Oil Co., which has a large tract in Lake County, northeast of The Geysers; Pacific Energy Corp; a subsidiary of Hughes Aircraft, which has 1,120 acres to the southwest; and Geothermal-Kinetics Systems Corp., 57% owned by a Canadian mining firm, United Siscoe Mines, Ltd., which snapped up a 409-acre tract lying between the joint venture's property and that of Pacific Energy.

PG&E recently agreed to build a 135,000-kw plant which will use steam from the Signal Oil holdings. Successful wells also have been drilled on the Pacific Energy property, while drilling will start next week on the Geothermal-Kinetics land.

While The Geysers still is the only geothermal field in the U.S. where electric power actually is being generated, hot spots in the earth's crust throughout the West are being probed, chiefly by the oil companies. Besides Union and Signal, participants in the treasure hunt include Phillips Petroleum, (which is in a combine with Southern California Edison and Southern Pacific to develop geothermal resources on lands owned by Southern California Edison; Gulf, Standard of California and Atlantic Richfield.

Whatever success those companies may enjoy in their exploration, profits from geothermal steam are not likely to have a significant impact on their earnings for the foreseeable future. The equities of a number of smaller concerns however, do provide investors with a chance to move into the new industry on the ground floor—or lower. Some of them are so speculative, in fact, that the level may be magmatic. They include Magma Energy Co., a spinoff from Magma Power and also headed by Mr. McCabe; United Siscoe Mines, which, as noted earlier, holds a 57% interest in Geothermal Kinetics Systems of Phoenix, Ariz.; American Thermal Resources Inc., of Bakersfield, Calif.; and Calvert Exploration Co. of Tulsa, Okla. The latter is listed on the Amex, United Siscoe, in Toronto. In addition, Thermal Exploration Co., a spinoff from Thermal Power, is in registration with an offering of of 1,647,242 shares; American Thermal Resources is selling participations in a $4 million drilling fund.

SEARCH HAZARDS

The story of Magma Energy Co. illustrates some of the hazards of the search for geothermal power. Formed by Mr. McCabe in 1961 to hunt for well sites beyond the confines of The Geysers area, it has concentrated its efforts chiefly upon the Imperial

Valley in Southern California. Irrigated by water from the Colorado River, the former desert is now one of the nation's richest agricultural areas, and it is also the biggest known geothermal resource. It lies above a vast reservoir of water, ranging from 375 to 600 degrees in temperature, which, theoretically, could be brought to the surface, flashed into steam and, by one estimate, generate as much power as 30 Hoover Dams. The power-hungry nearby cities of San Diego and Los Angeles would provide a ready market.

There are two flaws in that scenario. One is the risk of subsidence. The hot water pools lie only 3,000–5,000 feet deep in the sedimentary basin. If the latter is pumped out, geologists say there is a good chance the lands above will sink into the void, with consequent heavy damage to the lettuce, cabbage and cotton fields on the surface. While that difficulty apparently can be overcome (although some geologists have doubts) by injecting the water back into the ground after its heat have been used for generating electricity, there still remains the problem of salinity. Water from the Imperial Valley's underground reservoirs contains up to 30% salt and other corrosive chemicals.

In the mid-'Sixties, Union Oil and Morton Salt Co. both set up plants to extract minerals, notably potash, from the brine, and Morton also installed some electric generating units to use the geothermal steam. Both projects were abandoned, however, because of the corrosion and severe scale formation on any equipment with which the brine came into contact.

Undaunted by the Union Oil and Morton Salt failures, the ever-optimistic Barkman McCabe brought the meager resources of Magma Energy to bear on the Imperial Valley enigma in 1969. It developed and patented what he called the Magmamax Process to extract energy from the superheated brine without running it through the turbines. Essentially, it is a heat exchanger, where the BTUs are transferred to isobutane gas, which, in turn, is used to drive the turbines. In 1971, Mr. McCabe succeeded in convincing San Diego Gas & Electric Co. that the system had enough potential to warrant digging wells in two areas, near Niland and near Heber, on a joint venture basis. Last year the utility let contracts for design of a $3 million pilot-scale power plant.

As things turned out, however, the twin devils of scaling and corrosion that came up with the brine from the torrid Imperial Valley's nether regions were not to be exorcised so easily. They clogged the heat exchanger tubes and even the well casings. In April, SDG&E decided to postpone construction of the power plant until procedures could be developed to cope with them. The effervescent Mr. McCabe has proposed a new plan which calls for injecting a "power fluid"—probably a heavy oil—into the brine.

Meanwhile, Magma Energy may be forced to call upon Magma Power, which still holds 68% of its stock, for additional financing. No report to stockholders for 1972 has been issued, but a Form 10–K filed with the SEC recently shows that the $2.2 million raised in 1969 via a rights offering is pretty well exhausted. Current assets as of last December 31 amounted to $315,047, against current liabilities of $376,253. The firm had long-term debt of $309,654, of which $71,094 comes due annually; that figure compared with gross revenues—chiefly interest—last year of $42,924.

ALWAYS SHORT

"We're always short of money," concedes Mr. McCabe, momentarily solemn before dismissing the subject and launching into a description of plans for geothermal wells in Surprise Valley and a half-dozen other areas where the firm has leases. Magma Energy's stockholders apparently are as unconcerned about its difficulties as Mr. McCabe; the shares have been holding steady in the over-the-counter market at 8 bid, 9 offered. At this price, the company is capitalized at $11.8–$13.3 million.

Almost as loyal are stockholders of American Thermal Resources Inc., which went public over a year ago with an offering of 600,000 shares at $1; but which has yet to drill its first well (and, according to its president, Roy Parodi, may be two years or more away from any profits). Nevertheless, American Thermal shares have been as high as $5 and currently are quoted O-T-C at 3½-3g. The company holds leases on 17,980 acres at Surprise Valley in northern California and on 25,396 acres at Beowawe, Nev.

SALE OF PARTICIPATIONS

As noted, Mr. Parodi hopes to finance his operations through sale of participations in a $4 million drilling fund to investors in income tax brackets of 5% or higher. That program was held up earlier this year when the underwriter, First California Co., owned by President Nixon's former crony, C. Arnholt Smith, was named in a securities fraud case. The issue now has been taken over by another underwriter, and, despite an imposing list of "risk factors" set forth by the prospectus, the Bakersfield promoter expects soon to have money in the till.

Notable among the warnings is a statement casting doubt on the continued availability of the 22% depletion allowance for geothermal wells. From experience at The Geysers and Larderello, some geologists think they may be self-perpetuating energy sources, as ground water seeps down through the caprock to renew underground reservoirs. In the Reich case last year, a federal court held that, subject to further evidence, provisions of the Internal Revenue Code regarding depletion allowances and deductions for intangible drilling costs are applicable to geothermal steam.

Still, the American Thermal prospectus warns: "There can be no assurance, however, that such tax treatment will not be changed in the future by legislation or judicial interpretation."

ON ITS OWN HOOK

Calvert Exploration Co., an oil and gas well drilling firm which has experience in digging geothermal wells for oil companies, is moving cautiously into that business on its own hook. "All this is highly speculative," says H. K. Calvert, vice president. Nevertheless, the firm has bought leases on 100,353 acres in New Mexico, including 2,000 acres in the KGRA known as the Valles Caldera. A caldera is an extinct volcano, and the one in New Mexico is the only KGRA in the U.S., other than The Geysers, that produces dry steam. A subsidiary has been formed to exploit its potential, but Mr. Calvert says extensive geological work will be performed for perhaps as long as nine months or a year "before we put a bit in the ground."

The United Siscoe affiliate, Geothermal Kinetics, has reached a more advanced state, having drilled two successful wells in Arizona, near Phoenix, which now are being tested and evaluated. The firm also has three specialized geothermal drilling rigs of its own which it is preparing to put into operation in Utah and New Mexico.

QUEST IN THE WEST

Geothermal Kinetics apparently is the most active of any of the independents in hunting for new thermal areas. Mr. O'Donnell says he has 24 full-time "land men" scouring the Western states—except California—for properties. He estimates that they have taken out leases on some 100,000 acres and are negotiating for another 550,000. Moreover, the firm has obtained letters of intent from New Mexico and Utah public utilities to buy all the steam or hot water it can produce in the two states. Dowdle Oil Corp. announced recently that it has acquired 9,583 acres of geothermal leases in Oregon and California.

Buying up leases on properties with geothermal potential can be an expensive gamble for independents with meager financial resources. Owners of lands designated as KGRAs in California are demanding as much as $10–$15 an acre, besides the usual 10% royalty on all sales of steam. In other states, $1 an acre is the usual fee, but it may cost the operator as much as $8 or $9 an acre for title searches and other incidental costs.

Moreover, the land rush has barely begun. So far, it has been confined to privately-owned properties, since government-owned lands have not yet been opened up to geothermal prospecting. In California, about 60% of the land is government-owned, and in Nevada, the figure is roughly 85%. Similar proportions prevail in other Western states. Although the Geothermal Steam Act passed by Congress late in 1970 instructed the Department of the Interior to open up government-owned lands to exploration, it has not yet been able to come up with an acceptable environment impact statement, a prerequisite to any leasing of federal property. People in the industry expect another year to pass, at least, before the red tape is cut.

There may be still another hitch. When you come right down to cases, who owns the geothermal rights to a given piece of property? If the steam or hot water is a mineral, the government does, but if it's just water, the property owner has full rights. A case is pending in federal court here in San Francisco to settle that issue.

Whatever the outcome of all the legal wrangling, there is no gainsaying that geothermal energy is fast coming into its own as a natural resource. In some areas it may be used for more than just power generation. The United Nations and the government of Nicaragua, for example, are jointly studying a project to rebuild the ruined city of Managua with geothermal heating and air conditioning, as well as electricity. Like Dan McMillan, the Managuans then will have hardly anything to worry about—only earthquakes.

THE SITUATION IN THE MIDDLE EAST

Mr. TALMADGE. Mr. President, the situation in the Middle East is a critical and serious threat to world peace and the integrity and security of the State of Israel.

Now, we learn that the Soviet Union is airlifting materiel to resupply Arab armaments. This is regrettable action on the part of the Soviet Union, and can only serve to escalate the war and further inflame an already extremely dangerous situation.

I would hope that the Soviet Union would halt the shipment of arms to the Arab nations and, instead of contributing in this way to the continuation of hostilities, would work with the United Nations, the United States, and the other major powers to bring about a cease-fire. Because of our commitment, the United States cannot idly stand by and allow a major shift in the balance of power in the Middle East, which is necessary for not only a cease-fire but also for the restoration of permanent stability in that part of the world.

We have in the past assisted Israel by providing her with the means for defense. We will continue to do so as long as it is necessary to maintain a balance of power there and to prevent aggression. With the war that has now been

raging for 6 days and because of precipitous Soviet shipments of arms, it becomes even more imperative that the State of Israel be assisted in securing the planes, tanks, and arms she needs.

I do not think it is necessary or desirable for the United States to commit troops. Israel has never asked for American soldiers. I do not think they shall. And, even if they did, I do not think we ought to commit them.

But, we must, nonetheless, remain firm in the resolve that we have demonstrated in the past. Also, we must not allow any threats from other powers, or blackmail by the oil countries, to deter us from our avowed concern and friendship for the people of Israel who are now engaged in this terrible war.

Our paramount concern must be to achieve peace in the Middle East. This war will not solve existing conflicts between these nations any more than the previous wars. The most essential element in the search for peace in the Middle East is for both sides to resolve their differences through direct negotiation. Israel has endeavored to act in good faith. As we reaffirm and strengthen our support for Israel, hopefully the Arab nations will ultimately do the same.

WAR POWERS RESOLUTION

Mr. BUCKLEY. Mr. President, I share with every Member of this body a deep concern over a proper definition of the circumstances under which a President of the United States may commit American forces to hostilities or to situations which might give rise to hostilities. I do not believe that the present bill is the answer nor, I hasten to add, do I have an alternative proposal to make.

My own study of our own past experience, and discussions with historians, suggests that it may be impossible to legislate a neat formulation that can anticipate all the situations that could arise in the future where the security interests of the American people may require a show of strength. I fear that any legislation to delineate the President's power to deploy that is less than perfect may, in some future crisis, prove dangerously inhibiting.

The nature of the consultative process on war powers, could, in some future crisis inhibit a President from taking decisive action in circumstances when it would be in the national interest to do so. A President would be most reluctant to commit U.S. forces to combat without knowing that his actions will have the support of a substantial majority of the Congress and of the American people. If a President were to act without such support, he would be subject to immediate congressional reprisals that could take the form either of impeachment or of a termination of funding to support the operations. These are weapons that have always been at the disposal of the Congress. They have not been enacted before this year, because past Presidents have in fact had the support of the country when they have involved our forces in hostilities without a formal declaration of war.

It should be noted that the existence of war powers legislation would not have precluded our involvement in the Vietnam war. The Tonkin resolution in fact sanctioned that involvement. Moreover, although the war ultimately proved highly controversial and unpopular, during the first few years it had the overwhelming support of both Houses of Congress and of the American public. On the other hand, the very existence of this kind of legislation could encourage Presidential adventurism by seeming to sanctify any Presidential commitment of forces during the 60-day period before congressional action is required to extend American involvement in foreign hostilities.

Finally, I am persuaded by the carefully documented arguments made by the Senator from Arizona (Mr. GOLDWATER) that the President has inherent constitutional authority as Commander in Chief that is far broader than that described in the War Powers Resolution. Section 2(c) of the resolution states that the President may "introduce U.S. forces into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances—only pursuant to, first, a declaration of war; second, specific statutory authorization; or, third, a national emergency created by attack upon the United States, its territories or possessions, or its Armed Forces." This incredibly narrow definition belies commonsense and more than 180 years of experience under our Constitution. Its literal application would have precluded any number of deployments of forces which in the past have helped prevent a crisis from being escalated into broad-scale hostilities. We could not have reacted to the invasion of South Korea as we did, or mobilize our Sixth Fleet in the eastern Mediterranean at the time of the 6-day war in 1967, or prevented chaos in Lebanon by landing our troops in the early 1960's, or taken any of a number of other actions that had the effect of securing American lives, property, and interest in areas far beyond our territorial waters and possessions.

The fact that the War Powers Resolution attempts to fill the gap created by legislating standby authority to involve American forces in hostilities anywhere in the globe merely accentuates the error of construction on which the resolution is based; and in the process, it has made it possible for future Presidents to act less responsibly than they have in the past when committing Americans to battle or to conditions where they might become engaged in battle.

SUPREME COURT IMPOUNDMENT DECISION SUPPORTS LOWER COURTS AND CONGRESSIONAL VIEW

Mr. HUMPHREY. Mr. President, yesterday the Supreme Court announced its decision not to conduct a full scale trial over the administration's power to impound funds appropriated by Congress for programs in Georgia and other States. This is one more blow to the administration's impoundment policies and to their strategy for maintaining this power. Now the administration will be forced to carry on its fight over this issue in the lower courts where it belongs.

I have felt all along that the "policy impoundments" carried out by this administration are a blatant usurpation of the constitutional rights and responsibilities of the Congress. It is gratifying to see that most of the lower court decisions have upheld this point of view. In fact, appellate courts have ruled against the administration's position in about 22 of 25 impoundment cases this year.

While we must continue to press our case in the courts, we must not overlook the need for legislative remedies to this illegal extension of Executive power. We should be certain that each spending bill that passes in Congress includes clear anti-impoundment provisions.

The quarterly report on impoundments by the President is due to be presented to Congress by the Office of Management and Budget on October 15. As the sponsor of the amendment which required the OMB to report on impoundment, I am particularly interested in reviewing this information. Current "official" data for impoundments in the 1974 fiscal year is not available. The latest "official" data for what the OMB calls "Budget Reserves" shows that, as of June 30, 1973, impoundments of congressionally appropriated funds totaled $7.7 billion. Of course, this is the "official" figure with impoundment very technically and narrowly defined. It excludes several billion additional dollars that most of us in this Chamber thought we had legally appropriated. If these funds are added to the "official" figures, the total of funds illegally impounded by the President would total over $16 billion. While the figures themselves are staggering, it is much more shocking when we realize that much of the program funds impounded by the administration is largely those which help our Nation's needy, the poor, the sick, the hungry.

Mr. President, I ask unanimous consent that today's Washington Post article on the Supreme Court decision regarding the impoundment case be printed in the RECORD.

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

HIGH COURT DECLINES IMPOUNDMENT TRIAL

(By John P. MacKenzie)

The Supreme Court, rejecting pleas by the state of Georgia and the Nixon administration, refused yesterday to conduct a full-scale trial over the administration's power to impound funds appropriated for Georgia and other states.

In a brief order the court dealt a strategic setback to the administration, which now must continue to fight impoundment battles in lower courts, where it has lost nearly every case.

The court's refusal to entertain the Georgia case was among 900 actions taken as the justices disposed of cases accumulated during the summer. The court also:

Agreed to review a lower court ruling that it is unconstitutional to try servicemen on the broad charge of bringing discredit on the armed forces.

Agreed to decide whether states can punish placing a peace symbol on the national emblem as defacing a flag.

Called for oral argument later this term on a decision by California's highest court that denial of the vote to convicted felons is a

denial of equal protection guaranteed by the Constitution.

Refused to hear one of a series of appeals by former Teamster leader James R. Hoffa from a jury-tampering conviction that disqualifies him from holding union office.

The bid for a Supreme Court trial over impoundment came in a suit by Georgia demanding appropriated funds for highway, education and anti-pollution projects. Georgia invoked the high court's power to hear lawsuits in which states are a party, but the justices adhered to their practice of avoiding such suits where possible.

Both the state and Solicitor General Robert H. Bork conceded that lower courts also had jurisdiction over the controversy. But they said the fight could be settled sooner by bypassing the lower tribunals.

Ten states and New York City, also locked in impoundment litigation, urged the court to ignore the suit and wait for cases to come up in the regular appellate process. They argued that the court might actually slow the development of other cases if it took charge of the entire problem in prolonged procedings here in Washington.

"It cannot be overlooked that the government's interests in an impoundment case are served by any delay," the states argued.

Two federal courts of appeals, one in Washington, D.C., and the other in Philadelphia, have ruled that the "catch-all" military code provision punishing conduct bringing discredit on the armed forces was unconstitutionally vague.

Set for review was the Washington court ruling, which reversed the conviction of Marine Pvt. Mark Avrech for publishing criticism of American involvement in Vietnam. A government petition to review a similar ruling in favor of Dr. Howard B. Levy, an Army captain who was court-martialed for refusing to train Green Beret troops for Vietnam duty, also awaits high court action.

SEX BIAS

The court refused to hear the government's complaint that Robert Hall Clothes, Inc., violates the federal equal pay act by paying women lower wages than men for the same work. The company said it had a basis other than sex for the different treatment—women work primarily in women's clothing, which earns lower profits—and the Labor Department argued unsuccessfully that the reasoning was inadequate. Only Justice William O. Douglas said he wanted to hear the case.

Also ignored was the latest in a series of protests by Connecticut businesswoman Vivian Kellems against federal tax laws that she contends discriminate against unmarried women.

PROPERTY SEIZURES

The court agreed to review a lower court ruling that federal agents could not use the evidence obtained after they confiscated a burglary suspect's clothing for scientific tests.

Also set for argument later this term was a case involving the constitutionality of a Puerto Rico law giving the commonwealth custody of a yacht on which marijuana was found despite the admitted innocence of the boat's owner.

SENATOR DOLE'S REMARKS ON COMMODITY EXCHANGE AT THE AGRICULTURAL ECONOMICS CONFERENCE

Mr. PEARSON. Mr. President, I would like to call the attention of my colleagues to recent remarks by my distinguished fellow Kansan, Senator BOB DOLE, who discussed the Commodity Exchange at an Agricultural Economics Conference at Kansas City, Mo.

The subject matter of Senator DOLE'S remarks—the market system for our farm products—has become the focus of public attention recently. Charges have been made that the market has been manipulated to increase subsidies paid from taxpayer revenues. There have been allegations that speculators have derived windfall profits from the market, to the detriment of farm income.

As such possible shortcomings of the Commodity Exchange system are investigated and possible changes are contemplated, the public and the national leaders should have the best information available. As a major congressional figure in farm legislation for over 13 years, Senator DOLE is eminently qualified to discuss the market system for agricultural commodities. Mr. President, the speech on Commodity Exchanges by the distinguished Senator from Kansas is worthy of the attention of all my colleagues.

I ask unanimous consent to have the remarks of Senator DOLE printed in the RECORD.

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

REMARKS OF HON. BOB DOLE

FREE MARKETS IN A FREE SOCIETY

I am especially pleased to be asked to speak at this dinner meeting. As you enjoyed this excellent meal, it occurred to me that my first words should be about the people who made this meal—and this meeting—possible, the American farmers.

It is time that all the American people, particularly in our great metropolitan centers, recognize the contribution that American agriculture has made, not only to this nation, but to all the world as well. Too long, too many of us have taken this miracle of America's agricultural productivity for granted.

For we are in the midst of a great technological revolution in agriculture. It is a revolution that is not only irreversible but is accelerating at jet age speed. The result is a productivity miracle which enables the American consumer not only to have the world's best diet, but also to enjoy the world's most nutritious and varied meals with a smaller percentage of his earned income than any other consumer in the world. The American farmer has made that miracle possible.

MATTER OF EQUITY

We can provide just reward and recognition to our farm people—a numerically and proportionately shrinking group—if we approach the farm problems and related food production matters in a constructive bipartisan spirit. Recently housewives of America have begun to appreciate the fact that this just reward is essential to maintaining production and supplies of food. However, we need to do this because there are so many others in our society who are primarily dependent upon the producers of food and fiber—our basic strength.

At the same time we give recognition to the producers, we must associate this with the miraculously efficient system which free enterprise has developed for the marketing, distribution and processing of food. This is a real tribute to what free men in a free society can do. You men and women here in this room are essential to this process. You should be proud of your accomplishments.

Free commodity markets, too, are basic to our system. For, the more I have studied our complex society, the more I have recognized the importance of maintaining to the maximum feasible extent our free commodity markets—the essential ingredient of a free enterprise system.

PRICE MECHANISM

Commodity markets have been established to meet an economic need. The hopes, fears, beliefs, knowledge and needs pour into these markets. There emerges the most nearly perfect mechanism in the economic world—with adjustments second by second. In a single price—visible to all who would see—there is measured every single factor then existant and communicable.

FUTURES TRADING ASSURES FAIR COMPETITION

There is another, and perhaps more penetrating, part of the story which should not be lost from view. It is that the futures trading system, notwithstanding occasional speculative excesses and imperfections, maintains equitable principles of trade. Futures trading on commodity exchanges developed as a highly effective form of free market trading and competitive pricing because it grew up with, and proved adaptable to, our other free institutions.

An active and well conducted futures market is the nearest approach to perfect competition in price making that the record of economic and commercial development has to offer. Competitive price making in futures markets is the opposite of imperfect competition and monopoly. History teaches us that market trading, fairly and freely conducted, is a standing safeguard against those who—human nature being what it is—would much prefer to seek their advantage in special or monopolistic privileges. The commodity futures system could not have become standard commercial practice in the United States if it had not become associated with the public interest, if it had not proved its capacity—in spite of many trials and errors—to stand as a bulwark against monopolistic forces in marketing.

CONSUMER BENEFIT

The story that must be told—and it must be well understood by the general public—is that equitably-run futures markets contribute to the welfare of the general consumer. They enable the housewife to pay much less for many foodstuffs and other products than could have ever been possible without the creation of the commodity exchanges.

The basic reason for this is that food manufacturers can hedge their risks in the futures markets at very low cost. In the absence of such hedging possibilities the risks would be greater—and their processing margins greater too—in order to reflect the higher risks. Higher consumer prices would certainly result.

ACTIVE MARKETS ARE ESSENTIAL

The proper functioning of this important activity depends upon the high degree of standardization in futures contracts, the heavy concentration of trading on a single floor, the rapid-fire execution of the buying and selling orders, and the continuous stream of price quotations. These services of a modern futures market are made possible only by a network of by-laws, rules and regulations constantly subject to such changes as to make them even more equitable.

By and large such by-laws and regulations are self-imposed under the guidelines of the Commodity Exchange Act. During recent months the considerable attention focused on the Russian grain sale, the price fluctuations of soybeans, the greatly expanded export potential through improved trade relations throughout the world—all these factors and others—was magnified through the actions of the Cost of Living Council. From the resultant polarization of thought on commodity trading, now thoughts of controls through legislation have emerged. Some would do away with futures trading. Others would limit exports. Still others would have

the government take over trading of all commodities.

BASIC CONSIDERATIONS

As a focus of my basic thinking affecting possible legislation, I must say that I am impressed by the following basic underlying facts:

1. If futures markets are to serve all segments of society, their terms and trade must be equitable and thereby serve the public interest.

2. The futures markets must be fairly and openly conducted to avoid special economic advantage to either party to the transaction.

3. The forces of supply and demand must be reflected in a changing price system available for all to see and permitting participation in the price making process by anyone with the requisite financial ability.

4. The futures markets must provide a proven system of shifting the risks from producers, handlers and processors to those futures investors who wish to assume them, with the possible attendant profit and losses.

5. A really satisfactory futures market cannot depend solely on hedging transactions. The market needs speculators who are willing to take open positions as well as hedges. The larger the volume of speculative activity, the better the market and the easier it will be for persons involved in trade and investment to hedge at low costs and at market prices that move only gradually and are not significantly affected by even large commercial transactions.

CEA CHANGES CONSIDERED

These considerations should be primary in any proposed changes to the Commodity Exchange Act. In 1922, Congress passed the Grain Futures Act to regulate trading in contracts for future delivery of grain and flaxseed. In 1936, Congress brought trading in cotton, rice, mill feeds, butter, eggs, and Irish potatoes under regulation and called the amended law the "Commodity Exchange Act". The Commodity Exchange Act has been amended thirteen times since then to bring additional commodities under regulation and to strengthen its provisions.

You are aware that one bill has been introduced and several others are being considered presently that would further amend the Commodity Exchange Act. The Senate Committee on Agriculture and Forestry will be holding hearings in this extremely complex area to provide a basis for meaningful change and the strengthening of the capabilities of the CEA in administering the Commodity Exchange Act fairly. These hearings and further considerations of such legislation will be in the national interest. We must recognize that we are dealing in a complex and delicate area.

Those in the futures trading business and those thinking of trading in futures of course need to face the current problems relating to commodity trading. A realistic approach to them is necessary in order to preserve the viability of this efficient economic tool.

The problems as seen by some were stated in an editorial in the Washington Star Saturday:

"There is ample indication that some kinds of speculation, in such exchanges as the Chicago Board of Trade, have little or no relation to the nation's need for orderly marketing mechanisms. The trading floors are infested with 'scalpers' who are not interested in buying or selling actual bushels of corn or soybeans but in making piles of money from the paper action. Brokers juggle huge potential conflicts of interest, without meaningful supervision, as they handle both their customers' orders and their own accounts."

And the editorial seems to further sum up the dominant public perception about commodity exchanges in these words:

"Self-regulation by the self-serving exchanges and their member-brokers is no answer, any more than it was in Wall Street in the 1920s. The toothless and apathetic Commodity Exchange Authority, an arm of the Agriculture Department, is not doing the job, and probably cannot, given its undermanned status. The regulatory function, anyway, is not wisely entrusted to the government department committed to the interests of the agri-business sector."

I don't agree with everything in the editorial. But I cite it because it cites the problem of public attitude at this time. I don't advocate creating another commission to supervise commodities such as we have in the Securities and Exchange Commission. The time has come to put more teeth in the Commodity Exchange Authority—to expand it to all commodities traded in futures contracts, and to assure the public through proper staffing and supervision that the exchanges are and can be self-governing—not self-serving.

As traders or potential traders, you would do well to keep this public attitude in mind. For with commodity exchanges, as with most other public institutions, the trust and confidence of the people it serves is a prerequisite to the institution's success.

CEA SHOULD ASSURE FAIR PLAY

Creating new federal agencies is not the only way to solve a problem. The content of any new legislation should maintain fair play and honest dealing in futures trading. It is of vital importance in maintaining equity in the pricing and marketing of farm products on all commodity exchanges and on all markets.

Against this background, I have the following suggestions for improvement in the futures trading environment:

1. Regulatory jurisdiction of the CEA should be extended to include trading in all contracts for future delivery. Basically, I feel that a problem which might occur in a non-regulated futures market could reflect badly on all other futures markets. The public needs this protection.

2. A Federal Insurance Corporation could be established for commodity accounts. This will give additional public confidence in the commodity futures markets. The bankruptcy or insolvency of a futures commission merchant, while an infrequent occurrence, can jeopardize large sums held for customers by that broker. This proposal would reduce risks of loss to customers.

3. Registration and fitness check authority might be expanded to include all individuals handling commodity customers' accounts. At present, such authority is limited to futures commission merchants and floor brokers.

4. Boards of Trade contracts should provide alternative delivery points under carefully studied and researched provisions, *unless such action is shown to be uneconomic.*

These suggested changes could improve futures markets by assisting in the restoration and expansion of public confidence without impeding the free and open trading that is essential to assuring competitive pricing for the consumer. These suggestions are being studied by my staff and legislative counsel and may be the contents of a bill I shall introduce in the near future.

I wish to assure you that I will study each and every proposal to amend the Commodity Exchange Act. Regulation of futures markets is an extremely complicated area. Any new proposal must receive the closest scrutiny through hearings and research to assure that any change will improve, not impede, the functioning of free commodity markets in the public interest. That must be our objective.

LAND OF PLENTY

Mr. HUMPHREY. Mr. President, the near elimination of America's foot surplus, the sharpest increase in food prices in decades, and the largest foreign purchases of the products of our Nation's farms, have suddenly projected discussion of the complex system of world food production and demand to the front pages of America's newspapers.

It is not too early that we became aware that as incomes increase around the world and population expands, more and richer people will be bidding with us for the food we grow. How we react to this increased competition from abroad will be an important factor in determining America's position and reputation in the world for years to come.

The first in a series of articles on U.S. agriculture in an urban age was published October 9 in the Wall Street Journal. This article, by John A. Prestbo, entitled "Land of Plenty," outlines the differing views of the Nation's experts on future world supply and demand for food. It also deals briefly with some of the underlying reasons for the recent surge in world demand for America's food productions.

While the experts disagree on which years will be good for food production and which will be bad, there is little doubt that the future will bring fluctuations in the ability of food supply to meet demand. For this reason, I believe we must move ahead immediately to create a system of strategic grain reserves for the United States and the world. Such reserves would assure a reasonable supply of and price for food during years of scarcity, and also assure a reasonable return to the farmer for his labors, even in years of excess supply. S. 2005, the "consumer and marketing reserves" proposal which I introduced in the Senate would be an important first step in moving toward world food security.

I ask unanimous consent that the "Land of Plenty" article from the October 9 Wall Street Journal be printed in the RECORD.

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

LAND OF PLENTY: THE QUICK TURNAROUND IN AGRICULTURE PICTURE BROUGHT JOYS, WOES

(By John A. Prestbo)

The farm boom came quickly, like a sudden, summer thunderstorm.

Only two years ago, the nagging "farm problem" was how to control the potent productive capacity of U.S. agriculture. The government paid farmers not to plant certain crops, but still surpluses piled up. Food prices were relatively reasonable, but taxpayers were burdened with billions of dollars in subsidy payments, which many farmers depended upon to stay in business.

All that changed quickly in the summer of 1972, when the size of the Soviet Union's massive purchases of U.S. grain became known. With increasing orders from Europe, Japan and other countries, the nation almost overnight found itself with a farm export business big enough to choke its transportation system. Within a year, the U.S. practically ran out of soybeans, so the government limited exports temporarily. Other foodstuffs came into short supply, too, and food prices rose dizzyingly through this past summer. The "farm problem" became how to increase production fast enough to keep up with demand.

Prices have eased a bit lately, but another wave of climbing food costs is predicted for

this winter. The whole posture of U.S. agriculture has changed from surplus to scarcity in the most wrenching turnabout in recent memory. The farm boom of the mid-1960s—which also was based in large part on surging overseas demand—didn't stir so much controversy or so forcefully touch the lives of virtually every citizen

THE IMPACT

Consider the impact the farm boom is having:

The Agriculture Department has switched from curtailing production to encouraging it. Next year, for the first time in four decades, farmers won't have to set aside any of their land to qualify for government subsidy programs. And with prices far above federal floors, the government is expected to spend "just a few million" dollars on farm subsidy programs in fiscal 1974, an Agriculture Department spokesman says, down from $4 billion to $5 billion in recent years.

Farmers planted about 24 million more acres this year than in 1972, and next year they are expected to plant an additional 10 million to 12 million. That would put about 343 million acres into production for the 1974 harvest, which would be the most land under cultivation in the U.S. since 1956 and a 12% increase in two years.

Partly because of this added acreage, and partly because of the higher prices they are getting for their products, farmers are buying tremendous amounts of new equipment, more fertilizer and other supplies. This has a ripple effect throughout the economy, stretching back to such basic industries as steel, rubber, petroleum and chemicals. County-seat towns, which are the primary trading centers for many farmers, are luxuriating in a buying bonanza brought about by a predicted 22% increase in net farm income this year to a record $24 billion.

Exports of farm products soared 60% to $12.9 billion in the fiscal year ending June 30, and this total could rise to $18 billion in the next few years. That would be a boost for the U.S. trade balance, which already is considerably improved because of the farm boom. Exports help the domestic economy, too. The government figures some 5,000 jobs are created to handle each $100 million of grain exports and about 4,200 jobs for each $100 million of soybeans shipped overseas.

THE TOLL

All this exacts a total, of course. As farmers watched prices for feed grains and wheat more than double and prices for live cattle rise 55% during the year, consumers faced across-the-market increases at retail—milk up nearly 20 cents a gallon in some cities, bread up as much as 15 cents a loaf, and the average price of beef up about 30 cents a pound.

In all, retail food prices skyrocketed 17.6% from January through August, as measured by the consumer price index. Besides wrecking family budgets, the record boosts spawned two consumer protests—an organized boycott in the spring and, more surprising, a spontaneous spurning of high-priced meat and eggs in late summer.

Unhappy consumers increased their political pressure as fast as prices climbed. President Nixon responded by clamping price ceilings on foods, which in some cases froze prices below the cost of production and processing. Many food-processing companies closed for several weeks, which brought about shortages of some items during the summer. Ceilings were lifted on beef prices Sept. 10, and now food is subject to the same general Phase 4 controls that other products are.

Political pressure is taking other turns, too. Some congressional groups are looking into commodity futures trading to see if excessive speculation helped push food prices higher than they otherwise would have gone. Other Capitol Hill probers are trying to determine if big grain-export firms obtained advance information of the 1972 Russian grain purchases or if they unduly profited from the deals at consumers expense.

The widest field of inquiry, however, concerns how long the farm boom will last. The mid-1960s boom lasted only a couple of years, and some experts, such as agricultural economist D. Gale Johnson at the University of Chicago, think the boom will fizzle in 1975 or 1976 at the latest.

"A highly unusual combination of circumstances contributed to this boom—bad weather in many parts of the world, a falloff in anchovy fishing on the Peruvian coast (which increased world-wide demand for soybean meal to feed livestock) and a couple of dollar devaluations, which made U.S. farm products suddenly quite attractive to countries looking around for food supplies. Eventually these abnormal conditions are going to right themselves, and when they do we can expect to return to a more normal situation of ample supplies and lower prices," he says.

To be sure, the countries that have been bidding up prices for U.S. foodstuffs are doing what they can to increase their own production sharply during this coming crop season, which begins shortly in the Southern Hemisphere. If the weather is favorable, the yields from this increased acreage would substantially lessen export demand for U.S. crops. As a result, prices probably would fall and more produce would be available for domestic consumption.

A NEW ERA?

On the other hand, some experts are proclaiming the dawning of a new era of agriculture in which export demand is a strong, stable factor rather than a fluctuating one. "We're on the threshold of the greatest age of agriculture that this country has ever known," says John M. Trotman, president of the American National Cattlemen's Association.

There is evidence to support this theory, too. For one thing, the Nixon administration is adopting agriculture as one of its main bargaining points in diplomatic and trade negotiations. As the U.S. presses this strength in its foreign dealings, the new-era proponents argue, exports will increase. They think that Russia, China and other Communist countries could join Japan as steady U.S. farm customers.

Moreover, economist Lester R. Brown, senior fellow of the Overseas Development Council, contends that not all the world's underproduction problems can be cured by a spell of good weather. He cites reports and studies showing that, for instance, the Peruvian anchovies have been overfished and supplies may not return to normal for several years; that sub-Saharan Africa is being so overpopulated with people and cattle that the land is wearing out fast; and that accelerating deforestation in India is increasing the chance of crop-devastating floods, such as occurred this year.

"These situations are undermining the world's food-production capability, and they aren't being taken into account by a lot of economists who make projections," Mr. Brown asserts.

ORVILLE FREEMAN'S VIEWS

Still other experts take a middle position in predicting the course of the farm boom. Orville Freeman, former Secretary of Agriculture and now president of Business International Corp., a consulting firm, suggests this scenario: relatively short supplies and strong prices through 1975, followed by a return to ample production and a rebuilding of surpluses by 1977. But by 1980, he predicts, the trend will again reverse and food shortages will recur world-wide, perhaps in crisis proportions.

Mr. Freeman thinks U.S. farmers will greatly increase their acreage in the next couple of years, which will contribute to the temporary end of the boom. He contends, though, that if current trends continue in increasing world population (the present rate is about 80 million additional people each year) and rising standards of living (an annual 3% to 4% increase in gross national product for many developing countries), global food-production capacity could be strained severely within a decade.

The determining factor in all of these farm-boom forecasts is the weather, of course. World food stocks have been drastically reduced by about 18 months of highly unusual bad weather around the world—too little moisture here, too much there, too cold in some places and too hot in others. The principal exporting countries had only 100 million metric tons of grain on hand at the end of the 1972–73 season this past summer—the lowest grain reserve in 20 years (during which time world grain consumption has increased by 50%). The U.S. Agriculture Department predicts that global reserve stocks will decline 10% further by next summer.

Some grains are in even tighter supply. The International Wheat Council estimates that 59 million to 62 million tons of wheat are available for export this year, while import requirements range from 62 million to 65 million tons—a potential shortage of up to six million tons.

"We could have famine in many parts of the world next year if the weather is bad," Mr. Freeman says. The longer that bad weather lasts, the farther off is the day that U.S. agriculture might re-bury itself in surpluses.

RISING AFFLUENCE

At any rate, U.S. consumers will have to get used to spending a larger share of their disposable income for higher-priced food. The average in the U.S. is about 15% (though low-income families spend a far greater amount) compared with 25% to 30% in Europe. In several years, some experts warn, the U.S. average could climb closer to the European's.

A major reason for this prediction is increasing affluence, particularly overseas, which is accompanied by a growing taste for meat and less of a taste for rice, corn grits and other vegetable foods. This strains world agriculture even more because it takes three times as much agricultural resources to produce 10 grams of protein in the form of poultry meat as it does in the form of wheat flour; for beef and pork, the ratio is seven to one. The effect of this is to reduce potential supplies by lowering productivity while demand increases through population growth.

"If there is a culprit responsible for higher food prices, it isn't the farmer, middleman or supermarket executive," says Mr. Trotman, the cattlemen's group president. "It's the greater buying power of people, not only in the U.S. but all around the world."

Adds a government economist: "There are simply too many consumers in too many countries bidding for better diets to let world farm prices drop back to the levels that prevailed until the past two years."

TRAGIC EAGLE KILLING IN WYOMING

Mr. HANSEN. Mr. President, the National Cowboy Hall of Fame and Western Heritage Center located in Oklahoma City publishes a magazine entitled "Persimmon Hill."

In the most recent edition of Persimmon Hill is a very fine article by Dean Krakel II. This well-written article is about the tragic eagle killing incident which occurred in my State of Wyoming. More important, it is Mr. Herman Werner's side of the story.

The article has great meaning to me not only because it is about a dear friend of mine, but also because it tells a side to the incident which has received little publicity.

Mr. President, I ask unanimous consent that Mr. Krakel's article be printed in the RECORD.

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

TRAGIC EAGLE KILLING IN WYOMING

(Herman Werner is perhaps the most hated man who ever took part in an environmental hearing. The hearing in the Fall of 1971 was an investigation into reported paid eagle killings, a major federal offense. Werner was charged with paying $15,000 in bounties for the alleged shooting of 360 eagles. Some estimates of the number ranged as high as 770.

(Although the hearings were suspended until a later date, Herman Werner was labeled by the public and press as an eagle killer, a threat to conservation nationally and in his own state, Wyoming. It is the author's belief that Herman Werner is not guilty of these charges.)

To understand the facts surrounding the issue it is necessary to go back to the original hearings, their background and what took place during the hearings.

A Senate subcommittee was just wrapping up its investigation into the poisoning death of twenty-five eagles found in Jackson's Canyon, Wyoming. The eagles had died as the result of heavy concentrations of thallium sulfate, a poison used to key coyotes. The committee's chairman received a call from James O. Vogan, 48 year old helicopter pilot who said, "You ought to see what's buried down in Carbon County." In exchange for immunity from prosecution, Vogan promised to tell all he knew of paid eagle killings in Wyoming. Vogan explained that federal authorities had learned of the killings and that "Somebody was going to get hung to a tree . . . They would have thrown the whole blame on me."

Vogan testified that the flying service he worked for, The Buffalo Flying Service, of Buffalo, Wyoming, had contracted with several Wyoming and Colorado ranchers, predominantly sheepmen, to shoot the coyotes and eagles which prey upon their lambs.

Reading from his daily tally book, the pilot arrived at a figure of 770 gunned-down eagles during the six month period he was employed. While flying for Herman Werner, Wyoming's largest land owner and sheep producer, Vogan stated that gunners in his helicopter used a 12 gauge shotgun to kill over 579 eagles and described "a regular haystack of dead eagles" stacked up on Werner's Bolton Ranch. Vogan also told the committee that he knew of $15,000 Werner had paid to the Buffalo Flying Service for the slaughter. The flying service supposedly received a bounty of about twenty-five dollars for each eagle he downed.

Acting on Vogan's testimony, federal investigators indeed found remains of eagles buried on land leased to Herman Werner. Werner, although never called before the hearing, could only offer in his defense that he knew nothing of the eagle killings and had not hired Vogan to kill eagles. An attorney for the Buffalo Flying Service stated that Vogan had been fired from their employ for wrecking several helicopters and for permitting unauthorized personnel to accompany him and that the flying service had no hand in the killings.

The subcommitttee recommended that Herman Werner be charged with the killing of 360 eagles. The case would come before a Federal Grand Jury in October, 1973.

Before the hearings were over, the nation was in an uproar. The estimated population of golden eagles in the United States was between 12,000 and 15,000 and there were an estimated 2,000 bald eagles. (These figures do not include population figures for the state of Alaska.) More eagles had been killed in Wyoming than were thought to exist in the state!

In the past half century there has been a shocking decline in the bald eagle population due to pesticides, lumbering, and development of the wilderness areas that are so necessary for their survival. In recent years it has been found that the number of bald eagles that can successfully raise young to maturity has dropped, in some areas as much as 50%. This is thought to be due to the pesticide content of the eagles' prey that is passed on to the newborn eaglets. In extreme cases the eggshell is so thin that it breaks at the slightest touch. The golden eagle, while not a victim of pesticides to the degree that the bald is, has been considerably reduced by electrocution from power poles, poisoning, and indiscriminate hunting and shooting. According to Wyoming State Representative John Turner, "The loss of 770 eagles could push the eagle to the horizon of oblivion."

Every major magazine carried the story of the eagle slaughter in Wyoming. It was splashed on the front pages of many newspapers. Wyoming became the scene of a collision course, of heated conflict between citizens, conservationists and stockmen, and the eagle. Cartoons were published depicting a cowman and his son pointing to an eagle. "Son, that's our national bird, shoot every one you see," read the caption. Bumper stickers were printed: "Make lamb our national bird." "Save an eagle, shoot a sheepman," "Welcome to Wyoming; watch out for falling eagles."

Herman Werner was singled out as the killer in the eyes of the public. He was called "a powerful land and sheep baron", "a notorious figure," "a liar," "a man with no conscience for wildlife." Letters poured to his home in Casper. In some of the vicious ones, the senders neglected to sign their names or to include a return address. Crank calls came at all times of the day and night.

In all the publicity that has been devoted to the eagle killings in Wyoming, there has been little written in Herman Werner's behalf. No one has bothered to hear the other side of the story. Few people are even aware that there is another side, but there is, and that is the reason for this article. The author went to Wyoming to talk to Herman Werner. This is his story of the Wyoming eagle killings.

Herman Werner saw him first, and brought the bumping grinding jeep to a halt. Stooping forward the eagle gathered and tensed the powerful muscles in his feathered legs, then he sprang, hopped, and launched himself into the air. A giant pair of wings pushed him skillfully through the air only a few feet above the ground; he was like a fleeting shadow. We watched until the eagle became a tiny dot lost in the billowing white clouds and endless sky.

Starting the jeep back down to lower country, Herman Werner pulled his worn grey hat down to shade a pair of blue eyes that had never missed much of anything in all their eighty years. He spoke slowly, punctuating his talk with sweeps of his arm.

"Grace and I have sat and watched those old eagles just like that many times. Some of them must be twenty or thirty years old, huge birds. It wouldn't be the same without them."

Bumping along, Mr. Werner talked of the 160 buffalo he had just bought and spent three days trying to corral, of the wild horses that ran undisturbed on his Spearhead ranch, of the antelope and elk herds, and of the sage grouse that boomed on the flats of the 55 ranch. He talked of the eagles.

"I think the eagle is the most noble bird on the face of the earth. He's our national symbol, that's why I put those statues of bald eagles on the roof of our house in Casper. That was ten years ago, before all this eagle killing business.

"When talk turns to these eagle killings, everyone looks at me. When I go anywhere, people I don't even know come up to me and say, 'Aren't you the man who shot all those eagles?' I tell them the same thing I'm telling you, I've never shot an eagle and I've never paid for one to be shot. I never really thought of the eagle as a predator as far as livestock is concerned. I love Wyoming and all the wildlife in it. All my life I've been part of this state and the eagles are part of it too.

"At the Bolton ranch there used to be an eagle's nest by the road. Every now and then I'd shoot an old jackrabbit and cut him to feed to those little eagles. The old eagle, she'd flap around quite a bit, but the little ones sure liked that rabbit.

"There aren't too many jackrabbits around anymore; that's part of the problem. A few years ago a person driving around the ranch might see thirty jacks, now I doubt if we could kick up two between here and the house. In the winter a rabbit's hide is worth money and people from the city come out and shoot them by the hundreds. Add poisoning and disease to that and it just about takes care of the eagle's diet.

"Some people still swear up and down that an eagle won't eat anything but fish, dead animals, rabbits and prairie dogs. But an eagle with an empty belly isn't going to be particular. He's going to take whatever he can get.

"Eagles are hatched about lambing time; that's when you should have been here. One evening we counted fifteen eagles sitting in a tree about a hundred yards from our lambing corrals. In the spring of the year like that especially when the ground is still covered like it was this last winter, wild game is hard to come by. Most of those eagles are trying to feed their little ones and themselves, too. There just aren't enough prairie dogs and rabbits to go around anymore.

"I'm not saying that every golden eagle in Wyoming is a sheep killer. Like I said, I never even thought of them as predators. My point is that we've replaced the eagle's natural food with sheep and cattle. He may live his entire life on sheep ranges and never take a lamb, but when lamb becomes easier to hunt than jackrabbits, what is he going to do? Occasionally there may be an eagle that develops a special liking for lamb, but still they'll only kill one lamb at a time. They aren't near as bad as a coyote. A coyote is the real predator when it comes to sheep and it was coyotes that started this whole thing.

"During the winter of 1971, the coyotes were so thick over at the Bolton ranch that the lambs just didn't stand a chance. They're still thick over there and with the hard winter we just had, there just aren't many lambs left. If we hadn't been so busy with the livestock we'd have shot the coyotes ourselves, but we were too busy. I contracted the Buffalo Flying Service, out of Buffalo, Wyoming, to shoot coyotes at fifty dollars apiece. I never made any deal with this pilot Vogan. He took orders from the flying service. Vogan stayed at a bunkhouse at the Bolton ranch and I supplied him with shotgun shells but I sure didn't supply him with enough shells to shoot all those eagles he claims to have shot and the coyotes, too.

"He says there were over 500 eagles shot in the six months he flew around here. He reads his figures from a little book he wrote in. Anyone could get a little book and write down some numbers. Five hundred eagles . . . some have accused me of shooting 800 or so. When you go back to write your article, tell how many eagles you saw up here. You've been all over Wyoming and have seen the ranches, including the ones he didn't

hunt on, and I'll bet you haven't seen half that many eagles. Even the 360 that I'm charged with would be a lot of eagles to see. By God, if there were that many eagles on my ranch, we'd be scatting them out of our way. Of course the public will say, 'You shot them all, that's why there aren't any eagles.' There's nothing I can say to that, except tell the truth.

"Vogan used to fly all over the country. He was careless. A lot of my neighbors complained because he'd fly low over their places. He wrecked three helicopters and one time I loaned him $5,000 to put a new engine in one. I also loaned the Buffalo Flying Service money to buy a fertilizing unit for their planes. We planned to use it on the ranches as payment. That accounts for the $15,000 Vogan spoke of. I told him that I wanted the coyotes brought to the ranch every night to be counted. I coundn't be there all the time. With three other ranches and only three men to help, we're scattered pretty thin. There was always a man who stayed at the Bolton, though, and he always made the count.

"One evening I came out to the ranch and there was a pile of eagles stacked up out back. That made me mad as hell and I looked Vogan up that evening. He told me that he was taking up some kids and every now and then he'd let them bust an eagle for fun. Anyway, eagles were predators, too, he said. I told him, 'You leave those eagles alone,' and he walked off.

"Other ranches down in Colorado, I guess, paid him to shoot eagles. It seems foolhardy to me to pay for shooting eagles; it's illegal. Every time a hunter pulled the trigger in Vogan's helicopter, Vogan knew it was a crime. Those are Uncle Sam's birds.

"Evidently the game and fish people had been watching pretty closely and had been observing Vogan and his activities. He must have been pretty jumpy a little while after that, because he came into my office one evening and wanted to know what kind of a stand I had on this eagle deal with him.

"I didn't have any deal with him for any eagles. He said to me that the eagles are predators and I might just as well pay him for them. Vogan figured the eagles ought to be worth about $50 apiece. I said no. He turned around to walk out and then said, 'Well, how about $25?'

" 'No!'

"He almost made it to the door, then turned and asked, 'Well, how about $10.00?'

" 'No!' This time he said that he was going to Washington to report the killings, and if I would side with him we'd throw the whole thing off onto the Buffalo Flying Service. I told him that if he went to Washington and told the truth I'd have nothing to worry about.

"He left, and that was the last I heard from him until the hearings. No one ever contacted me about the killings before the hearings or during . . . No one ever came and said 'Herman, did you hire him to kill those eagles?' Hell, no. I never even got a chance to defend myself. Nobody cares what I think. They made me a common criminal and set Vogan on a pedestal, made him immune from the law and let him hang a doggone good Wyoming citizen.

"There are few people as ecology minded as the ranchman. Every winter we feed deer and antelope on our ranches with our hay. We live with the animals every day. We grow up with them. We see them as they are, a part of the land. I'd hate to live in a land that had no elk, antelope, buffalo, or eagles. I love all of them and there's room and a place for all of us out here."

We stood on a ridgetop as a biting twenty degree wind whipped around us blowing wisps of snow out of old drifts. There were some patches of white that the wind blew no snow from, they were newborn lambs. Dead. The lambs lay scattered about 200 feet apart.

"That's the work of a coyote," Werner said. "They'll usually grab a lamb by the head and then bite into his throat. Mostly they eat the stomach for the milk—that's the way they've done these. It's the coyote who is the real predator of sheep, not the eagle. I've seen where a coyote came in and killed ten, maybe fifteen sheep in a single night and didn't even take a bite of one. Sometimes they seem to kill just to be killing.

"This is the side of the story I wish other people could see. They don't see this; they don't want to. There are plenty of animals killed by the winter around here, enough for coyotes, eagles and any other predator, yet here are these lambs, still warm. A predator, just like you and me, prefers fresh meat to leftovers any time. An eagle will kill one lamb and he'll eat it. I think the rancher can stand that loss for the eagle's sake. He won't slaughter a whole flock and leave them to rot like a coyote will.

"There are probably a thousand dollars' worth of dead lambs on this ridge. As a businessman I can't stand losses like that, yet as ranchers we are supposed to grin and bear it. No city businessman would accept a loss like that, he'd put a stop to it and no one would question his right to do so.

"To someone who sits in his cozy house reading the storybooks and statistics these losses just aren't supposed to happen. Some people say, 'If there weren't any sheep there wouldn't be any coyote problem.' I guess they think the Lord gives them their meat all wrapped up neat in the meat counter. All those clothes that hang on the racks, they don't come out of nowhere ready to wear. These things come with us, the stockman, yet we're the bad guys.

"You know, a lot of people have said to me, 'Herman, why don't you just go to Washington and plead guilty . . . all the cards are against you.' Well, I look at it this way: It's not only me that's on trial, it's the whole livestock industry, our image, and what we stand for. When a person asks me why I just don't plead guilty, I tell them I will not plead guilty to something I didn't do."

The Editors: "Herman Werner was a good neighbor. He wore a big Wyoming hat and a smile to match. Nothing pleased him more than the opportunity to help, be it a stranger's stock truck stalled in a drift, or a doe with a broken leg. He always took the time.

"Herman was a conservationist of the highest type, a product of nature's lessons. He took pride in the large herd of wild mustangs, buffalo, deer and antelope that roamed his large ranches. If he had a motto it was "born free." The Werners traveled the world over in search of big game herds to observe. Nothing thrilled Herman more than did the spectacle of Africa's purple plains teeming with wild life.

"Mr. Werner died August 6, 1973, in Rock Springs, Wyoming, as the result of an auto accident. It was timely that we had sent Dean Krakell II on an assignment to see Mr. and Mrs. Werner to get their side of the eagle controversy first hand. Otherwise, it might not have been written. Herman will be missed by his wife, Grace, by their children, grandchildren, and hundreds of friends throughout the West. He will be missed at the National Cowboy Hall of Fame, where he served as a Trustee, but most of all he will be missed out where the deer and antelope play."

DEPARTMENT OF DEFENSE INDEPENDENT RESEARCH AND DEVELOPMENT

Mr. McINTYRE. Mr. President, during the recent floor debate on the fiscal year 1974 military procurement bill, my distinguished colleague, the senior Senator from Wisconsin, withdrew his amendment which, if adopted, would have cut Department of Defense payments for independent research and development (I.R. & D.) by 50 percent.

Senator PROXMIRE withdrew his amendment when I agreed, on behalf of the Armed Services Committee, to request the General Accounting Office to conduct an in-depth comprehensive study of the I.R. & D. program which has cost the Department of Defense between $700 and $750 million annually.

Following that agreement, Senator PROXMIRE'S staff and Armed Services Committee staff prepared a group of specific questions which the General Accounting Office will answer in conjunction with their study.

A letter dated October 8, 1973, was addressed to the General Accounting Office transmitting the set of questions and requesting a report by April 1, 1974. This will permit consideration of the report in conjunction with a review of the fiscal year 1975 budget. I ask unanimous consent to print a copy of the letter and attachment in the RECORD.

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

OCTOBER 8, 1973.

Hon. ELMER B. STAATS,
Comptroller General of the United States, General Accounting Office, Washington, D.C.

DEAR MR. STAATS: During the Senate debate on the Fiscal Year 1974 Military Procurement bill, Senator William Proxmire introduced an amendment which, if adopted, would have reduced Independent Research and Development (IR&D) and Bid and Proposal (B&P) funds by 50 percent. The amendment was withdrawn by Senator Proxmire pursuant to his agreement with me, as Chairman of the Research and Development Subcommittee, to request GAO to conduct an in-depth investigation of the underlying assumptions and the overall justification of the IR&D program, as well as into the implementation of the current provisions of law and Department of Defense regulations. The discussion of this subject appears on page 31182 of the September 24, 1973 Congressional Record.

The subject of IR&D has been one of continuing interest, and the sustained high level of expenditures is not consistent with the recent trend of Department of Defense purchases from the Procurement and Research, Development, Test and Evaluation appropriations. A primary objective is to establish a better balance between these elements, and to insure that due consideration is given to sound business and accounting practices but consistent with the best interests of the government.

The attached questions reflect the results of a joint review and discussion conducted by Senator Proxmire's staff, Armed Services Committee staff, and representatives of your office. These questions should be answered in conjunction with the review of the IR&D program requested by the Committee letter of October 4, 1973. For the purpose of this study, the term IR&D will be inclusive of B&P.

The review should be comprehensive and result in a report which should provide comments and recommendations for appropriate changes to the language of Section 203, P.L. 91-441. The report should consider the experience gained both before and after enactment of Section 203, and reflect the viewpoint of industry, the Department of Defense, other governmental agencies, and the General Accounting Office. Specific consideration should be given to the recommenda-

tions contained in the report of the Commission on Government Procurement and to the comments of the Department of Defense on that report. The report also should include alternative recommendations so that the Committee will have a choice of actions which may be adopted. The report should be submitted by April 1, 1974, so that the Subcommittee may consider it during the review of the Fiscal Year 1975 budget.

Sincerely,

WILLIAM PROXMIRE,
Chairman, Subcommittee on Priorities and Economy in Government.

THOMAS J. MCINTYRE,
Chairman, Research and Development Subcommittee.

ATTACHMENT

1. The DCAA audits of IR&D costs show that the ratio of IR&D costs to defense sales increased from 2.73% in 1946 to 3.83% in 1972. What accounts for this increase? What is the rationale to support a high level of contractor IR&D expenditures even in the face of declining defense sales?

2. Reconcile the apparent inconsistencies in the figures for IR&D expenses from 1968 to 1972 between your April 16, 1973, report, reports by the DCAA, and the figures given by DOD to the Senate Armed Services Committee as printed in the committee report of September 6, 1973.

3. In its report to Congress, the DOD includes an amount for "other technical effort (OTE)" in its IR&D figures. What are the audit substantiated amounts for OTE for the years 1968 to the present? Why are these amounts not included in the DCAA audit report? Do the same rules apply for OTE as for IR&D and Bid and Proposal Costs?

4. The DCAA audit report of IR&D covers only those defense contractors with "an annual auditable volume of costs incurred of $15 million or more and other contractors who, although not meeting the auditable volume criteria, required 4,000 or more manhours of DCAA's direct audit effort per year." What does the term "auditable volume" of costs incurred mean? What is the difference between auditable volume of costs and total defense sales (including both prime contracts and defense subcontracts)? What is your estimate of total IR&D *including* contractors that do not meet the criteria of $15 million of annual auditable costs incurred and 4,000 manhours of defense audit effort?

5. The IR&D figures reported to Congress are based on a DCAA statistical report covering 77 defense contractors. The top 77 defense contractors account for only 69% of defense prime contracts. How much additional IR&D costs are reimbursed by the DOD to divisions, contractors, and subcontractors not covered in the DCAA report?

6. What is the total in-house cost of administering the IR&D program—include the cost of reviewing contractor proposals, DOD negotiation teams, technical review effort, administration of disputes, etc.? What are the comparable costs for AEC?

7. What problems are encountered by DOD and AEC contracting officers and technical or project personnel in evaluating and negotiating IR&D proposals?

8. Does DOD pay contractors' costs for:

a. research and development projects primarily of a promotional nature, such as projects directed toward the development of new business or projects connected with proposals for new business;

b. studies or projects which are undertaken, in whole or in part, for other customers; and

c. projects which represent unwarranted duplication of other research and development work sponsored by the DOD?

Cite examples if any such costs are paid.

9. Do Bid and Proposal costs paid by the DOD include negotiating and promotional costs or the cost of salesmen, representatives or agents who do not provide technical services in connection with bids or proposals?

10. Public Law 91-441, section 203, provides that appropriated funds may not be spent for IR&D unless the Secretary of Defense determines that the IR&D has potential military value. However, it appears that the DOD does not technically review IR&D proposals in cases where it is charged less than $2 million a year. What is your evaluation of the adequacy of the DOD's technical review of such programs? Of the $700 million in IR&D expenses in 1972, how much goes to contractors under the $2 million ceiling? What is the Comptroller General's opinion of the legality of IR&D payments made in the absence of any technical review as to potential military value? Would it be feasible to lower the technical review threshold below $2 million?

11. With respect to IR&D proposals where the DOD is expected to pay in excess of $2 million per year, evaluate the adequacy of the contractors supporting data both with respect to estimated cost and technical justification. Since negotiated advance agreements on IR&D are of necessary sole source negotiations, do contractor submissions comply with the requirements of the Truth-in-Negotiations Act—that is does the contractor have to provide detailed cost or pricing data in support of his estimates and certify as to their accuracy, currentness and completeness? If not, why not?

12. For each of the years 1968 through 1972, identify what specific developments have been made by each of the top 25 defense contractors with respect to amount of IR&D received. For these same top 25 defense contractors identify each IR&D project in excess of $25,000 per year and indicate the potential military benefit rationale used by the DOD in accepting the project. Identify what patent applications have been made and what patents issued during this period to these top 25 contractors as a result of IR&D programs that have been subsidized by the DOD. Identify what income each company received from these patents or from prior patents developed under IR&D and determine whether or not this income has been credited to the DOD in proportion to its financial support of the project.

13. Does the DOD receive detailed technical reports or other technical data regarding technology developed under IR&D programs so that this information is considered in the development of weapons programs?

14. Does the DOD conduct reviews to evaluate the results of IR&D efforts by its contractors? What do such reviews, if any, show?

15. Apparently IR&D amounts are accepted (if under $2 million a year) or negotiated (if over $2 million a year) based primarily on historical rates of expenditures. Moreover, the DOD pays the most IR&D to the largest defense contractors. What safeguards are in effect to offset the competitive advantage this gives large, established firms in relation to new firms trying to enter defense business—and particularly small firms? What safeguards are in effect to prevent defense contractors from exploiting inventions developed primarily at public expense under IR&D in competition with other firms for non-defense business? Should safeguards be established in each of the aforementioned instances if they are not now in effect?

16. Since the DOD accepts IR&D as a general overhead cost and the AEC instead reimburses only IR&D costs, which are shown to be of direct or indirect benefit to specific contracts, and since both agencies are involved extensively in research and development work, what, if any, differences exist in the nature of the work or the circumstances under which it is performed that would justify the continued acceptance of IR&D costs by the DOD?

17. What is the practicability of completely eliminating Department of Defense payments to contractors for IR&D and B&P as allowable costs under Department of Defense contracts?

18. Same as previous question, except establishing a separate program in each of the RDT&E appropriations for IR&D and B&P with an amount of funds to be distributed directly, by contract or grant, to industry. This distribution could be based upon such factors as the experience of negotiating teams, including technical review panels, and the same criteria presently used under the existing procedures.

19. What is the practicability of a combination of the present system, with an established dollar ceiling substantially lower than the $700 million level, and a separate, directly financed program as described under the previous question?

20. What is the practicability of the continuation of the present system but based upon a dollar ceiling which is reduced 10 percent each year with an equal increase in the directly financed program described under question 2 above?

21. What is the practicability as well as the desirability of establishing a separate ceiling for IR&D as distinguished from B&P if the decision is made to establish a total ceiling in law?

22. What is the practicability as well as the desirability of establishing an independent government agency which will be responsible for the IR&D program on a government-wide basis, as opposed to the present separate agency basis?

Mr. MCINTYRE. Mr. President, this is a joint letter which bears both my signature as chairman of the Research and Development Subcommittee, and Senator PROXMIRE's signature as chairman of the Subcommittee on Priorities and Economy in Government.

The I.R. & D. issue involves not only the Department of Defense and defense industry, but also other Federal agencies and nondefense industry.

This new look at I.R. & D. may result in revisions to existing legislation that could resolve this matter once and for all in a manner which will be fair and equitable both to Government and industry.

I will continue to work closely with Senator PROXMIRE toward this objective.

Mr. PROXMIRE. Mr. President, I want to join my good friend from New Hampshire, the distinguished chairman of the Research and Development Subcommittee, and express my pleasure and gratitude over the splendid cooperation that has been achieved in the framing of our joint request for a GAO study of the independent research and development program.

As Senator MCINTYRE pointed out, the Defense Department is spending an enormous amount for I.R. & D., between $700 million and $750 million annually. Most of this amount is in addition to the more than $8 billion that is being spent each year in the military research and development program.

GAO has conducted several excellent studies of I.R. & D. during the past few years. But these studies were intended to look only at the procedures employed in the program and more recently into the implementation of statutory requirements enacted by Congress.

The present inquiry has been designed for a far deeper and comprehensive probe into I.R. & D. than has ever been undertaken. Without prejudging the outcome, I think it is fair to say that we are now

for the first time questioning the basic assumptions underlying the program.

My own view is that if a Government program—any Government program—cannot be justified on the basis of a hard, thoroughgoing analysis, including a measurement of costs and benefits, the program ought to be completely restructured or terminated. There is a special need to review and justify the larger, more expensive programs, and I consider a $700 million program very large and very expensive.

I congratulate my colleague for the efforts he has devoted thus far scrutinizing I.R. & D. and the military research and development program in general and I want to assure him that I will do everything in my power to make this a successful investigation.

THE DOMESTIC FISHING INDUSTRY

Mr. TOWER. Mr. President, I have recently become a cosponsor of S. 1988, to extend, on an interim basis, the jurisdiction of the United States over certain ocean areas and fish in order to protect the domestic fishing industry.

This legislation has become necessary because the fish and marine life off our coasts are in danger of becoming seriously depleted and extinct; because our stocks are being seriously depleted by foreign fishing; and because international negotiations have so far proved incapable of coming to any kind of agreement.

I would like to quote from a recent issue of the SFI Bulletin, published by the Sport Fishing Institute:

It has become increasingly evident since the mid-sixties—in spite of virtually heroic efforts by the Ocean Affairs Staff (headed by the very capable Donald McKernan) of the U.S. State Department in negotiating several helpful bilateral fisheries agreements with the USSR, Poland, Japan, and Canada—that growing foreign fishing efforts on the Continental Shelf adjacent to the U.S. cannot be effectively controlled by presently available means. Studies by the National Marine Fisheries Service have also provided substantial evidence both that the stocks of many species of coastal finfish are beoming seriously depleted and that excessive foreign fishing is a major factor.

Long existing multi-national machinery, designed to provide for rational international management of such fisheries in the western North Atlantic, has proven incapable of effective regulatory action. The International Commission for The Northwest Atlantic Fisheries (ICNAF) undertook last year to consider setting equitable catch-quotas for its 15 member nations only after one member (USA) had threatened to withdraw its membership. Even so, when the US moved this year to reduce the catch-quotas, which had proven too lenient, the other members would not agree. Consequently, according to a special report in the New York Times (July 7, 1973), the United States is now once again seriously considering withdrawing its membership from the 24 year old body.

Recently, the San Diego Union had an editorial on the Law of the Sea Conference held in Geneva, Switzerland. I think you will find the following excerpts of interest:

Few newspapers dwelt at any length, for example, on the recently concluded Law of the Sea Conference in Geneva, Switzerland. Yet there are not many affairs that concern men today which have as many seeds for future conflict.

The 91 nation Geneva conference represented the culmination of three years of intensive study and discussions among smaller groups to resolve the many problems relating to territorial waters, freedom of navigation on the high seas, littoral fishing and mining rights and marine pollution. Together with the United Nations, the conference was to prepare an agenda for a larger 140 nation law of the sea conference next April at Santiago, Chile. Without such an agenda which would specify areas in which consent among nations was possible, the Chile meeting could turn out to be another meaningless debating session.

Unfortunately, the Geneva meeting produced no framework for subsequent discussion. Indeed, discussion consisted largely of a restatement of national claims on the ocean—which range from a territorial limit of more than 400 miles claimed by Canada to proposals for nearly complete anarchy on the high seas as well as the closing of all international passages by maritime Communist China.

These are the ingredients of instability and national confrontation that desperately need a machinery for mediation as well as a yardstick for measuring equities. Neither was established at the Geneva conference. The meeting was so unproductive that some delegates even urged that this fall's UN discussion on international maritime laws as well as the Chile summit meeting next year should both be postponed.

In the past I have not supported measures such as S. 1988. I had thought it better to wait for the outcome of the Law of the Sea—LOS—Conference to be held in Santiago, Chile, in 1974. I had thought that it was better for international relations if the nations worked together instead of taking unilateral action. However, I am not now convinced that there will be an immediate or easy solution to this complex issue. I have been told that it may take as long as 10 years for LOS to come up with an agreement. What do the fishermen in Texas, and the U.S. fishing industry in general, do in the meantime? In 10 years our fishing industry could be ruined.

Consequently, I think an interim measure should be passed—such as S. 1988. This act, which would protect our fish and marine life and extend our contiguous fishery zone to 200 miles, would only be in effect until the LOS reaches agreement. The U.S. fishing industry is in desperate need of assistance and protection until international agreement can be reached. I think that the Interim Fisheries Zone Extension and Management Act of 1973 is an appropriate method of accomplishing this. I urge your support of this needed legislation.

LIFE—A SUCCESS STORY

Mr. HUMPHREY. Mr. President, for years one of the key objectives the Congress has encouraged in our international economic assistance efforts has been the transference of American technology—American "know how", better enabling people of other countries to help themselves.

One area in which this need has been particularly acute is in the field of food processing, and perhaps the greatest success in this area has been achieved through a unique combination of the talents and experience of America's food scientists and technologists, under an initiative of the Agency for International Development's Nutrition Service, directed by Dr. Martin Forman.

Under AID's sponsorship six scientific professional societies joined 5 years ago to establish LIFE—the League for International Food Education. A seventh joined in 1970 and an eighth in 1972. As a result a total membership of 180,000 U.S. food scientists and technologists are now "on call" to answer inquiries, provide technical information, and assist in problem-solving in the developing nations. They are members of the American Chemical Society, the American Institute of Nutrition, the American Oil Chemists' Society, the Institute of Food Technologists, the American Society of Agronomy, the American Association of Cereal Chemists, the American Institute of Chemical Engineers, and the Volunteers for International Technical Assistance, banded together in LIFE under the direction of Dr. Samuel M. Weisberg as executive director. Through this group AID's missions in developing countries have access to the research, brains, and experience of almost every major U.S. private enterprise food processor.

Queries flowing into LIFE from all corners of the world illustrate the need recognized by its founders: to provide a fast-moving, individualized way in which American food scientists and technologists can volunteer in the world's "War on Hunger" and help solve specific problems.

Services provided by LIFE to help developing nations to solve their problems in nutrition and food technology include:

First. Responding to requests with help of volunteers recruited from professional societies.

Second. Maintaining liaison with universities, voluntary agencies, food industry, and government in the United States.

Third. Recruiting personnel for overseas assignments.

Fourth. Maintaining liaison with United Nations, World Bank, and voluntary agencies, universities, governments, and business abroad.

Fifth. Maintaining special information files for food problem solutions.

Sixth. Publishing monthly newsletter, special publications; presenting papers to professional societies.

Seventh. Conducting seminars and workshops on key food problems in the United States and abroad.

The Board of Directors and the officers of the League for International Food Education, in addition to Dr. Weisberg, the executive director, include the following: Albert L. Elder, Ph. D., Volunteers in Technical Assistance, president; S. Jack Rini, American Oil Chemists' Society, vice president; J. Ritchie Cowan, Ph. D., American Society of Agronomy, secretary-treasurer; Wilbur S. Claus, Ph. D., American Association of Cereal Chemists; O. L. Kline, Ph. D., American Institute of Nutrition; Louis Lykken, Ph. D.,* American Chemical Society; Ar-

* Deceased June 1973.

thur N. Prater, Ph. D., Institute of Food Technologists; and Michael R. Sfat, American Institute of Chemical Engineers.

LIFE newsletter: Samuel M. Weisberg, Ph. D., editor, and Ann L. Dyer, associate editor.

LIFE, though currently funded partially by AID, is a private, nonprofit voluntary tax-exempt organization and seeks private support worldwide. In view of the liaison it provides in linking government, industry, university, and international personnel, in addition to the specific services it has provided for developing countries, I doubt whether any other AID "investment" has produced so much for so little.

LIFE's monthly newsletter is circulated in 129 nations to an estimated 20,000 readers in the United Nations and worldwide voluntary agencies, in business and research institutes and universities, and to all AID missions. Articles are widely quoted and reprinted in international journals as it has become an important international information resource keeping up to date on worldwide developments in low-cost, nutritious foods. Mr. President, because of the critical importance of this effort during this time of world food shortage, and the contribution this group of American scientists are making to their government's objectives, I ask unanimous consent for insertion in the RECORD at this point the July, August, and September copies of LIFE's newsletters as illustrative of the valuable work being accomplished.

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

BAKED GOODS FOR THE DEVELOPING WORLD: A VEHICLE FOR IMPROVING NUTRITION

We last addressed this subject in the September 1969 *Newsletter* with an article entitled "The Staff of Life." Since that date there has been worldwide research and development and some movement toward commercial production. Thus it seems timely to inventory this important area.

With reference to bread products, essentially two approaches are possible (though these are not mutually exclusive). One is to replace a part of the customary wheat flour with a suitable grade of oilseed or legume flour with the primary object of increasing the protein content and protein quality of the bread. The other approach is to fortify the wheat flour with additives which used in minute amounts improve the nutritive properties of the bread. The use of such additives does not require major changes in bakery operations. These food additives do, however, add to the cost of the baked goods and their use must therefore be justified to the baker and to the consumer in relation to the unfortified goods. Such additives are the amino acid lysine, vitamin A, thiamin, riboflavin, niacin, and iron.

In the case where composite flours are used for upgrading nutrition, several percent of defatted oilseed flour or legume flour is generally added, replacing the equivalent amount of wheat flour. In this instance the amino acid lysine is not added, but vitamins and minerals may still be. It is hoped that the oilseed flour or legume can be a native product and be less expensive than the wheat (or no more expensive) which generally has to be imported.

Research and development studies are being conducted in at least 22 countries with baked goods of the types described. Some of these studies have been underway for at least five years. Yet the commercial production of nutritionally improved baked goods in the developing world has so far proceeded very slowly.

One of the very few efforts that has achieved some success is that of the Modern Bakeries, Inc., of India (a government of India enterprise). This enterprise began in 1967 and by 1970 had achieved an annual production of approximately 50 million loaves of fortified bread. Private sector food companies in India such as the Britannia Biscuit Company have also (since 1970) been offering breads of increased protein content and quality. It is of interest that these companies have been replacing in their bread the amino acid lysine (which was for a time donated) by locally produced oilseed flours (peanut and soy).

The Protein Foods Association of India made a survey in 1970 which disclosed that in the urban areas of India 45% of families in the lower income group were consuming bread. In the 1960's, there was a 250% increase in bread consumption. It was estimated that in the first five years of the '70's, there would be a compounded growth rate in bread consumption of 13% per annum. People crowd into the urban areas of developing countries seeking regular employment. For them, baked foods constitute appealing, ready-to-eat "convenience" foods since they do not require time-consuming advance preparation by the homemaker and they taste good and look good. Thus baked goods could indeed become an increasingly important vehicle for improving nutrition in developing countries, if important constraints could be overcome. What are these constraints?

Government regulations in many developing countries require that wheat flour alone be used in breadmaking, or they may permit the addition of only a small percentage of a native crop like cassava which does nothing to improve the protein value of the flour or bread.

The people most in need of better nutrition are often least aware of what this signifies so they need to be motivated to buy improved baked goods. How to do this is still in the realm of study and experimentation. However, the use of the mass media for this purpose shows promise as has been discerned in India.

Defatted oilseed flours of suitable edible quality are frequently not available. There is often a well developed oil extraction industry *but the primary* emphasis is on the oil, and the residual oilcake is of poor quality, sometimes hardly suitable as an animal feed. There have been research and development breakthroughs on how to obtain both good oil and defatted oilseed flours. But these need now to be applied commercially. The technology for producing edible legume flours of suitable quality has been developed but still needs commercial application.

There is need for careful adaptation of the improved ingredients to match the local need for particular baked goods. Here some interesting and unexpected opportunities may appear. For example, the Indian unleavened bread chapatis can stand a wheat replacement of up to 20% by soy flour without impairment of the flavor or structure of the bread. Moreover, since the bake time is very short, when lysine (amino acid) is the fortifier, the loss of lysine upon baking is held to a minimum as compared to conventional leavened bread.

Bakeries in developing countries are generally small and use varied types of equipment, not necessarily resembling that of the developed countries. Therefore any modifications in the customary flour blends they buy are likely to encounter resistance by the baker who is not inclined to risk producing baked goods that may taste or look a little different from his customary product or that may require him to modify his traditional operations. The flour miller in turn likes to produce large quantities of one or two standardized types of flour. He is generally quite resistant to doing anything different or requiring additional processing steps.

One must infer that perhaps the key to the miller and the baker rests with a consumer who is motivated to demand baked goods of improved nutrition. This consumer in turn will need the help of his government in reducing barriers that prevent the flour miller or baker from acceding to his wishes. Once a government has made the basic decision that nutritionally improved baked goods is one of the keys to improving the "human capital" of its country, many helpful steps can be taken to accelerate progress.

In recognition of the constraints needing to be overcome and the importance of this area, the American Association of Cereal Chemists has established a committee in collaboration with the Office of Nutrition/A.I.D. and with L.I.F.E. (AACC/AID/L.I.F.E.). This committee will endeavor to marshal the technical resources of its association membership for accelerating the production of baked goods of improved nutrition in developing countries. The committee is eager to learn of the specific needs and plans in developing countries for providing baked goods of improved nutritive value and the constraints that currently retard their production. It is the intent of the Committee to provide expert technical help to overcome constraints once they are presented in sufficient detail. Please address your requests for assistance to L.I.F.E.

For additional information, a reference list, "Baked Goods for the Developing World—A Vehicle for Improving Nutrition" may be obtained by writing L.I.F.E.

THE NUTRITION FACTOR: ITS ROLE IN NATIONAL DEVELOPMENT

Primarily aimed at developed countries, this book* by Dr. Alan Berg makes an eloquent plea for a major commitment of governments to the eradication of major nutritional deficiencies. They must take actions of broad consequence. If they do so, Dr. Berg believes that as much progress can be made within a reasonable time span as has been the case with the control of malaria and smallpox. The major approaches hitherto made to improving nutrition are realistically evaluated and suggestions for betterment offered.

In a compact span of 210 pages, brilliant analysis is made of the evidence that appropriate programs for improving nutrition can provide durable development benefits far exceeding the cost. The book relates the potential of improved nutrition for rational population control.

In a concluding chapter, a plea is made for comprehensive nutrition planning and analysis. Such planning requires a new discipline of "nutrition programmers" competent to translate the findings of the scientific community into large scale action programs. This book is recommended as a must for university faculties and students, government planners, nutritionists, food technologists, and all those concerned with human welfare, especially in the developing countries.

DR. LOUIS LYKKEN: 1905–73

Dr. Louis Lykken, President of L.I.F.E., died on June 16 at his home in Richmond, California. Dr. Lykken had been the American Chemical Society representative to the

* *The Nutrition Factor: Its Role in National Development.* By Alan Berg, portions with Robert J. Muscat. 1973, 290 pages; hardback, U.S.$8.95; paperback, U.S.$3.50. Order from Brookings Institution; 1775 Massachusetts Avenue N.W.; Washington, D.C. 20036, U.S.A.

L.I.F.E. Board of Directors since 1968 when L.I.F.E. was established.

Dr. Lykken was a devout religious person. No doubt this was an important factor in sparking his enthusiasm and devotion to the program of the League for International Food Education, an organization whose central purpose is to assist people in developing countries to better feed themselves and thus improve the quality of their lives.

During the last few months of his life, Dr. Lykken was engaged in the vigorous pursuit of funds for the support of L.I.F.E. He also did very much to increase the visibility of L.I.F.E. throughout the world. These efforts were typical of his concern for the betterment of humanity, especially in the developing world.

The Officers, Directors, and staff of L.I.F.E. will sorely miss the enthusiasm, drive and devotion which he so generously gave to this organization.

It can be stated with certainty that Dr. Lykken's family feel that a suitable tribute to his memory might be in the form of a contribution to L.I.F.E.

TEXTURED VEGETABLE PROTEINS: UPDATE

I. MARKETING TRENDS

"Textured vegetable proteins" (T.V.P.) was the topic of a L.I.F.E. *Newsletter* article in April 1971. Progress since then warrants an updated review. In the United States we have witnessed rapid commercial development. Worldwide attention (especially in the developing countries) has also been focused on such products. There has rapidly developed an increasing consumer demand for meat products both in the United States and overseas. This has led to shortages and steep price increases. In turn this has accelerated the production and consumer acceptance of meat analogues or extenders made from textured vegetable proteins.

There are currently at least 13 companies in the United States producing and marketing textured vegetable protein meat analogues and extenders. As a result of the steep increases in meat prices, blends of textured vegetable protein with ground meat have been offered by several supermarket chains. The price has been substantially below that of the all meat hamburger. The consumer acceptance of such blends has so far been satisfactory.

A recent marketing trend has been to accept the health aspects of textured vegetable protein foods. One package label in the United States features the complete absence of cholesterol and animal fat in a sausage type breakfast patty. This approach has also been used in Japan.

In 1971 the Food and Nutrition Service of the U.S. Department of Agriculture (in FNS notice 219, 2/22/71) allowed the use of textured vegetable protein under carefully prescribed conditions[1] as an extender for ground or dried meat, poultry, or fish. This permission pertained to the school lunch programs. *The marketing of textured vegetable proteins in the United States received a strong impetus from this government action.* Textured soy protein products are continuing to gain acceptance especially as extenders. It has been estimated that 50 million pounds of extenders will be sold in 1973 in the United States.

II. NUTRITIONAL ASPECTS

The long term nutritional aspects of textured vegetable protein products merit close attention. Meeting protein quality requirements alone will not assure the adequacy of such products. With respect to the school lunch program the USDA has set minimum requirements for T.V.P. ingredients: protein content (50%), magnesium, iron, and the water soluble vitamins; and a maximum allowance for fat content (30%). The protein efficiency ratio (P.E.R.) must not be less than 1.8 on the basis of a P.E.R. for milk casein of 2.5. It is generally indicated that the protein quality of commercial textured vegetable protein products in the USA is at least 80% that of milk casein which is the customary standard for bioassay.

The *total* list of nutrients in animal protein products as well as in vegetable protein products is a very long one and still incomplete. The digestibility and absorption for humans of nutrients from vegetable and animal protein foods is also not completely charted. The absorption of minerals and trace elements, for example, is generally more efficient when they are present in animal products than in vegetable products. Thus it seems prudent to combine both types of protein products whenever practical.

In this connection it should be noted that only a few percent of an excellent animal type protein, such as whey protein isolate or edible grade fish protein concentrate (FPC) should make a valuable nutritional addition to textured vegetable protein with a minimum alteration of the textural properties or flavor.

III. TEXTURAL BENEFITS FROM T.V.P.

There are other quite practical reasons that are paving the way for such "hybrid" products. Frankfurters, link sausage products, and meat patties can be improved in texture and juiciness by means of spun fibre textured vegetable protein as well as by thermoplastic extruded products. Emulsion type meat and poultry loaves of superior textural properties can be produced by the addition of spun fibre vegetable proteins. Poultry and fish loaves made from deboned chicken meat or deboned fish tissue can be made with the aid of substantial percentages (30–50%) of spun fibre vegetable protein. Some of these products represent a recovery of what might otherwise be by-products that are wasted or not usable for satisfying human needs.

IV. DEVELOPING COUNTRIES ARE SHOWING INTEREST

There is an awakening interest in developing countries in textured vegetable proteins. People in such countries want to consume more meat, poultry, pork, or fish products. Animal products, however, are generally scarce and expensive. The potential for satisfying this need by means of vegetable protein foods that simulate animal protein foods is a real one. Research and development with such products is being conducted in many developing countries. Among these are Mexico, Thailand, Uganda, Taiwan, India, Venezuela, and Hong Kong.

At least three consumer tests have been conducted with mothers and children in India using textured vegetable protein prepared in several different ways. In all three cases the consumer acceptance was good.

Similarly acceptance tests with school children in Bangkok were conducted under practical feeding conditions in competition with the customary luncheon foods offered daily. The children showed a distinct preference for the textured vegetable protein foods. These foods were of course flavored with the herbs and spices customarily used with similar foods in Bangkok.

The thermoplastic extrusion process will no doubt be applied first in developing countries because the capital investment in equipment is much less than for fibre spinning and the necessary technology is much simpler. The extruded products can be fitted very well into a great many modes of food preparation because they are initially very bland and can be flavored as desired.

V. FUTURE PROSPECTS

In the United States production and consumer acceptance of textured vegetable proteins is moving forward with much greater speed than had been anticipated two or three years ago. It is also very probable that an accelerated rate of usage will take place in other countries, whether developed or developing. A rapidly increasing world population, the improvement in per capita income, and the nearly universal tendency to purchase more meat products as income improves will continually press on the world meat supply and foster high prices and an insufficient supply. To fill this gap meat-like extenders and analogues are bound to find an important place.

Upon request to L.I.F.E., a reference list, "Textured Vegetable Proteins", will be supplied.

WHOLE FISH PROTEIN CONCENTRATE: NEW FDA RULING

On July 24, 1973, a new regulation (12.1202—whole fish protein concentrate) was established for the above named food additive. Under this regulation packaging of WFPC is no longer limited to one pound units. Subject to a few stipulations it may now be used as a protein supplement in manufactured foods. The WFPC product label must state as a protein supplement intended for regular use by children up to age 8, the amount of WFPC shall not exceed 20 grams per day. When used as a protein supplement in *manufactured* food, the total fluoride content of the *finished foods* shall not exceed 8 parts per million based on the dry weight of the food product.

Additional stipulations concerning the acceptable species of fish that may be used, and labelling requirements should be carefully studied in the complete regulation, Federal Register Volume 38, Number 141, July 24, 1973.

This new regulation will have an important impact on world production of whole fish protein concentrate. It should tend to give substantial encouragement to such production and consumer acceptance.

PUBLICATIONS OF INTEREST

Food Habits: A Selected Annotated Bibliography. This excellent publication by Christine S. Wilson provides abstracts of key literature references covering the period 1928–1972. The major headings are: Cultural and Environmental Factors, Food Selection, Food Ways, Implications. The section on "Implications" will be especially valuable for those working on the malnutrition problems of developing countries. The subheadings are: Food Habits and Nutritional Status; Changes of Food Habits, Spontaneous or Directed; Directing Change; Further Research Needs; and Teaching the Culture of Foods.

Available from: Society for Nutrition Education; Box 931, Berkeley, California, 94701 U.S.A. US$1.25.

Some Economic Aspects of the Introduction of Formulated Foods in Developing Countries (FAO *Nutrition Newsletter*, Vol. 10, No. 4, Oct.-Dec. 1972, pp. 18–27). This paper by Cloes H. Nermank explores the economic consequences of different approaches for introducing formulated protein foods in developing countries. It compares the guiding principles applied by private industry with those of UN assisted government projects. The influence of subsidies and government purchases is analyzed. Suggestions are offered for improving the economic prospects of the UN assisted projects. Finally important guidelines are offered for controlling and evaluating protein food projects. This article deserves the close attention of all who are concerned with the success of projects in this very difficult area of endeavor.

Available from: Food and Agriculture Organization, Via delle Terme di Caracalla; 00100 Rome, Italy.

Development of an Insect-Resistant Cotton Bag (Technical Bulletin 1463, ARS USDA). This publication describes a treated cotton

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[1] The ratio of hydrated vegetable (HVP) product to uncooked meat, poultry or fish shall not exceed 30 parts to 70 parts respectively on the basis of weight, with the moisture content of the HVP at 60 to 65%.

bag suitable for storing cereal products such as flour or corn meal. This bag provides excellent protection against infestation by insects for up to nine months. The extent of protection was about equal to that provided by treated multiwall paper bags. The bag treatment was carried out using an emulsion of synergized pyrethrins containing pyrethrins, and piperonyl butoxide as active ingredients. The cotton bags contained a wax paper liner which helped to minimize the migration of piperonyl butoxide from the cotton bag into the cereal product inside the bag. The treated bags must be of 50 lb or more capacity, with waxed paper liners, and are intended for dry food ingredients containing no more than 4% fat. The experimental findings were confirmed by a shipment of 600,000 pounds of cornmeal to the Philippines which was stored for six months. This report should be of considerable value for all those concerned with safe shipment and storage of dry cereal products, especially for overseas use in developing countries.

Available from: Superintendent of Documents; U.S. Government Printing Office; Washington, D.C. 20402 U.S.A. US$.40.

IMPROVING NUTRITION IN BRAZIL

This article will describe two efforts by the U.S. Agency for International Development (USAID) to improve nutrition in Brazil by means of applied food technology. It is based largely on information supplied by Marion Frazao of the USAID Mission in Brazil. It is hoped that the concepts presented can also be applied to other developing countries.

Cassava is a major carbohydrate crop of Brazil. It is estimated that some 30 million tons are harvested per annum. While cassava is a poor source of protein, it does offer some important advantages as a carbohydrate food source.

It grows well in very poor soil. It is relatively unattractive to insects and is toxic to rodents. The cassava roots may be stored in the ground for as long as two years. It can be processed for food use with simple primitive equipment. Thus it has long been a major food staple for Brazil.

As in all developing countries, people in Brazil are moving in large numbers to the urban areas. This has fostered increasing production and sale of cassava flour sold as a retail item in food stores. This trend has provided an opportunity for testing out the fortification of cassava flour with a protein supplement.

At first with the encouragement of USAID a soy protein isolate of high protein content was tried as the fortifying ingredient for cassava. However, serious problems developed. The fine granulation of the soy isolate caused it to sift out of the blend when the product was transported to market, thus leading to a consumer product of variable composition. The soy protein isolate also proved low in the essential amino acid methionine. Upon attempting to add synthetic methionine, an unacceptable odor and flavor resulted in the product.

For the above cited reasons as well as the prospect of lowering the cost, it was decided to try soy grits which are not a soy protein isolate but a lower cost soy product resulting from the removal of the oil from dehulled soybeans. It is ground to a coarser mesh than the soy flour of commerce. The soy grits used contain approximately 50% protein. A grind was selected that blends well with the cassava flour when added at a 10% level by weight. The net result is to elevate the protein content of the cassava flour to a total of 6.5–7.0%. At present the soy grits used for the market test are imported but plans have been formulated for in-country production.

Currently a consumer acceptance test of the fortified toasted cassava flour is being conducted by a large commercial company. The product is being offered for two months in a limited area with no change in pricing, packaging, or sales promotion. The object is to see whether the level of consumer acceptance of the regular product is changed. If consumer acceptance does not decrease or if it increased, the intention will be to fortify all the toasted cassava flour made by this company.

Another product that has received the attention and support of USAID in Brazil is a powdered reconstitutable soy milk product suitable as a weaning food for infants over six months of age. This commercial product is a blend of a specially processed soy milk combined with cows milk so as to provide a ratio of 23 grams of soy protein to 10 grams of dairy protein. Tests with infants at a pediatrics hospital have indicated the product is very satisfactory for infants over six months of age.

Milk production in many parts of Brazil is very limited. Eventually this type of product should help fill a major need as a satisfactory weaning food. At present the volume sold is limited and the product price is high but it is hoped that with increasing sales, the price can be lowered so that families of low income can buy this product.

HIGH CAROTENE-CONTAINING PLANT FOODS AND THE PREVENTION OF AVITAMINOSIS A

Dr. Derrick B. Jelliffe, with the assistance of UNICEF, is attempting to collect information on dark green leafy vegetables (DGLV), and the yellow and the orange fruits and vegetables (and red palm oil), with regard to their potential use in the prevention of vitamin A deficiency. Information is needed on the availability, nutritional composition, preparation, use, and cultural attitudes concerning these foods, as well as information on related dietary and nutritional aspects of vitamin A (and the carotenes), and any nutritional programs and studies concerned with eliminating vitamin A deficiency. Available reprints of articles, food composition tables, etc., references to published materials, as well as names of individuals or institutions knowledgeable in the field would be greatly appreciated. Correspondence should be addressed to: Walter P. Price, c/o Derrick B. Jelliffe, School of Public Health, University of California, Los Angeles, California 90024 USA.

PUBLICATIONS OF INTEREST

Tempeh—An Indonesian Fermented Soybean Food (Horticulture 394, April 1973) This publication by Iljas, Peng, and Gould provides an excellent review concerning this important protein food—a staple in the daily Indonesian diet. Some major topics are "Method of Preparation", "Changes in Chemical Composition", "Nutritive Value", "Preservation", "Acceptance and Potential Use". One hundred thirty-four literature references are provided. Tempeh is made by a mold fermentation applied to soybeans which requires only 24 hours. It has a relatively bland but very acceptable flavor, especially when quick fried in hot oil. It should have a fairly universal appeal as a nutritious protein food of good flavor.

Available from: Department of Horticulture; Ohio Agricultural Research and Development Center; Wooster, Ohio USA

Protein and Immune Capacity (Dairy Council Digest 1 (4), 5; 1973). This article reviews a study reported in the Lancet (2:675–677, 1972) which clearly indicates the value of a 25 gram daily supplement of protein from skim milk powder for improving antibody production in children. The control group of children (24) received the customary school diet which provided 8 to 10 grams of supplementary protein. These children showed no visible signs of malnutrition but gave all over antibody response than the 30 children who received the milk protein. This is indicative of the value of a good protein supplement in helping provide resistance to diseases of childhood.

Available from: National Dairy Council; 111 North Canal Street; Chicago, Illinois 60606 USA

Protein Quality and PER: Concepts important to future foods (Food Product Development 5 (4), 39, 42, 66; 1971). This article by Dr. Paul A. LaChance recognizes the growing interest by the consumer in the protein content and especially the protein quality of foods. It presents clearly the various methods for evaluating protein quality and their built-in limitations. In the present light of worldwide shortages and high prices for animal protein foods, the need for evaluating protein quality becomes of major consequence because increasingly plant-type protein foods will be needed to supplement the supply of animal protein foods. Their best use in food formulation will depend on a clear perception of protein quality.

Available from: Arlington Publishing Company; 2 North Riverside Plaza; Chicago, Illinois 60606 USA

Protein: Quality and Quantity Concepts in Foods (Presented at Nutrition Update Conference, November 1972) This paper by Dr. Daniel Rosenfield should be studied in conjunction with the one by Paul LaChance. It compares the results of protein quality assays using several customary assay methods. It then attempts to introduce the concept of "biologically utilizable protein" which emphasizes the quantitative impact of the protein quality of a food. The higher the protein quality, the greater the quantity which is effective or useful as a protein nutrient. A table is presented to show the "true" cost of utilizable protein from various food ingredients when applying the concept of "biologically utilize protein".

Available from: Institute of Food Technologists (Philadelphia Section); 221 North La Salle Street; Chicago, Illinois 60601 USA.

Food Guides—Where Do We Go From Here? (Nutrition Program News, Mar-April 1973) Written by Mary M. Hill, this excellent concise set of food guides with accompanying explanatory notes charts the way in modern terms toward sound nutrition. While it is primarily designed for the United States, the basic concepts will apply anywhere in the world and the many alternatives presented permit application in many countries.

Available from: U.S. Department of Agriculture; Washington, D.C. 20250 USA

Food Quality Assurance (CAJANUS 6 (1), 30–36; 1973) The above titled article by Dr. C. M. Sammy presents with remarkable clarity and insight the problems connected with food quality assurance in a developing country. Dr. Sammy makes clear that food quality in any country is the business of three groups: the manufacturers, the statutory regulating body, and the consumer. He points out that consumer attitudes make the most important contribution towards achieving quality assurance. He concludes that the consuming public will always get the quality of products it deserves because food manufacturers must be responsive to consumer demands. Thus an alert, informed, and motivated consumer is the key to food quality assurance.

Available from: Caribbean Food and Nutrition Institute; Box 140; Mona, Kingston 7, Jamaica

Can Farm Factories Help Fill Our Food Needs in the Year 2000? This challenging brochure describes pioneering food factory farms sealed in plastic and provided with total environmental control. One is located on Sadiyat Island in Abu Dhabi and the other in Puerto Penasco, Mexico. The five acre installation on barren Sadiyat Island supplies 15 varieties of fresh produce to make a major food contribution for 40,000 people. Apparently the cost of producing this produce is quite reasonable. A third installation in Arizona (10 acres) produces nearly 3.5 million pounds of tomatoes per annum—a year's supply for 750,000 Americans. The potential for feeding people in arid developing coun-

tries is a great one once the necessary capital investment has been made and the technology fully worked out. The food production attainable with total controlled environment has been demonstrated to be increased manyfold over that possible with outdoor farming.

Available from: Superior Farming Company; 1725 K Street, NW; Room 909; Washington, DC 20006 USA

XI. WORLD'S POULTRY CONGRESS AND EXPOSITION

This quadrennial international meeting will be held in New Orleans, Louisiana, USA, August 11–14, 1974. It was last held in the United States in 1939. The sponsors are looking forward to a large participation by poultry scientists from government, academia, and industry from around the world. They are particularly anxious to encourage participation from those developing nations who at this time do not have an efficient and well organized poultry industry. The theme is "Focus on Feeding Mankind" and it is hoped that through the presentation of the scientific papers and the exhibit of new technology and the communication between scientists at the Congress, there will be a movement in that direction. For any who want additional information, contact the Congress Secretariat at Courtesy Associates, 1629 K Street, NW; Washington, DC 20006 USA.

NATURAL GAS REGULATORY REFORM

Mr. HANSEN. Mr. President, the controversy of Federal regulation of the producer price of natural gas has been going on now for almost 20 years. Since the veto of the last bill to decontrol the price of gas for reasons that had nothing to do with the merits of the legislation, there has been no serious effort by Congress to unburden the Federal Power Commission of the burden imposed upon it by the U.S. Supreme Court in 1954—a burden it did not want and certainly had not contemplated under the Natural Gas Act.

So I commend the chairman of the Senate Commerce Committee and Senator STEVENSON, who is conducting the hearings, for examining the need for legislative reform of natural gas price regulation. At the hearings the distinguished Senator from Kentucky and member of the Commerce Committee made an opening statement that all Members of the Senate should read.

In my opinion the natural gas issue is the key to the quickest possible alleviation of our energy problems and the legislative proposals now before the Commerce Committee should have the highest possible priority.

As the able and knowledgeable Senator from Kentucky said in his statement:

> The tragedy here is that we have seen this problem coming for several years. We proposed legislation, held our hearings and came up with a dry hole.

This time, we had better come up with a producer and the best and quickest way to bring new gas supplies to the interstate market is to remove Federal Power Commission controls from natural gas at the wellhead and let the laws of supply and demand—the true marketplace—provide the incentives to bring those supplies to the market.

An adequate and dependable supply of natural gas is a factor equal in importance to price. The price of gas is irrelevant, if it is not available. I believe all of us should be just as concerned that the consumer has a dependable and adequate supply of gas as we are that he gets it at a fair price.

Personally, I would rather try to explain to a constituent why his gas will cost a few more dollars a year than why he cannot have gas in his new house or why he will be laid off when the plant where he is employed has to shut down during a cold spell.

The junior Senator from New York (Mr. BUCKLEY), who represents one of the larger consumer States, has put the gas supply problem in perspective in a most comprehensive statement he made during the hearings. The able Senator from New York has not been deluded by the so-called consumer advocates who would compound the natural gas and energy shortage by more of the same remedy that has almost killed the patient.

Mr. President, I ask unanimous consent that the statements of the distinguished Senators from Kentucky (Mr. COOK) and New York (Mr. BUCKLEY) before the Commerce Committee be printed in the RECORD.

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

STATEMENT BY SENATOR MARLOW W. COOK

Mr. President, this Nation needs natural gas.

It needs this natural gas now, and it needs it in volumes which are sufficiently large to meet the requirements of the people of this land to heat their homes, cook their food, operate their commercial establishments, and build their industry.

I would hope that throughout these hearings and our subsequent deliberations that we keep this one thought upper most in our minds. We need natural gas.

This shortage of natural gas is not a situation which may happen six months from now, but rather one which is happening today. If anyone in this audience does not believe that this shortage is real, I wish that he could have been in my office last week when 28 members of the community of Somerset, Kentucky, met with me to express their very real concern for the threatened loss of 3,000 jobs in their community which will materialize this fall if more natural gas is not made available now.

The tragedy here is that we have seen this problem coming for several years. We proposed legislation, held our hearings and came up with a dry hole.

When the Natural Gas Act was passed by Congress in 1936, it provided that the regulation imposed thereby would not relate to the production of natural gas for sale in interstate commerce. In 1954, in a five-to-four decision, the Supreme Court ruled otherwise, and since that time an effort has been made by the Federal Power Commission to regulate the wellhead price of natural gas. In spite of the continuing efforts of that Commission to regulate this wellhead price, the experiment has not been successful, and we have certainly had adquate time in nineteen years to see if such regulation would work.

When announcing my co-sponsorship in the 92nd Congress of S. 2467, the so-called sanctity of contract legislation, I questioned the logic of regulating and restricting the gas industry to a greater degree than we have other segments of the energy family. It did not seem reasonable to me then, nor does it seem reasonable to me now, to restrict natural gas from seeking its price in the marketplace in the same manner in which we permit oil or coal to seek their price levels.

Federal regulation of natural gas has resulted in maintaining the price of natural gas at an artificially low level. While the prices of other and less desirable fuels have increased with the price of other commodities, the price of gas has remained low: And, as a result, the demand skyrocketed and it has been used in the past and is being used today for many purposes that could have been satisfied with coal and other fuels. Likewise, the low price has discouraged the exploration for and development of new reserves since the cost of searching for such gas, particularly in offshore areas, has skyrocketed over the past many years.

History may well record that our own greatest contribution to our own energy crisis may have been our creation of this artificial price for natural gas.

If we can believe even our most pessimistic natural resource surveys, well hidden under the surface of our continent as well as our Outer Continental Shelf are significant volumes of potential energy. If this is true, and I believe sincerely that it is true, then it's fair to ask why we don't explore for and produce this valuable natural resource. If I could answer this question with one word that word would be incentive.

The growth and power of this Nation's economy is founded in free enterprise. My son Webb mows a neighbor's lawn because he gets a couple of bucks for it. He's spurred on to find another lawn by the promise of additional dollars. I don't think this enthusiasm would continue if he were prevented from charging his customers enough to make the mowing worth his while. Webb's situation is not unlike the one in which the natural gas industry finds itself today. I believe that we must increase the incentive to explore for and produce more gas.

Others argue that incentive is not the real answer. One thing for certain the issue is highly emotional. Nobody is neutral. Everyone has strong views.

There are those who seem to think the shortage is caused by the oil industry. Others place the whole blame on the Federal Power Commission The truth probably lies somewhere in between.

I also have some firm views. I know, for example, that before the Federal Power Commission began regulating wellhead prices, drilling activity was on the upswing, the industry was finding more gas than the Nation was consuming, and there were adequate supplies for anyone fortunate enough to be close to an interstate pipeline.

Since the Federal Power Commission began setting wellhead prices, drilling has been depressed, we have consumed more gas than we have found and many consumers—including some in my own State—are having their natural gas service cut back.

One point on which most seem to agree is that the natural gas shortage is very genuine, but it is probably more severe than most Americans realize. I am also convinced that many of our other fuel problems—including shortages of propane and heating oil—are directly related to the shortages of natural gas. When people have their natural gas service restricted—which is becoming increasingly prevalent—they turn to propane and then to heating oil, thus causing a domino effect right down the line.

We must come to grips with the natural gas problem. We face the spectre of increasing dependence on foreign supplies and gloomy prospects of fuel shortages at home. We see plans for foreign gas coming into the United States at $1.25/Mcf and more. Yet we seem to be unable to decide whether the well-head rate for natural gas produced right here in our own country should be $.24 or $26/Mcf.

The shame is that even as the nation is threatened to go cold—and I don't think that statement is a bit too strong—people are still trying to find someone to blame.

Regardless of who else must share the blame, much of it belongs right here in Congress. We have too long condoned a regulatory process which just does not work. It must be measured by the record it has made. That record indicates the consumer and the country have not been served adequately.

We must take decisive action to remedy the situation. The dosage must be strong, it must be the right kind, and it must be given quickly. In the case of our total energy problem we are at one minute before midnight.

Mr. Chairman, my operating philosophy is quite simple. When something doesn't work, you don't expand it or extend it. You change it. I think this is what we must do in the case of well-head prices.

That we must increase the well head price of natural gas is to me academic. By how much—and by what means remains a question.

Certainly there should be no argument concerning new gas. It is argued that so called old gas may not be entitled to these increases. I can understand this argument as exploration and production costs have already been provided for. However, it would seem to me that we must arrive at some solution which would permit an increase in old gas to provide the funds required to finance new exploration and new production. This seems to be the most logical way to generate sufficient cash flow to permit producer to provide the gas we need.

There are those who would characterize such action as being anti-consumer. As the ranking minority member of the consumer subcommittee of this committee, I have a particular responsibility to the consumer and I believe that price incentives would be in the consumer's interest. As we deny the consumer the product he needs we reduce his standard of living. As we curtail his industrial expansion we create economic loss. To me the reduction in living standards and the economic loss resultant from such curtailment is anti-consumer.

But it is important to weigh very carefully the impact that these increases will have on the consumer.

In August of this year the foster associates released a study concluding that if the field price of all natural gas *not* under contract immediately rose to 55 cents per thousand cubic feet, the average householder would pay only $8.30 more per year for his supply starting next January 1. This would be an increase of only 5.3 percent on an average yearly bill of $155.73. By 1980, the price increase would amount to $33.06 annually. (The average price of natural gas now sold in interstate commerce is about 21 cents per thousand cubic feet.)

The study shows that price increases to the householder would be gradual and minor for two reasons:

—Most of the gas now being sold is under fixed price contracts, generally for periods of twenty years.

—Only seventeen percent of the consumer"s bill consists of the field price of natural gas. The rest goes to pipe line companies and local distributors.

The study also lists the increases the conumer might expect if the field price went to other assumed levels, either higher or lower than 55 cent per thousand cubic feet.

I am concerned, Mr. Chairman, as you apparently are, as to what happens if well-head prices are deregulated in a time of shortage. I am also concerned that the increased revenues resulting from deregulation are directed back into domestic exploration and development. I plan to study these issues very carefully over the next several days.

But I am primarily concerned that we solve the natural gas shortage. And I think this can best be done by relying more heavily on the forces of the private market system, than by relying on the forces of the regulatory process.

These hearings are extremely important, and I hope as a result of them we can move forward with legislation to solve the gas shortage.

STATEMENT OF SENATOR JAMES L. BUCKLEY

I want to thank the Committee for allowing me a few minutes to discuss with you my views of these important natural gas matters. I represent an energy consuming state with a population of more than eighteen million. In area after area of New York State, natural gas pipeline companies are refusing to connect new homes. This past year, service has been interrupted to long-term industrial customers. Yet geologists tell us we have vast reserves of natural gas remaining to be discovered within the United States.

The focus of Congressional action, therefore, should be to determine why it is that we have shortages amidst this potential plenty. Once we have identified the causes, we can prescribe the proper remedies.

As a participant in the Senate's national fuels and energy study, it has been my privilege to attend a series of hearings and briefings which has served to sharpen my own understanding of the scope and long-term implications of what has come to be called our "energy crisis."

The facts now publicly available ought to speak for themselves. We are faced with a chronic and growing shortage of environmentally compatible domestic fuels which for the next 10 to 15 years will make us uncomfortably dependent on foreign sources in order to meet up to 25 percent and more of our projected energy needs by the year 1985.

It is not my purpose today to discuss the security and economic aspects of the energy crisis, although they are clear enough given the new outbreak of war in the Middle East. Rather, I wish to address myself to an examination of the interests of my constituents as consumers of energy. In recent years, New Yorkers have had more than their share of brownouts and shortages. It is clear that New Yorkers and all other American consumers of energy have an interest in the outcome of the hearings you have commenced today. Their concern is every bit as immediate and every bit as urgent as that of the energy-producing states, some of whose representation you have just heard.

One thing which I hope will emerge from these hearings is a better understanding of where the consumer's interest really lies; for it seems clear from the evidence to date that we are witnessing a classic example of the harm done to the ultimate interests of the consumer by an excessive zeal in attempting to protect him, through government intervention, from the workings of the marketplace.

Perhaps the most objective summary of the U.S. energy problem I have read was published in a recent issue of the very scholarly British Petroleum Press Service. From their vantage point 3,500 miles from our East Coast, this is what the authors had to say:

"Natural gas is in many ways the key to the U.S. energy problem, creating an imbalance because of the interchangeability of fuels in four of the major energy markets and the ease by which they could convert to gas. Its rapid growth over the last twenty years or so has been stimulated by artificially low prices, controlled by the Federal Power Commission on behalf of Congress. This might have been justified at a time when natural gas was virtually a by-product of oil exploration and production but hardly when demand had risen so high that gas was supplying about one-third of the total energy market, second only to oil. The result of low prices has been to discourage exploration for new reserves, which have shrunk to only twelve years' supply at current production rates . . ."

The article concludes that: "Because of apparently unlimited supplies of indigenous fuels, energy in the U.S.A. has always been cheap: indeed, a major factor in the nation's economic growth and prosperity. More recently however it is apparent that energy has been too cheap, leading to a certain degree of waste but more importantly to a lack of incentive in developing new resources to meet the very demand that low prices have created."

Clearly, an important contributor to our present energy crisis was the decision of the Federal Power Commission a decade or so ago to regulate the wellhead price of gas delivered to interstate pipelines. This interference with market forces resulted in a diversion of risk capital from exploration to other investment opportunities, and of newly discovered gas into intrastate uses. At the same time, it created a rapidly expanding market for gas which resulted in the displacement of a substantial part of the market for oil and coal. Oil and coal could not compete with the lower cost of regulated gas. On a B.t.u. basis gas has been selling for about one-half the price of oil, despite its superiority as a fuel. Thus the regulation of the wellhead of gas has not only resulted in the rapid depletion of existing reserves, it has diverted too much of our natural gas away from its best use, and has destroyed the incentive to develop new gas for delivery into interstate pipelines.

This contention is amply supported by the statistics. In 1971, for example, there were 437 exploratory wells completed as gas discoveries in the United States as against 822 such discoveries in 1956, the year the FPC first proposed to control wellhead prices for gas. In 1972, 9.4 trillion cubic feet of gas were added to our national reserves as against 24.7 trillion cubic feet of gas in 1956.

The experience in the Permian Basin after 1965, when the FPC first moved to impose area controls on gas producers, offers a classic example of how FPC policies have served to channel new gas into intrastate markets with a consequent loss to interstate markets. Mr. Chairman, I ask that the table of figures appearing at this point in my prepared statement be incorporated in the printed record of these hearings.

NEW GAS COMMITMENTS IN THE PERMIAN BASIN, 1966–70

Year	Percent committed to intrastate market	Percent committed to interstate market	Total commitments (billion cubic feet)
1966	16.3	83.7	178.0
1967	21.8	78.2	77.2
1968	87.2	12.8	156.1
1969	83.3	16.7	175.8
1970 (6 months)	90.9	9.1	113.4

Source: From FPC data.

What the figures in the table tell us is that while, in 1966, 83.7 percent of new Permian Basin gas was sold to interstate pipelines, by the end of the first 6 months of 1970 the proportion of new gas being committed to interstate as opposed to intrastate markets had been reversed. In the first six months of 1970, 90.9 percent of new Permian Basin gas was being sold to intrastate consumers while only 9.1 percent was connected to interstate pipelines. Interestingly enough, the most dramatic change in the pattern of gas commitment took place in

1968 following a Supreme Court decision affirming the FPC's Permian Basin area rate decision.

In plain English, what all these statistics add up to is that when gas producers compare their increasing costs of exploring for and producing new gas to the regulated price at which they are allowed by the FPC to sell it, they tend to conclude that the possible rewards simply do not justify the investment of risk funds to find new gas for commitment to the interstate market. One does not have to be a Ph. D. in economics to understand why, under existing policy, the domestic oil and gas industry has not been moving mountains for the privilege of providing East Coast consumers with a premium fuel at regulated prices.

Let us examine some of the realities of present and future supply which have resulted from Federal regulation.

Since the FPC began regulating the wellhead price of gas in a widespread basis, we have witnessed a rapid depletion of existing reserves from a 20-year supply in 1963 to less than an 11-year supply in 1971. Since 1968, our Nation has consumed approximately twice as much natural gas as it has discovered and added to present reserves.

According to testimony given at the energy study hearings last January by Chairman John N. Nassikas of the Federal Power Commission, the FPC's Bureau of Natural Gas has projected, on the basis of current rates of discovery: "An annual gas short fall of domestic supply to anticipated demand (that) will range from about 10 (trillion cubic feet) in 1980 to about 18 Tcf in 1990."

We can work to limit demand through intelligent energy conservation measures, but even the most optimistic must agree that we are left with a substantial deficit that will have to be met from five principal supplemental sources of gas. These are, first, pipeline imports—largely from Canada, including Alaskan gas transported by pipeline through Canada; second, liquefied natural gas imports; third, gas derived from coal; fourth, synthetic natural gas derived from liquid hydrocarbons; and fifth, natural gas discovered in the United States above and beyond the rates of discovery projected on the basis of current policy. According to Mr. Nassikas, the first three supplementary sources "could reduce the annual projected gas deficit to about 10 Tfc in 1980 and 18 Tcf by 1990." These deficits, it should be noted, amount to approximately 27 percent of the 1980 demand and 37 percent of the 1990 demand.

This brings us to the question as to which of these supplementary sources offers the consumer the best hope of meeting his projected needs at the lowest cost? Let us examine each in turn; but, first, by way of a bench mark, let us recall the current costs of regulated natural gas. In 1970, the average wellhead price of gas subject to FPC regulation was about 18 cents per Mcf, and it is in the vicinity of 24 cents now. The transported city gate price of that gas at New York City is an average of 60 cents. By the time the gas reaches the individual household, about another $1.20 for distribution costs, and so forth, will have been added. This brings the cost to the housewife to about $1.80 per Mcf.

First. Pipeline imports: the quantity of Canadian gas which will be available for importation into the United States is, of course, highly dependent on Canada's own energy policies and on the rate at which Canada's exportable reserves can be increased. These are not factors over which American policymakers have any direct control. With respect to Alaskan gas, even if huge reserves are discovered on the Arctic Slope, it will take years before a pipeline can be completed from the fields to the border between Canada and "the lower forty-eight"; and because of the enormous projected cost of such a pipeline—between $3 to $5 billion—it is estimated that the cost of delivering pipeline gas from the Alaskan Arctic to the U.S. border would range upwards from 90 cents to $1.40 per Mcf. Thus there is little reason to believe that we can improve on the FPC's admittedly optimistic estimate that by 1985, net pipeline imports could satisfy as much as 4.8 percent of projected demand; and to the extent that these imports consist of Alaskan gas, the price will be substantially higher than the currrent city gate price for U.S. pipeline gas in New York City.

Second. LNG imports: the cost of delivering Algerian LNG to the East Coast has been estimated at from 84 to 91 cents per Mcf. The estimated cost to produce and deliver a thousand cubic feet of gas under the proposals now being explored with the U.S.S.R. range from $1.25 to $1.50 or two to 2½ times the delivered price of domestic gas at New York City.

Third. Gas from coal: based on an application filed with the FPC, the estimated cost of a commercial project to produce gas from coal mined in the four corners region of New Mexico, is $1.21 per Mcf.—a "wellhead" price over twice the delivered price of natural gas at New York City.

Fourth. Synthetic natural gas produced from liquid hydrocarbons: based on applications filed with the FPC, the cost of synthetic gas is estimated to range from $1.10 to $1.80 per Mcf.—two to three times the delivered price of natural gas at New York City.

Fifth. Natural gas discovered in the United States above and beyond current rates of discovery; there is no doubt that the gas is there to be discoveerd. The U.S. Geological Survey estimates that 2,100 trillion cubic feet of natural gas, recoverable under present technology, remain to be discovered within the United States including the Outer Continental Shelves. This represents almost a hundred year supply at the 1971 rate of consumption. Estimates may vary as to how much of this potential may be available at costs comparable to those of alternative fuels, but it is safe to conclude that much domestic gas remains to be discovered if the industry is allowed the incentives to go out and find it.

The question to be asked, therefore, is what action is best designed to stimulate a resumption of large scale exploration for new gas for interstate markets, and what will be the probable effect of this action on the consumer? Only when we have the answers can we make a judgment as to which of the supplemental sources of gas offers the consumer the best prospect for meeting his future demands at a reasonable price.

Economists have concluded that if the wellhead price of new domestic gas is deregulated, domestic exploration and development will experience a substantial surge. The extent to which new gas supplies, free from continued price regulation, would be elastic to price is subject to debate as is any economic assessment of the future. I am nevertheless confident that supply would be responsive to price. This is supported by the experience of price. This position is supported by the experience of states, such as Oklahoma, in which a substantial market has been developed for locally produced gas that can be sold at unregulated prices. Oklahoma is experiencing an exploration boom, but only because any gas discovered can be sold within the state at prices more than twice the amount allowed by the FPC for interstate sales. I am also confident that so long as new gas remains regulated at the wellhead, as it is today, we may expect the supply-demand gap for interstate gas dealers to continue to expand.

For the reasons cited, I believe that our basic near- and intermediate-term efforts to provide gas for American consumers should be centered around stepped-up domestic production. It is the least costly of the alternatives.

These conclusions are supported by the testimony of any witnesses who have appeared at the S. Res. 45 Energy Study hearings. The conclusion is that potential U.S. gas reserves were sufficiently high to warrant stepped up production under economic conditions conducive to development. A growing host of academic economists, and the press also support this thesis. The Washington Post, Fortune, Barron's, the Wall Street Journal, bank studies and other analyses, not to mention the industry's own calculations, all points to the need to stimulate domestic gas production by freeing the wellhead prices of new gas.

Such a policy will serve an additional purpose, and that is to provide a disincentive to waste. It will favor residential and commercial over uses which may be less related to human needs. In other words, some industries now relying on low-cost natural gas will probably switch to other fuels, thereby conserving gas, once the price of natural gas raises to a level at which other fuels such as oil and coal can compete with it.

But even though gas prices would rise under such a policy of deregulation, they would not rise as quickly as they would under a policy which discouraged conventional natural gas production and encouraged the development of the more costly supplemental sources.

Further, even with the freeing-up of new gas at the wellhead, the burden on consumers would not constitute a shock effect. Residential and commercial consumers in particular would be paying perhaps as little as 5 percent a year more for their gas. This is because the higher priced new gas would be rolled-in with the cheaper old gas that consumers are now burning, and which would continue to be produced under existing long-term contracts.

Based on all the facts, Mr. Chairman, I think the conclusion is inescapable that the interests of the energy consuming citizens of this country will best be served by freeing newly discovered gas to find its own level. I believe the evidence compells the conclusion that the most effective single contribution the Congress can make toward relieving near-term energy shortages is to free natural gas sales at the wellhead from government controls.

The bill under consideration, S. 2506 appears to be a step backward in that the effect would be likely to inhibit the development of additional natural gas supplies rather than enhance them. Extending regulation to intrastate sales hardly could be described as helpful when the basic cause of the problem is regulation. Moreover, establishing differing criteria for deciding upon which firm's output is controlled and which are uncontrolled, can only duplicate the confusion we have witnessed in the differential controls over agriculture in the Economic Stabilization program.

We have paid a very high price for our overzealous attempt to protect the consumer against the operations of the marketplace. I hope we will learn from this experience the ancient lesson that the one sure way to create a shortage in a given commodity is to try to hold its price below the level which justifies its production. There are certain economic laws which even the U.S. Congress cannot legislate out of existence.

JAMES H. GAMBLE RETIRES

Mr. JACKSON. Mr. President, on June 30, Mr. James H. Gamble retired from the professional staff of the Senate Committee on Interior and Insular Affairs.

Mr. Gamble, the senior professional member of the staff, had served the committee since the beginning of the 84th Congress. Prior to his appointment to the committee in 1955, he had been legislative assistant to the Honorable Clinton P. Anderson, of New Mexico, during the 82d and 83d Congresses.

Jim's career on the Interior Committee staff is an example of the way the professional staff system was intended to work under the provisions of the Legislative Reorganization Act of 1946. He was appointed to the staff by the late James E. Murray, of Montana, then chairman, at the outset of the 84th Congress. Assigned to the Subcommittee on Indian Affairs, and later given the additional responsibility for the Subcommittee on Territories and Insular Affairs, he served under seven subcommittee chairmen. At all times Jim served members on both sides of the committee table with equal professional skill, willingness, and enthusiasm.

Mr. Gamble is not only well known for his work on the committee, but he has for many years been a member and officer of the Senate Staff Club, as well as an active pilot with the Congressional Flying Club.

Mr. President, at a recent executive session, the Committee on Interior and Insular Affairs adopted a resolution respecting Mr. Gamble's departure. I ask unanimous consent that the resolution and appended letter be printed in the RECORD.

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

RESOLUTION OF THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS, U.S. SENATE

Whereas, James H. Gamble did serve as a member of the professional staff of the Senate Committee on Interior and Insular Affairs for more than eighteen years, having been appointed by the late Senator James E. Murray of Montana, then Chairman, at the beginning of the 84th Congress in 1955; and

Whereas, Mr. Gamble did serve under three different full Committee Chairmen and seven Chairmen of the Indian Affairs and Territories and Insular Affairs Subcommittee; and

Whereas, Mr. Gamble's services, both professional and personal, were always equally available to all Senators on the Committee from either party and were rendered with skill, conscientiousness and enthusiasm, in the highest tradition of professionalism in conformance with the intent with the Legislative Reorganization Act of 1946;

Now, therefore, be it resolved, That the Members of the Senate Committee on Interior and Insular Affairs in executive session assembled do hereby concur in and adopt as its own the letter addressed to James H. Gamble by the Chairman, dated September 14, 1973, as the expression of the Committee's high regard for him. A copy of said letter is attached to and made a part of the resolution.

U.S. SENATE,
Washington, D.C., September 14, 1973.

Mr. JAMES H. GAMBLE,
3407 Barger Drive,
Falls Church, Va.

DEAR JIM: On behalf of all the Members and myself, I want to express our sincere appreciation to you for the more than eighteen years of dedicated public service which you rendered to this Committee, the United States Senate, and to the Nation.

All of us who have worked with you through the years and who are familiar with the operations of the Senate are cognizant of the significant role you played in initiating and shaping important legislation affecting the Indian Tribes and the Territorial areas.

The Committee wishes you every success in the years ahead.

With best personal wishes,

Sincerely yours,

HENRY M. JACKSON,
Chairman.

NATIONAL OPPORTUNITIES INDUSTRIALIZATION CENTERS DAY

Mr. ROTH. Mr. President, today has been set aside throughout the United States as National Opportunities Industrialization Centers Day—a day in which we should all pay special tribute to one of the most successful manpower training movements in our history.

The OIC was founded 9 years ago by a group of Philadelphia ministers, led by the Rev. Dr. Leon H. Sullivan. Since its humble beginnings in an old jailhouse in Philadelphia, it has expanded to more than 100 centers throughout the United States, and trained over 120,000 people. As the largest private, nonprofit minority manpower institution in the United States, the centers provide free skills, training, and placement to unemployed, underemployed and disadvantaged men and women.

The Delaware Opportunities Industrialization Center, under the able leadership of Mr. James M. Lightfoot, was selected as the No. 2 OIC in the Nation in 1972. They have been a powerful force in the State of Delaware and many business firms have expressed their gratitude for the contributions which OIC had made to manpower training in the State.

From an economic standpoint, the OIC's have saved taxpayers over $100 million in welfare payments, by providing an opportunity for the poor to earn their way out of poverty. From a humanitarian standpoint, I believe that this organization has been a powerful force in this country. The people who have participated in it have been able to move from the frustration of dependence to the dignity of self-reliance. It is my hope that this great movement, with its roots in the idea that "everybody can be somebody," will have a long and successful future.

THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, in August, 1969 the section of individual rights and responsibilities of the American Bar Association reconsidered the question of U.S. ratification of the Genocide Convention. They concluded that this treaty is a document of human liberty consistent with and in furtherance of the American tradition. They note that our present position is tantamount to saying, "We are against genocide, but we do not want to put it in writing." Thus, by not signing this convention, we only dissipate our influence and supply fuel for those who would like to characterize the United States as a hypocrite.

Former Chief Justice Earl Warren in an address before the National Conference on Continuing Action for Human Rights in 1968 has said:

We as a nation should have been the first to ratify the Genocide Convention. . . . Instead, we may well be near the last. . .

This sad record and the responsibility for it lie squarely with those who have a parochial outlook on world problems. They have failed to measure the element of change in the world. They have failed to recognize men and their institutions do not stand still in the face of great changes. We are not so uncertain of ourselves and our future that we cannot make our institutions conform to our needs as a progressive people.

Mr. President, it is my belief that we can make the necessary changes to meet new challenges. This has always been a hallmark of the American tradition. Today, it is necessary that this Chamber move quickly to ratify the Genocide Convention so that we may reassure the world community of our continued dedication to the principles of human rights. I urge my colleagues to join me in the effort to obtain ratification during the current Congress.

THE MIDEAST

Mr. MONDALE. Mr. President, newspaper reports indicate that the Soviet Union is presently transporting large tonnages of military aircraft and equipment to Egypt and Syria. These actions not only violate the third principle of the Basic Principles of Relations signed in Moscow in 1972, but they are likely to have the effect of expanding the scope and length of hostilities in the Middle East. These Soviet actions, in fact, represent one of the most grave and serious threats of major power confrontation that we have seen in the past 25 years. They have the further effect, needless to say, of seriously undermining the current détente between the Soviet Union and the United States.

I hope and pray that the administration has taken whatever steps are necessary to insure that Israel is promptly resupplied with any equipment she needs to defend herself against this mammoth replenishment of Arab forces by the Soviets. The United States must honor its long-standing commitment to the existence of Israel by insuring that it has the tools with which to repel this latest act of aggression. Israel must be able to count on American resupply in order to defend herself while sustaining substantial losses of aircraft to Soviet SAM-6 missiles deployed along the Suez in violation of the 1970 cease-fire.

I also urge that the United States give full diplomatic support in the U.N. and all other forums to arrive at at a genuine peace which not only recognizes the existence and independence of the State of Israel, but which also guarantees secure borders that do not reward aggression.

TIMBERING IN U.S. FORESTS WILL CUT RECREATIONAL USE

Mr. TAFT. Mr. President, recently there have been indications that the Forest Service still plans to shift its pri-

orities toward increased timber production and away from recreation and conservation-oriented activities.

As I have said repeatedly, it would be a mistake to compromise wilderness management programs significantly in the name of fulfilling high timber demands, which are now dropping. This would be particularly ill-advised in view of Americans' drastically increasing recreational needs.

While I realize that the Forest Service's budget is a severe constraint, adequate management and reforestation of Federal lands are not the kind of activities that can be cut back for awhile without severe consequences in terms of inadequate conservation. I am pleased to see that the Chief of the Forest Service realizes his programs are "out of balance" and I hope others in the legislative and executive branch will quickly come to that realization.

The present situation emphasizes the need for further congressional land management guidelines which make clear that reasonable efforts to preserve Federal lands for recreational use should not be sacrificed. The Agriculture Committee has such legislation before it; it is my hope that the commitee will act expeditiously.

I ask unanimous consent that an article published in the New York Times on August 17, 1973, entitled "Timbering in U.S. Forests Will Cut Recreational Use," be printed in the RECORD.

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

TIMBERING IN U.S. FORESTS WILL CUT RECREATIONAL USE

(By Andrew H. Malcolm)

BIG TIMBER, MONT., August 14.—Forest Service rangers across the country have begun implementing basic new policy directives from Washington that favor increased timber production over recreational uses on the 187 million acres of national forest lands.

The result, beginning within weeks, will be substantially reduced camping, picnicking, boating, swimming, skiing and hiking opportunities while more national forestland is opened for harvesting by timber interests.

"This is quite a traumatic experience for us," said one concerned ranger here in Montana's Gallatin National Forest "What you're talking about is putting up lots of gates on national lands financed by the people you're keeping out."

PRIORITY LISTING

The ranger, George T. Schaller, is one of four men on a special Gallatin Forest Committee now compiling a detailed priority listing of this forest's recreational facilities and those that may be closed.

The reason is primarily a lack of money. The Forest Service, which provides more outdoor recreational opportunities than any other Federal agency, had a budget last year of $561.8-million.

But, in line with President Nixon's economy measures, the services requested budget this fiscal year is $79-million—when recreational use of such lands increases about 5 per cent a year.

According to forest officials, that budget cut in itself would be enough to prompt extensive reductions in some of its recreational forest uses. Last year, the national forests reported 198.1 million visitor days (one person for 12 hours or any other combination for a 12-hour day).

MULTIPLE USES

By law, the Forest Service is required to manage the 155 national forests for sustained yield and balanced multiple uses—recreation, timber production, wildlife management and watershed control.

As part of this policy, each year the Forest Service offers so many billion board feet of timber for bidding by private lumber firms. (One board foot equals one square foot of wood one inch thick.) The nation has an estimated 2,000-billion board feet, half of it in national forests.

This year, the Forest Service proposed offering 10.8 billion board feet for sale, well under the 13.6 billion board feet it grows annually.

But on May 29, Earl L. Butz, Secretary of Agriculture, and John T. Dunlop, director of the Cost of Living Council, ordered that an additional one billion board feet be offered in an effort to hold down inflation and the cost of timber.

ADDITIONAL EXPENSES

Because the Forest Service must survey what additional timber may be cut, appraise it, take bids on it, build access roads to the trees and police the actual cutting and clean-up procedures, an additional $20-million will be spent.

John R. McGuire, chief of the Forest Service, says timber sales eventually bring the Federal Government $4 for every $1 spent on sales. But that money will not arrive until the wood is actually cut—in two to four years. So a supplement appropriation from Congress is one income possibility. And a reduction in other services, such as pest control and recreation, is another.

"The real issue is keeping our multiple-use forest program in balance," Mr. McGuire said in a telephone interview. "Currently, we are stressing timber production over all the others. We are out of balance now."

Mr. McGuire suggested in a directive that each National Forest scrutinize its recreational facilities and weed out those that are uneconomical, that receive limited use for the maintenance expenses required. One guideline suggests closing all picknicking, boating and swimming sites that cost $6 or more per visitor to maintain.

ENDANGERED CAMPGROUND

Another guideline suggests closing campgrounds where the maintenance cost is more than $3 per visitor a day. This places about 12 per cent, or more than 900, of the Forest Service's campgrounds in the endangered category.

But Mr. McGuire's directive left the actual impiementation up to the individual forest. So forest officials from the State of Washiington to New England have begun their cutback studies.

Here in the Gallatin National Forest, a sprawling 1.7-million-acre area in southwestern Montana, Lewis E. Hawkes, forest supervisor, formed a special committee to examine recreational facilities.

Committee members know that the timber production here for the fiscal year 1973 was 12.5 million board feet. The current year's planned sales are almost double—23.6 million board feet, primarily for posts, telephone poles, Christmas trees and logs for cabins.

LIST EXPECTED SOON

The committee's work is not easy. As Mr. Schaller put it, "How do you rate a campground against a picnic site?" Within a few weeks, however, the men will have ranked every facility, including tourist information centers, in numerical priority with varyng options.

These include complete closure, closing part of a little-used campground, halting all maintenance work in some facilities requiring campers to carry out all their trash and waste, letting nature's plants reclaim some hiking trails, closing other roads and reducing hunting access.

Even some campgrounds that are maintained may be opened later in the spring and closed earlier in the fall, beginning perhaps next month. Financing of any new recreational facilities is halted.

But looking ahead, Mr. Schaller anticipates extra costs even for closing facilities. These would include gates and signs.

"And don't forget," he added, "we'll have to answer all the irate phone calls and mail from Congressmen and campers."

THE MIDEAST

Mr. TUNNEY. Mr. President, there has been an ominous new development in the Middle East warfare. Israel has charged that the Soviet Union is carrying out an airlift of military equipment to Syria and Egypt. It is obvious that the fighting will not cease if the Arab States are continually resupplied by their Soviet sponsors. Israel cannot fight the Soviet Union along with the Arab States.

It is imperative at this juncture for the U.S. Government to take immediate steps to restore the military balance upset by any Russian shipments. Our commitment to the territorial integrity and survival of the Israeli nation must be upheld, and now is the critical time. I will support any administrative action to meet Israel's request for military hardware at this time. The administration has available authority to make sales of Phantom jets on credit terms, to ease the economic burden on Israel. If the administration needs more authority, I am certain the Congress will act quickly to grant it. In any case, the military credit sale authorization for fiscal year 1974 is still in House-Senate conference, and I am sure the Congress will adjust that figure before final passage to ensure that enough money will be available to sell needed aircraft and ammunition to Israel.

If the Soviets, far from seeking to end this tragic bloodshed, are encouraging more Arab States to enter the war, and are resupplying and supporting their aggression, they are flying in the face of improved relations with the United States.

THE RESIGNATION OF THE VICE PRESIDENT

Mr. MATHIAS. Mr. President, today, our first concern and our first task is the rebuilding of confidence in the Nation and in ourselves. I trust that every American will see his duty to examine his own conscience as together we elevate the standard of integrity in public service.

Spiro Agnew has bowed to the majesty of the law. New faith in the rule of law has been bred. The Nation has proved itself strong in the continuing crises of a disastrous decade.

We have all witnessed a tragedy that is both public and personal. The high drama should not leaven our compassion for the families and friends whose anguish must equal the remorse of the principals.

RETIREMENT OF BERNARD C. HARTUNG FROM SENATE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

Mr. JACKSON. Mr. President, on September 15, 1973, Mr. Bernard C. Hartung retired from the professional staff of the Senate Committee on Interior and Insular Affairs.

Mr. Hartung had served the committee since the 91st Congress, having been appointed to the staff in 1970. Assigned to the Subcommittee on Parks and Recreation, he served under the direction of Senator ALAN BIBLE, chairman of that subcommittee. At all times Bernie served members on both sides of the committee table with equal professional skill, willingness, and enthusiasm.

Mr. President, at a recent executive session, the Committee on Interior and Insular Affairs adopted a resolution respecting Mr. Hartung's departure. I ask unanimous consent that the resolution and appended letter be printed in the RECORD.

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

RESOLUTION OF THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS, U.S. SENATE

Whereas, Bernard C. Hartung did serve as a member of the professional staff of the Senate Committee on Interior and Insular Affairs for more than three years, having been appointed by Senator Henry M. Jackson, of Washington, Chairman at the beginning of the first session of the 91st Congress in 1970; and

Whereas, Mr. Hartung did serve under the direction of Senator Alan Bible, Chairman of the Subcommittee on Parks and Recreation; and

Whereas, Mr. Hartung's services, both professional and personal, were always equally available to all Senators on the Committee from either party and were rendered with skill, conscientiousness and enthusiasm, in the highest tradition of professionalism in conformance with the intent of the Legislative Reorganization Act of 1946;

Now, therefore, be it resolved, That the Members of the Senate Committee on Interior and Insular Affairs in executive session assembled do hereby concur in and adopt as its own the letter addressed to Bernard C. Hartung by the Chairman, dated September 14, 1973, as the expression of the Committee's high regard for him. A copy of said letter is attached to and made a part of the Resolution.

U.S. SENATE,
Washington, D.C., September 14, 1973.

Mr. BERNARD C. HARTUNG,
Auburn, Calif.

DEAR BERNIE: On behalf of all the Members and myself, I want to express our sincere appreciation to you for the years of dedicated public service which you rendered to this Committee, the United States Senate, and to the Nation.

All of us who have worked with you through the years and who are familiar with the operations of the Senate are cognizant of the significant role you played in initiating and shaping important legislation affecting our National Park System.

The Committee wishes you every success in the years ahead.

With best personal wishes,

Sincerely yours,

HENRY M. JACKSON,
Chairman.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

NONCONSERVING CROP FAILURES

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 2491, which the clerk will report.

The assistant legislative clerk read as follows:

Calendar Order No. 395, a bill (S. 2491) to repeal the provisions of the Agricultural 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.

The Senate proceeded to consider the bill.

THIRTY-MINUTE RECESS

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess for 30 minutes.

The motion was agreed to; and at 12:40 p.m. the Senate took a recess for 30 minutes.

The Senate reassembled at 1:10 p.m., when called to order by the Presiding Officer (Mr. HUGHES).

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

REPORT ON COMMUNICABLE DISEASE CONTROL ACTIVITIES—MESSAGE FROM THE PRESIDENT

The PRESIDENT pro tempore laid before the Senate a message from the President of the United States, which, with the accompanying report, was referred to the Committee on Labor and Public Welfare. The message is as follows:

To the Congress of the United States:

The enclosed report on communicable disease control activities, sent to me by the Secretary of Health, Education, and Welfare, is forwarded as required under Public Law 92–449.

RICHARD NIXON.

THE WHITE HOUSE, *October 11, 1973.*

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. HUGHES) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on Foreign Relations.

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

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, on the pending measure, there be a time limitation of 30 minutes, to be equally divided between the Senator from Vermont (Mr. AIKEN) and the Senator from Georgia (Mr. TALMADGE); that there be a time limitation on any amendment thereto, debatable motion, or appeal in relation thereto of 30 minutes, to be equally divided in accordance with the usual form, and that the agreement be in the usual form.

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

What is the pleasure of the Senate?

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the previous order providing for consideration of the conference report on appropriations for Treasury and Post Office at this time be vacated.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the distinguished Senator from West Virginia (Mr. RANDOLPH), my senior colleague, be allowed to proceed on another matter on the calendar, which has been cleared for consideration.

Mr. GRIFFIN. Mr. President, if the Senator will yield, I am told by the staff that Senator JAVITS and Senator BUCKLEY are on the way to the Chamber and that they would like to be here before debate is concluded.

Mr. RANDOLPH. They both promised they would be here by 1:30 p.m.

Mr. GRIFFIN. I understand they are on the way.

Mr. RANDOLPH. We have a committee meeting at 1:30 at which I must preside and I wish to make a brief statement on this bill.

Mr. GRIFFIN. Then, before final passage we could wait for them.

Mr. RANDOLPH. That is understandable, I say to the distinguished Senator.

The PRESIDING OFFICER. Will the majority whip again state his unanimous-consent request. The Chair could not hear.

REIMBURSEMENT FOR SEWAGE TREATMENT FACILITIES CONSTRUCTION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration at this time of calendar No. 435, Senate Joint Resolution 158, and that there be a time limitation thereon of not to exceed 15 minutes, to be equally divided between Mr. RANDOLPH and Mr. BUCKLEY.

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

The joint resolution will be stated.

The legislative clerk read as follows:

"A joint resolution (S.J. Res. 158) to set aside regulations of the Environmental Protection Agency under section 206 of the Federal Water Pollution Control Act, as amended."

The Senate proceeded to consider the joint resolution which had been reported from the Committee on Public Works with an amendment to strike out the preamble and all after the resolving clause and insert:

SECTION 1. Notwithstanding the requirements of subsection (c) of secton 206 of the Federal Water Pollution Control Act, as amended (Public Law 92-500, 86 Stat. 838), applications for assistance under section 206 may be filed with the Administration of the Environmental Protection Agency until December 31, 1973.

SEC. 2. Subsection (e) of section 206 of the Federal Water Pollution Control Act, as amended (Public Law 92-500, 86 Stat. 838), is amended by striking "$2,000,000,000" and inserting in lieu thereof "$2,600,000,000".

SEC. 3. Funds available for reimbursement under Public Law 92-399 (August 22, 1972) shall be allocated in accordance with subsection (d) of section 206 of the Federal Water Pollution Control Act, as amended (Public Law 92-500, 86 Stat. 838), pro rata among all projects eligible under subsection (a) of section 206 of the Federal Water Pollution Control Act for which applications have been submitted and approved by the Administrator pursuant to such Act. Notwithstanding the provisions of subsection (d) of such section 206, (1) the Administrator is authorized to make interim payments to each such project for which an application has been approved on the basis of estimates of maximum pro rata entitlement of all applicants under section 206(a); and (2) for purposes of determining allocation of sums available under Public Law 92-399, the unpaid balance of reimbursement due such projects shall be computed as of December 31, 1973. Upon completion by the Administrator of his audit and approval of all projects for which an application has been filed under subsection (a) of section 206, the Administrator shall within the limits of appropriated funds, allocate to each such qualified project the amount remaining, if any, of its total entitlement. Amounts allocated to projects which are later determined to be in excess of entitlement shall be available for reallocation, until expended, to other qualified projects under subsection (a) of section 206. In no event, however, shall any payments exceed the Federal share of the cost of construction incurred to the date of the voucher covering such payment plus the Federal share of the value of the materials which have been stockpiled in the vicinity of such construction in conformity to plans and specifications for the project.

Mr. RANDOLPH. Mr. President, on September 26 I introduced Senate Joint Resolution 158 in response to actions proposed by the Environmental Protection Agency which were not in compliance with the law, with the clear intent of Congress, as reflected in the earlier action of the Committee on Public Works and the Senate itself in the passage of Public Law 92-500.

This resolution is being considered today in a substantially amended form because of the cooperative attitude of the Environmental Protection Agency's Administrator, Russell E. Train, and his colleagues. There are 42 cosponsors who are joining with me on this resolution. We have given the matter very careful consideration within the Committee on Public Works prior to amending Senate Joint Resolution 158. The agency has been very cooperative and worked with us, as I have indicated.

On Tuesday of this week I was informed by Mr. Train that the Environmental Protection Agency would promulgate new regulations for the distribution of sewage treatment facility reimbursements authorized by section 206 of the Federal Water Pollution Control Act.

These new regulations will supersede those previously published by the Agency and which resulted in the introduction of Senate Joint Resolution 158.

While the issuance of new regulations by the Environmental Protection Agency obviates the original purpose of Senate Joint Resolution 158, some modifications in the reimbursement program are desirable. These are contained in the resolution as amended and as reported without objection from the committee. In fact, there was very complete cooperation.

The resolution, as reported, contains three provisions. Section 1 extends the deadline for filing applications for reimbursement from October 18 to December 31. This is necessary to give States and communities time to resolve uncertainties about which projects are eligible for reimbursement. The possibility the new regulations would be promulgated also has compounded the difficulty many communities face in meeting the October 18 deadline.

Section 2 of the resolution increases funds authorized for the reimbursement program from $2,000,000,000 to $2,600,000,000. The additional authorization would meet the needs of the program and is based on a revised estimate of the number of projects eligible for reimbursement. The higher authorization also assures the States which would have received the bulk of presently available funds that they will, in time, receive the entire amount of their eligible reimbursement.

The final section of the amended resolution authorizes partial payments to be made to eligible recipients pending final processing of all applications by the Environmental Protection Agency.

Mr. President, the reimbursement program is an important part of the Federal Water Pollution Control Act. It was included in this legislation because the Congress recognized an obligation to those communities which built sewage treatment plants between 1966 and 1972 with little or no Federal assistance.

That was the situation, I say to my colleague from the State of New York. Senator BUCKLEY, of course, has expressed his feeling about the equity for a State such as he represents in the Senate, and we recognize that in the amended resolution which is before us.

It is essential that every such community receive its fair share of funds appropriated for the reimbursement program. This would not have taken place under the priority system first proposed by the Environmental Protection Agency. Equitable distribution, however, will be made under the new Agency regulations and these are compatible with the law.

Mr. President, section 206 of the 1972 act also authorizes reimbursement of a 30-percent Federal share for projects constructed between 1956 and 1966. These projects were the pioneers of water pollution abatement, and equity requires that Federal funds also be provided for them, relieving those communities of the heavy financial burden they took upon themselves in advance of any Federal requirement. I want to indicate the continuing interest of the Committee on Public Works in securing funds for reimbursing communities for projects constructed from 1956 to 1966.

Mr. President, I think we have not so much compromised, but have worked together to resolve the problem of a few States and also to bring equity to all States. I trust there will be prompt approval of the pending resolution.

Mr. BUCKLEY was recognized.

The PRESIDING OFFICER. The Senator from New York has the remaining time.

Mr. BUCKLEY. Mr. President, I rise in support of the joint resolution. I wish to thank the chairman of the Committee on Public Works, the Senator from West Virginia (Mr. RANDOLPH) for the enormous spirit of cooperation he demonstrated in ironing out some differences in points of view.

Under all the circumstances, the resolution as it has been amended and presented today should meet the requirements of all concerned.

I would like to say that there was an area of ambiguity which I believe resulted in the original regulations issued by EPA.

This resulted from the fact that the appropriations for reimbursements amounting to $1.9 billion were approved prior to the time that the Federal Water Pollution Control Act Amendments for 1972 became enacted, and in the language in the report accompanying the appropriation, it had been specifically earmarked for reimbursement of those projects where the States and localities had spent money in anticipation of Federal reimbursement.

A more careful study of the law, of the necessary effect of the later statute on the appropriation language, I think convinced everyone in EPA—certainly convinced me—that this original interpretation was in fact erroneous; that the later law overrode, as it were, the original appropriation.

I think, faced with that situation, we did have a real gap that needed to be filled, and this has been done in the resolution by increasing the authorization for appropriations so that over a period of years everyone now entitled by law to reimbursement will in fact be reimbursed when the additional appropriations are approved.

I also want to stress the fact that this resolution makes explicit, as the chairman of the committee has stated, the ability of the EPA to begin making payments as projects are in fact approved,

so that communities which have waited years now need not wait much longer.

Mr. JAVITS. Mr. President——

The PRESIDING OFFICER. Who yields time?

Mr. RANDOLPH. Mr. President, may I inquire of the Chair who has time?

The PRESIDING OFFICER. The junior Senator from New York has the remaining 5 minutes of time.

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

Mr. BUCKLEY. Mr. President, I yield to my senior colleague.

Mr. JAVITS. Mr. President, first, I would like to express the thanks of my State, joining my colleague (Mr. BUCKLEY), to the Senator from West Virginia (Mr. RANDOLPH) and to my colleague (Mr. BUCKLEY). I have had the privilege of working with the Senator from West Virginia in other connections. I express my thanks to them for having worked this out in a way that is acceptable to my colleague (Mr. BUCKLEY), and therefore I am confident it will be acceptable to our State and to Governor Rockefeller.

Also, I value greatly the redemption of the "good faith promise"—I use those words in quotes—of the United States that if States are activist enough to help themselves, they will not suffer from that fact. We had a bad lesson, which we took a long time getting over in New York, when we financed the great road system called the Thruway, and then found it extremely difficult to get reimbursement, which other States had obtained.

In this particular case the shoe was on the other foot. Our State could have gotten reimbursement, but it would have, in the judgment of the committee, taken an excess amount of funds that were available. Now the State of New York is able to handle its financing so that if it has a feeling the payments will be forthcoming, it is manageable.

I am very appreciative of the assurances given both as to the authorizations being adequate for the purpose and the allocations being fairly made, so that States which have had the foresight will not suffer because of their foresight. This is especially true in this matter, which does not relate to roads which have a fixed locale, though they be used in interstate travel, but relates to the heritage and ecology of our national heritage in terms of water supplies which are available to the whole country.

I am in a lot of things here, but one cannot be in everything in a State as great as my own, so I rise to express my appreciation for the fine service to our State rendered by my colleague (Mr. BUCKLEY) and for the fine service to the Nation, because we want to encourage States to do what New York has done, which is evidenced in the statesmanlike approach to this matter by the Senator from West Virginia (Mr. RANDOLPH) as chairman of the committee.

Mr. RANDOLPH. Mr. President, is there sufficient time for me to ask a question?

The PRESIDING OFFICER. The Senator from New York has 2 minutes remaining.

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

Mr. BUCKLEY. Mr. President, I yield 1½ minutes to the Senator from West Virginia.

Mr. RANDOLPH. Mr. President, the senior Senator from New York mentions that he is not able to be everywhere, working on every subject. I know of no Member of this body more diligent and, frankly, more skillful in the legislative process than he is in the way he addresses himself to that process in this body. We find that in the Labor and Public Welfare Committee and in other efforts in which we have mutual interests.

I think the able Senator from New York (Mr. BUCKLEY) and the diligent Senator who has just been speaking (Mr. JAVITS) know that we did not try, in reference to the resolution that I introduced, to go by the back door. We wanted to confer on these matters. We talked with the Governor of the State of New York, and we worked closely with the Senator from New York (Mr. BUCKLEY). We have had the cooperation of Russell Train, of the EPA, and the agency realizes that it, frankly, had misjudged.

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

Mr. JAVITS. Mr. President, I ask unanimous consent that the time may be extended for 2 minutes.

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

Mr. RANDOLPH. Mr. President, we did not give preference per se to States that, because of certain situations, could not proceed as quickly as a State like New York. While not seeking to do that, we were trying to balance the program so that such funds could be distributed throughout the United States in the areas needed.

I join again the Senators from New York in commending the governmental structure within their State for its initiative and for its continued good faith in workng with us.

Mr. JAVITS. I thank my colleague.

Mr. BUCKLEY. Mr. President, I just want to echo the remarks made by the Senator and express my appreciation for the enormous cooperation and good will we found in the committee, especially on the part of the chairman.

Mr. President, two members of the committee, the Senator from Tennessee (Mr. BAKER) and the Senator from Idaho (Mr. MCCLURE) were unable to be on the floor at this time, but they asked that their two statements be introduced into the RECORD, and I ask unanimous consent that they be published as part of this discussion.

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

STATEMENT BY SENATOR BAKER

Mr. President, I support passage of S.J. Res. 158. This is an important proposal, one that will assure equitable treatment to all communities in the distribution of reimbursement funds under Section 206 of the Federal Water Pollution Control Act Amendments of 1972 (P.L. 92–500).

That section authorized the Federal government to pay retroactively 50 percent of the costs on all publicly owned sewage treatment works on which construction was initiated between June 30, 1966, and July 1, 1972. It was the intent of that Act to provide a 50 percent Federal share to all projects, whether or not the project had received any Federal financial assistance or was eligible for a Federal incentive grant at the time construction was initiated. In cases where metropolitan area planning was involved, the share of reimbursement was set at 55 percent. It was the view of the Congress that fairness dictated such reimbursements to communities which had invested heavily of their own funds in the cause of environmental enhancement, or which had committed themselves to expensive projects in anticipation of the future availability of Federal funds before fiscal year 1973. These communities should not be penalized, the Congress said in P.L. 92–500, in comparison to communities now eligible for 75 percent Federal grants for sewage treatment facilities. The law further authorized $2 billion for these 1966–1972 reimbursements.

To assure equitable treatment for all, subsection (d) of Section 206 provided that if available appropriated funds in any year did not match the total call for reimbursements due to all projects, then each qualified project would share all of the available funds on a pro rata basis.

Public Law 92–399 appropriated $1.9 billion for sewage treatment grants during fiscal year 1973. When the Federal Water Pollution Control Act Amendments of 1972 subsequently became law, the authority for new construction of sewage treatment plants was provided on a basis of contract authority. Therefore, the $1.9 billion was made available for section 206 reimbursement since there was no authority for direct grants for new construction.

On June 26 of this year, the Environmental Protection Agency published proposed regulations that had the effect of allocating the appropriated funds to projects through a priority arrangement envisioned by the Agency. These regulations were promulgated in final form on Sept. 26, 1973.

According to figures developed by the Committee on Public Works and EPA, these regulations apparently would not have provided any funds out of the $1.9 billion to projects in 24 States. Projects in another 19 States would apparently have received substantially less than the nearly 80 percent of their total eligible reimbursement which would have been provided by a pro rata distribution.

Subsequent to the introduction of S. J. Res. 158, the Environmental Protection Agency rescinded its regulations. EPA is now proposing new regulations. These regulations appear to conform with the pro-rata approach of section 206 of the Federal Water Pollution Control Act.

Therefore, this resolution has been amended to assure that the reimbursement procedures implement the intent of Congress with regard to equity among all projects eligible for reimbursement.

In May of this year, the Environmental Protection Agency estimated that projects costing $2,461,100,000 were eligible for reimbursement. Since that time the estimate has been refined and now stands at approximately $2.6 billion. The existing authorization of $2 billion was, therefore, inadequate to fulfill the purposes of section 206. This resolution would authorize an additional $600 million so that full reimbursement can be provided.

I should note that this increased authorization is not intended to provide an immediate call on the Federal Treasury. A complete review and determination on all applications will take time. Thus full payment on all approved claims cannot be made for some time. The resolution provides for preliminary, partial payments of funds to projects which can be easily approved on the basis of available documentation pend-

ing final processing of all projects. Thus, I do not anticipate that the additional $600 million needs to be appropriated until sometime following Fiscal Year 1976.

In closing, Mr. President, I wish to express my support for this resolution and urge its passage by the Senate.

STATEMENT BY SENATOR MCCLURE

Mr. President, I urge passage of S.J. Res. 158. Adoption of this resolution is necessary to redress a potential inequity in the distribution of reimbursement funds under Section 206 of the Federal Water Pollution Control Act.

Regulations proposed by the Environmental Protection Agency, but subsequently withdrawn, would have created a priority system for reimbursing communities for part of their investment in waste treatment facilities that were initiated during the 1966–1972 period.

Such a priority system is clearly contrary to the intent of Section 206. For example, a priority system would have prevented any payment out of $1.9 billion appropriated for reimbursement to 24 States, including Idaho.

S.J. Res. 158 would assure that the Environmental Protection Agency distributes reimbursement funds on a pro rata basis among all eligible projects. As one example, such a pro rata distribution would provide an estimated $1.1 million, out of sums already appropriated, to projects in Idaho.

Mr. President, this resolution will assure a fair and equitable distribution of funds under Section 206 of the Water Pollution law to all States, penalizing no one. I urge the Senate to approve this resolution.

It would be impossible to conclude my statement without reference to a very welcome event. Immediately after this resolution was presented to the Senate, Russell Train, the new Administrator of the Environmental Protection Agency, said he was taking another look at the proposed regulations and wanted the opportunity to discuss the problem with the Committee. He and John Quarles, the Deputy Administrator, did meet with us and candidly stated their conclusions that the proposed regulations were wrong, had been withdrawn, and new ones would be proposed. To those of us who have known Russ Train, this open and quick response was not surprising. It is, nevertheless, a refreshing experience and justifies our personal faith in supporting his nomination.

Mr. WILLIAM L. SCOTT. Mr. President, will the Senator yield?

Mr. BUCKLEY. I yield.

Mr. WILLIAM L. SCOTT. Mr. President, I would like to add my commendation to the Senator for reporting the bill.

Mr. President, I want to thank the Senator from New York (Mr. BUCKLEY), for yielding.

I strongly support Senate Joint Resolution 158, which will extend the time for States to apply for reimbursement of 50 percent of the moneys they have directed to be spent on sewage treatment projects initiated between 1966 and 1972.

Under the proposal, my State of Virginia will receive approximately $16 million in such reimbursements from funds already appropriated. This is $13 million more than Virginia would have received under earlier EPA regulations.

This money will go toward the construction of sewage-disposal plants and other facilities which will help solve the water-pollution problem.

This measure rewards those communities which took it upon themselves to clean up the water and make their cities a better place in which to live.

I would like to commend Senator RANDOLPH, the chairman of the Public Works Committee, and Senator BUCKLEY for the keen interest they have shown in this legislation.

Mr. MAGNUSON. Mr. President, I shall not object to adoption of Senate Joint Resolution 158 which undertakes to straighten out a grievous misinterpretation of the Water Pollution Control Act of 1972 that the Environmental Protection Agency attempted to promulgate. The distinguished chairman of the Senate Public Works Committee, together with some of his colleagues from that committee, has performed a highly useful service to the people of the United States and particularly to those States which have been totally or virtually frozen out of the $1.9 billion for reimbursement for waste treatment projects constructed during the period 1966–72 without those municipalities receiving the full Federal percentage assured by law; in fact, I am an original cosponsor of Senate Joint Resolution 158.

The State of Washington will now be eligible to receive about $21 million as a result of the action taken by the Senate Public Works Committee and this is eminently fair and equitable.

As constructive and useful as Senate Joint Resolution 158 is to the reimbursement concept for the period 1966–72, it does not deal with an equally significant reimbursement problem, namely, the reimbursement to those cities which during the period 1956–66 did not receive the full Federal funding intended by Congress through no fault of those cities. Inadequate appropriations and unreasonable limits on the grants for each particular project discriminated against the Nation's big cities and those in the 1972 Water Pollution Act overwhelmingly passed by each House of the Congress and repassed over the President's veto by lopsided margins. The Congress acknowledged its obligation to those cities that moved out early to clean up their own rivers and streams relying on the assumption that the Federal Government's contribution would assist them. The Congress authorized $750 million for reimbursement for these projects but the administration did not request a single dollar for those projects in its EPA budget for fiscal year 1974. The Senate adopted a provision earmarking $200 million of the $1.9 billion for reimbursement to be used for projects constructed during the period 1956–66. Unfortunately, in the conference between the Senate and the House on the Ag-EPA appropriations bill, the House refused to go along with the Senate provision and thus it was lost.

Mr. President, I think this was a travesty. The Congress overwhelmingly acknowledged its obligation to those cities and we have the burden to make funds available to translate that obligation into much needed financial assistance for those cities that have responded to the Federal Government's urging that they get on with the job of cleaning up our rivers. Although I shall not propose an amendment to Senate Joint Resolution 158, I wish to make it clear that it is my intention to continue to press at every appropriate occasion that the Congress meet its responsibilities and appropriate funds to redeem this commitment to the Nation's cities. I shall make every effort to add such funds to the first supplemental appropriations bill to be considered by the Senate and I hope at that time to have the support of the Senate as we have had in the past in this undertaking. I hope, too, that the House will agree with us that the Federal Government's commitment should not be made lightly and it should be willing to make available funds to assist those cities which have used their own bonding authority and went out on the limb to achieve a national objective. In this period where the credibility of the Government is under question, there is a special burden on Congress, in my view, to honor those obligations and to merit the confidence of cities which are constantly asked and urged to undertake programs deemed to be in the national interest.

May I say, Mr. President, that the Senate Public Works Committee has been most helpful in this entire effort and I know that we can count on the continued interest and support of the chairman and other members of that committee.

Mr. GURNEY. Mr. President, I rise in support of Senate Joint Resolution 158 introduced by the distinguished chairman of the Public Works Committee (Mr. RANDOLPH).

As we all know, the Environmental Protection Agency was directed by section 206 of the Federal Water Pollution Control Act—Public Law 92–500, to promulgate regulations which would provide for the reimbursement of 50 percent of project costs for all public-owned sewage treatment facilities on which construction was initiated between June 30, 1966, and July 1, 1972.

However, Mr. President, the Environmental Protection Agency has published regulations which in effect illegally allocate the appropriated funds into only one class of quality projects. These regulations are, indeed, in direct contrast to Public Law 92–500 and has created a situation in which some 19 States would receive substantially less than their fair share of Federal reimbursement funds, with 24 States receiving no funds at all. This, Mr. President, cannot be tolerated.

We here in the Senate worked long and hard on creating a law which would assist States in actively carrying out their role in cleaning up our Nation's waters. As written, Public Law 92–500 recognized the primary rights and responsibilities of the States to prevent, reduce, and eliminate water pollution. However, Congress also realized that no matter how serious a State was in meeting these national goals, it would be virtually impossible for them to do so without Federal financial assistance.

Mr. President, my home State of Florida has made a tremendous effort under Public Law 92–500 toward meeting these goals. However, under the proposed Environmental Protection Agency distribution, Florida would only receive one-fifth of the funds for which she is eligible under this act, thus, losing some $43.3 million for Federal reimbursement projects.

I cannot believe that the Congress of the United States had this type of distribution in mind when they passed this law.

Mr. President, on October 3, I introduced a bill, S. 2531, which would amend section 206(f)(1) of the Federal Water Pollution Control Act Amendments of 1972 to allow communities to begin immediate construction of waste water treatment facilities with local funds. This bill would assure these communities that they would be eligible for future Federal reimbursement. This legislation states quite clearly that it would not insure a future commitment of the Federal Government to provide funds for reimbursement but would merely insure that eligibility for reimbursement was extended to such projects.

This legislation was the product of the fact that some 20 or so State legislatures urged an immediate step up in their programs to meet the Nation's goals of cleaning up their water. I cannot truthfully say to my State of Florida, or to any other State, that this legislation will do one bit of good unless we here in Congress make sure that the funds which were promised in Public Law 92–500 for existing eligible projects are distributed fairly.

As a cosponsor of Senate Joint Resolution 158, I would hope that the Senate would reaffirm its commitment to Public Law 92–500 and direct the Environmental Protection Agency to promulgate a new distribution formula.

Mr. DOLE. Mr. President, I wish to indicate my support for Senate Joint Resolution 158. As a cosponsor of the measure, I feel it is an appropriate and necessary response to a most unwise and poorly-advised policy of the Environmental Protection Agency.

The resolution seeks to require EPA to reissue regulations relating to reimbursement for 50 percent of the public costs for sewage treatment works projects constructed between 1966 and 1972. The intent behind the provision for this reimbursement in the Water Pollution Control Act of 1972 was clearly to provide equal reimbursement for all such projects. However, EPA has proposed regulations which not only violate this principle of equal treatment, but they harshly discriminate against 43 States. Under these proposals 19 States would receive less than their fair allocation of reimbursement funds, and 24—including the State of Kansas—would be entirely cut off from receiving any funds.

This is not simply a dispute over minor differences between Congress and an administrative agency in the interpretation of a statute. It is a case of clear departure from that statute by the agency, and I believe it is essential that Congress assert itself and see to it that the law's intent is followed.

As a member of the Public Works Committee at the time this law was written, I certainly feel that there was no doubt of intending that reimbursement be made on an equal basis. Kansas had a strong water pollution control program in the period before the Federal program was enacted, and I certainly intended that my State should benefit from this reimbursement program. This year Kansas should receive $8 million in reimbursement funds, but under the proposed regulations it would receive none. And neither would 23 other States.

Such a situation is ridiculous on its face, and I find it difficult to grasp EPA's reasoning in proposing a reimbursement allocation which would produce huge windfalls for a handful of States while penalizing or cutting off all the rest.

I urge that this resolution be adopted and hope that the Environmental Protection Agency will respond with regulations in keeping with the intent of Congress.

Mr. BUCKLEY. Mr. President, I yield back the remainder of my time.

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

The amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the joint resolution.

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

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is, Shall it pass? (Putting the question.)

The joint resolution (S.J. Res. 158) was passed, as follows:

S.J. Res. 158

Joint resolution to set aside regulations of the Environmental Protection Agency under section 206 of the Federal Water Pollution Control Act, as amended.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Notwithstanding the requirements of subsection (c) of section 206 of the Federal Water Pollution Control Act, as amended (Public Law 92–500, 86 Stat. 838), applications for assistance under section 206 may be filed with the Administration of the Environmental Protection Agency until December 31, 1973.

SEC. 2. Subsection (e) of section 206 of the Federal Water Pollution Control Act, as amended (Public Law 92–500, 86 Stat. 838), is amended by striking "$2,000,000,000" and inserting in lieu thereof "$2,600,000,000".

SEC. 3. Funds available for reimbursement under Public Law 92–399 (August 22, 1972) shall be allocated in accordance with subsection (d) of section 206 of the Federal Water Pollution Control Act, as amended (Public Law 92–500, 86 Stat. 838), pro rata among all projects eligible under subsection (a) of section 206 of the Federal Water Pollution Control Act for which applications have been submitted and approved by the Administrator pursuant to such Act. Notwithstanding the provisions of subsection (d) of such section 206, (1) the Administrator is authorized to make interim payments to each project for which an application has been approved on the basis of estimates of maximum pro rata entitlement of all applicants under section 206(a); and (2) for purposes of determining allocation of sums available under Public Law 92–399, the unpaid balance of reimbursement due such projects shall be computed as of December 31, 1973. Upon completion by the Administrator of his audit and approval of all projects for which an application has been filed under subsection (a) of section 206, the Administrator shall within the limits of appropriated funds, allocate to each such qualified projects the amount remaining, if any, of its total entitlement. Amounts allocated to projects which are later determined to be in excess of entitlement shall be available for reallocation, until expended, to other qualified projects under subsection (a) of section 206. In no event, however, shall any payments exceed the Federal share of the cost of construction incurred to the date of the voucher covering such payment plus the Federal share of the value of the materials which have been stockpiled in the vicinity of such construction in conformity to plans and specifications for the project.

The PRESIDING OFFICER. Without objection, the preamble is agreed to.

Mr. RANDOLPH. Mr. President, the preamble was stricken. Was it not?

The PRESIDING OFFICER. Is the Senator from West Virginia posing a parliamentary inquiry?

Mr. RANDOLPH. Yes; I ask a parliamentary question. I thought the amendment struck the preamble. That was our intent.

The PRESIDING OFFICER. The Senator from West Virginia is correct.

Mr. RANDOLPH. Mr. President, I move that the vote by which the joint resolution was passed be reconsidered.

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

The motion to lay on the table was agreed to.

NONCONSERVING CROP FAILURES

The Senate continued with the consideration of 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.

Mr. TALMADGE. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is S. 2491. Who yields time?

Mr. TALMADGE. Mr. President, I ask unanimous consent that the following members of the staff of the Committee on Agriculture and Forestry may be granted the privilege of the floor during the consideration of the pending measure: Forest W. Reece, Harker T. Stanton, and James E. Thornton.

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

The Senator from Georgia is recognized.

Mr. TALMADGE. Mr. President, the wheat and feed grain programs provided for by the 1973 act provide for two types of payments. The regular payment, which is equal to the amount by which the market price falls below the target price, protects the producer against a drop in the market price. The disaster payment, which is the greater of the regular payment or one-third of the target price, protects the producer against a disaster which either, first, prevents him from planting wheat or feed grains or a substitute crop, or second, results in a crop failure.

The determination of a crop failure and the extent of the failure is easy to determine in the case of wheat and feed grains, because the Secretary now determines a yield figure for each of those crops. The anticipated production is de-

termined by multiplying the allotted acreage by that yield figure. A crop failure occurs, by definition, if the actual production is less than 66⅔ percent of such anticipated production. The deficiency in production for which the disaster payment is then made is the difference between the actual production and 100 percent of such anticipated production.

But in the case of substitute crops planted in lieu of wheat or feed grains, the determination of a crop failure and the extent of the deficiency in production are difficult or impossible to determine on any reasonable basis. The substitute crop might be soybeans, watermelons, safflower, or hundreds of other crops. There may be no data available as to any previous production on the farm, or in the area, of the particular commodity; or the data that is available may vary widely from farm to farm or year to year. No matter how this provision was applied many producers would feel that they were discriminated against while others were favored. In the case of some commodities, such as soybeans, it may be possible to construct data on a farm to farm basis, but the Department advises that it would represent an enormous administrative task. The cost in the case of those commodities would clearly outweigh any benefit that producers might derive from disaster payments on those crops.

Mr. President, since the provision for disaster payments on all nonconserving crops planted in lieu of wheat and feed grains is clearly unworkable, the committee has recommended that it be repealed. Wheat and feed grain producers would still be entitled to disaster payments if they planted wheat or feed grains and sustained a crop failure. There is no need to protect them against the failure of crops planted in lieu of wheat or feed grains, and the bill would repeal the unworkable provision for that kind of protection.

The PRESIDING OFFICER. Who yields time?

Mr. CLARK. Mr. President, I call up my amendment.

Mr. AIKEN. How much time does the Senator from Iowa require?

Mr. CLARK. Mr. President, this is on the amendment. I have time on the amendment.

Mr. President, I call up my amendment No. 627.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk proceeded to state the amendment.

Mr. CLARK. 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 line 6, before the period, insert the following: "and inserting in lieu thereof '(or of soybeans, cotton, corn, grain sorghums, or barley planted in lieu of wheat)'.".

On line 10, before the period, insert the following: "and inserting in lieu thereof '(or of soybeans, wheat, or cotton planted in lieu of the allotted crop'.".

Mr. CLARK. Mr. President, S. 2491 is a bill offered to repeal certain provisions of the 1973 farm bill. The act currently provides that if a farmer is unable to harvest a normal yield as a result of a crop failure after planting nonconserving crops other than his allotment crops of wheat, or feed grains, the farmer would be compensated for that loss. The Department of Agriculture suggested a repeal of this provision because of the administrative difficulties presented by the task of determining the yield for these substitute nonconserving crops.

Mr. President, I recognize and sympathize with these administrative problems. However, if the payment provisions do not apply to wheat or soybeans planted in lieu of corn as in the pending bill, the act would have the practical effect of discouraging the production of these two crops. That is not the intent of the Congress or the USDA, and the problem can be solved without eliminating all substitute crops.

The solution is to narrow the scope of the nonconserving crops covered under the farm act for which a normal yield can be determined.

That can be done by limiting the payments to those nonconserving crops on which the commodity credit loan program is in effect. I have offered a perfecting amendment to S. 2491 which will accomplish just that and I am pleased that the distinguished chairman of the Agriculture Committee, Senator TALMADGE, has agreed to consider this amendment to the bill.

The Agriculture Department has conceded that it already provides for the determination of normal farm yields for wheat, cotton, and feed grain crops. Thus the rationale for S. 2491 does not apply to these crops.

Some questions have been raised about the inclusion of soybeans. The Department also stated that it would be possible to establish normal farm yields for soybeans on the basis of the yield data supplied by the Statistical Reporting Service. Frankly I find it hard to believe that it would be an enormous administrative task to translate these available figures into normal farm yields from that data. It is the compilation of the data which presents the primary problems of administrative uncertainty and most of the legwork, and that part of the task has been completed with respect to soybeans. Inclusion of soybeans in my amendment is thus consistent with the interest of S. 2491 in eliminating unnecessary administrative burdens.

The inclusion of soybeans is particularly vital in light of the role of soybeans as a major crop in our economy. I need only point to the administration's decision to clamp export controls on this crop as evidence of its importance.

It would seem inconsistent to pass a bill which would have the practical effect of discouraging the production of soybeans in an era when the demand is so high. For these reasons, I have included soybeans in this amendment. This is not a neutral matter. By including soybeans we create an economic incentive to produce soybeans, and without inclusion we create a disincentive.

Mr. President, one of the most important goals of the 1973 farm bill is to provide farmers with the freedom to plant the most practical crop considering current and individual circumstances. This amendment is a compromise measure which will protect that right while solving the administrative problems of the Farm Act as currently written. It will accomplish that intent by eliminating the payments for minor crops and thus the administrative need for determining the normal yields for those crops.

Mr. President, before closing I would like to discuss how the matter appears to me. It seems to me after looking at this problem in some detail and after having talked to people in the ASCS offices who would implement this program that the Department makes the establishment of an average yield for soybeans per farm sound much more difficult than it really is.

First of all, there would, in my judgment, be no requirement in my amendment or in the bill which would insist on or require the calculation of average farm yields for soybeans to be made in areas where soybeans are never planted or where they are unlikely to be raised.

The second point is that it is relatively easy to get a soybean yield for each farm that raises corn, wheat, or cotton by simply using a productivity index. This is how it would work.

Every county where soybeans are raised has an established average yield for soybeans. This is determined annually by the USDA Statistical Reporting Service. Since each farm in the program has an established yield on its corn, wheat, or cotton crops, and must participate in the program, and since every county presently has an average yield for soybeans, a productivity index can be easily established, and soybean yields determined.

For example, if I raise corn on my farm, and have an established average yield of 90 bushels per acre, while the county average is 100 bushels as established by ASCS, then my productivity index is 90 percent. To determine the soybean yield for my farm, I simply apply 90 percent to the county average yield. If the county average soybean yield is 30 bushels per acre in my county, and my productivity index is 90 percent, then 27 bushels per acre would be my average yield.

That does not seem to involve any great difficulty. Obviously, it will take some additional bookwork, but the soybean yields can be determined when necessary, and the additional work would be worth it. We need soybean production. Above all, this crop is needed, both in the Nation and in the world.

So I urge support for the adoption of this amendment.

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

Mr. CLARK. I yield.

Mr. HUMPHREY. First I want to commend the Senator from Iowa for bringing to our attention, and hopefully our favorable consideration, his amendment.

The amendment, I think, has considerable merit. It is basically consistent with the flexibile interchangeability now permitted by the law regarding the plan-

ning of the so-called programed crops, involving payments of loans. I know that the Department has raised the administrative difficulty, but I believe the Senator has given examples here which indicate that that is something that can be managed and can be handled, with some effort on the part of the Department of Agriculture.

The failure to include soybeans, a very vital crop insofar as our domestic utilization is concerned, as well as our foreign exports, would in my judgment be very unfair and inequitable, particularly in the corn and soybean producing areas, where the interchange between soybeans and corn is most common.

In other words, we would be disturbing a very natural pattern of production which we have in the corn and soybean areas. So I rise to join in support of the amendment of the Senator from Iowa. It obviously would mean a great deal in the parts of America where we are privileged to live and which we are privileged to represent; and I might add that these crops are needed, desperately needed. There surely is no drag on the market as far as soybeans are concerned. I have a feeling that we not only need the crops, but will be needing to build some reserves of them. The international demand for soybeans is tremendous, and I cannot see why we would do anything but help ourselves in terms of balance of payments, in terms of production for domestic utilization or reserves that we might need for our own livestock economy, and in terms of farm income.

So I join with the Senator from Iowa in urging the adoption of this amendment, and express my thanks to him for a very detailed and knowledgeable explanation of what is obviously a complicated business when you get down to a program such as this.

Mr. CLARK. I thank the Senator from Minnesota.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. HART). The question is on agreeing to the amendment of the Senator from Iowa.

Mr. TALMADGE. Mr. President, I yield myself such time as I may use.

Mr. President, this amendment would provide for disaster payments to a producer who plants soybeans, wheat, cotton, corn, grain sorghums, or barley in substitution for wheat or feed grains and suffers a crop failure.

Insofar as this amendment permits payments for disasters resulting in the failure of wheat, cotton, corn, grain sorghum, or barley crops, there appears to be no objection to it. The Secretary of Agriculture has programs for each of those crops and has adequate information on farm yields—not for all farms, but for many of the farms likely to grow these crops.

Insofar as this amendment relates to soybeans, it would present such an enormous administrative task as to be both prohibitive and unworkable.

If soybeans are included in this amendment the Secretary would have to determine a projected yield for soybeans for each farm having a wheat or feed grain allotment. Soybeans may never have been planted on the farm or in the area. They may not be planted on the farm in any particular program year, or if planted there may be no crop failure, but the Secretary would have to have the data available in case they are planted and there should be a question of crop failure.

Mr. President, in 1971 there were 1.7 million farms participating in the feed grain program and about 1 million farms in the wheat program. While there may be some duplication here, the fact remains that soybeans could be substituted on all of these farms, necessitating the determination of farm yields for soybeans in all of these cases.

Inclusion of soybeans in this amendment would necessitate the following computations for any farm planting soybeans instead of wheat or feed grains:

Assuming that x is the projected yield per acre of soybeans for the farm:

First, the anticipated production would be the product of the allotted wheat or feed acreage planted to soybeans multiplied by x.

Second, if the actual production on this acreage were less than two-thirds of the anticipated production a crop failure would be determined.

Third, the amount of the deficiency in production would then be the difference between the anticipated production and the actual production.

Fourth, the percentage which the deficiency was of the anticipated production would then be determined.

Fifth, the payment would then be—in the case of soybeans planted instead of wheat for example—one-third of the target price for wheat times the allotted wheat acreage planted to soybeans times the deficiency percentage.

As can readily be seen the entire formula is based on x, and x is an unknown quantity. In order to know what his rights were the farmer would have to know the value of x. In order to administer the law the Secretary would have to know the value of x. But the determination of x, the soybean yield for each farm, would entail costs far in excess of any benefits to be obtained; and the questionable accuracy of any such determination would cause great ill feelings between farmers and damage the entire farm program.

I would most earnestly suggest that the Senator from Iowa modify his amendment by striking out "soybeans," each place it occurs. With such a modification I would have no hesitation in accepting his amendment in behalf of the committee.

Mr. President, I ask unanimous consent that a statement setting out the Department of Agriculture's opposition to this amendment be inserted in the RECORD at this point.

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

The proposed amendment to S. 2491 would extend the special disaster protection provided under the Agriculture and Consumer Protection Act of 1973 to soybeans and feed grains planted instead of wheat and soybeans and wheat planted instead of feed grains rather than limit such protection to wheat planted on wheat allotments and feed grains on feed grain allotments as provided under S. 2491.

The Department of Agriculture opposes the proposed amendment to S. 2491 for the following reasons:

1. It would impose a tremendous administrative burden on ASCS county committees in thousands of soybean producing counties in determining normal yields for soybean producing farms for which yield data are currently not available. This would need to be done even though the probability that such farm yield data would be needed would be limited. The need for normal farm soybean yields under the proposed amendment would depend upon a combination of two relatively rare circumstances—a producer would need to elect to substitute soybeans for wheat or feed grains and if such substitution occurs, total soybean production on such farm, due to natural disaster or condition beyond the control of the producer, must be less than two-thirds of the normal farm soybean yield multiplied by the farm wheat or feed grain allotment.

2. The designation of soybeans as the only crop other than the program crops of wheat, feed grains, and cotton eligible for special disaster protection if substituted for wheat or feed grains would be inequitable to farmers who under the flexible provisions of the Agriculture and Consumer Protection Act of 1973 elect to substitute crops other than soybeans for wheat or feed grains. Also, the cotton title of the Act does not permit extension of special disaster protection to any crop which may be planted in lieu of upland cotton. Therefore, farmers who elected to substitute soybeans for cotton would not be afforded the same privilege as those substituting soybeans for wheat or feed grains.

3. The provision of the Agriculture and Consumer Protection Act of 1973 which affords farmers special payments if they suffer a crop loss due to natural disaster is a feature never before included under farm programs. The administrative problems likely to be encountered in implementing this provision for the first time for only wheat, feed grains, and upland cotton will be massive without adding further complications by extending disaster protection to crops on which farm yield data are currently not available.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Iowa. Do Senators yield back their remaining time?

Mr. AIKEN. We have no further requests for time.

Mr. CLARK. Mr. President, I yield myself 2 minutes for opposing comments.

Just to summarize, it seems to me there would not be a necessity for the Department to determine an average yield for soybeans in every case where the feed grains program applies. Instead wherever that were necessary, or wherever a farmer might need the information, it could be determined, with some effort, by simply applying the productivity index. Since the average crop yield is known for each of the feed grains on each farm, and must be determined by the law now, if we simply apply that productivity or percentage of crop that he gets on his farm in relationship to the county average, that soybean yield can be determined with relative ease. It will take some effort obviously. But some effort is necessary when we consider the importance of soybeans to the economy not only in my State, but in other States and throughout the world. For these reasons, I urge adoption of the amendment.

Mr. HUMPHREY. Mr. President, will the Senator from Iowa yield?

Mr. CLARK. I yield.

Mr. HUMPHREY. For the farms that are traditional soybean producers, we have records of the yield.

Mr. CLARK. Yes, we have records of the yield at the county level in every single county where soybeans were raised last year.

Mr. HUMPHREY. That is correct. So that fact is established. Second, there is no guarantee that everyone will want to plant soybeans under this particular program we are talking about—this disaster program.

Mr. CLARK. Correct.

Mr. HUMPHREY. But if they do, the formula the Senator from Iowa has offered in terms of the average yield of productivity could apply with reasonable equity. It is not exactly accurate, but it is close to being accurate.

The overriding consideration I see in the Senator's amendment is that we should have an incentive for the production of soybeans as a replacement crop, which is interchangeability. This is true not only in the Iowa and Minnesota areas but in the South as well where cotton and soybeans have been interchangeable for years. Thus, I would hope that we would see the value of this amendment in terms of the kind of production we need in this country as well as the equity and fairness to the farmer who may need and want to plant that crop.

Mr. CLARK. I share the Senator's views.

Mr. AIKEN. Mr. President, I have all the sympathy in the world for the good intentions of the Senator from Iowa, but I would not want to jeopardize the benefits which this bill, as reported, would provide for the producers of wheat and other nonconserving crops. Therefore, I would not want to accept the amendment at this time.

I expect that, in the meantime, there may be some way to work it out whereby the yield of soybeans can be determined more accurately than it is today; but, in the meantime, I would not want to jeopardize the bill when the Department says it does not know how to administer it.

Mr. HUMPHREY. Mr. President, I do not know why the Department cannot give us some projections on the soybean yield. They do not have any problem in my State at all on that. We have it registered at the county office.

I do not know why, in the name of common sense, our part of the country is the only part ruled out under this provision. We do not have interchangeability and did not have for years in the northern part of the country. I think it is rank discrimination. The Department has the competence, the ability, and the personnel to make the determinations. Our people seem to think so up there, and they are pretty good. I have not had anyone connected with the Department in Minnesota tell me we cannot do this.

Mr. AIKEN. The chairman of the committee, the Senator from Georgia (Mr. TALMADGE), has already inserted in the RECORD the reasons the Department of Agriculture gives for saying it cannot administer the bill fairly with the amendment of the Senator from Iowa in it. The reasoning is all in the RECORD here. That is why I say I would not want to take a chance with extending the benefits to the producers of corn and wheat and barley and other feed grains.

The PRESIDING OFFICER (Mr. HART). The question is on agreeing to the amendment.

Mr. TALMADGE. Mr. President, I suggest the absence of a quorum on my time, in order to alert the staffs to notify absent Senators that we need enough Senators on the floor to be able to suggest the yeas and nays.

The PRESIDING OFFICER. The Chair is advised that there is not sufficient time remaining on the amendment to undertake a quorum call, but there is on the bill.

Mr. TALMADGE. Mr. President, I yield such time as I might take for this quorum call on either the bill, the amendment, or both, and ask unanimous consent that I may suggest the absence of a quorum.

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

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

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

Mr. TALMADGE. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. CLARK. Mr. President, I yield back the remainder of my time.

Mr. TALMADGE. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time on this amendment has now been yielded back.

The question is on agreeing to the amendment of the Senator from Iowa (Mr. CLARK).

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Montana (Mr. MANSFIELD), the Senator from Maine (Mr. MUSKIE), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Arkansas (Mr. FULBRIGHT) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from New Hampshire (Mr. COTTON), the Senator from Oregon (Mr. HATFIELD), and the Senator from Ohio (Mr. SAXBE) are necessarily absent.

I further announce that the Senator from Nebraska (Mr. CURTIS) is absent on official business.

I further announce that, if present and voting, the Senator from Nebraska (Mr. CURTIS), and the Senator from Oregon (Mr. HATFIELD) would each vote "nay."

The result was announced—yeas 43, nays 48, as follows:

[No. 467 Leg.]

YEAS—43

Abourezk	Hollings	Nelson
Bayh	Huddleston	Pastore
Biden	Hughes	Pell
Brooke	Humphrey	Proxmire
Burdick	Jackson	Randolph
Church	Javits	Ribicoff
Clark	Kennedy	Schweiker
Cranston	Magnuson	Stevenson
Dole	McGee	Symington
Eagleton	McGovern	Thurmond
Gravel	McIntyre	Tower
Gurney	Metcalf	Tunney
Hart	Mondale	Young
Hartke	Montoya	
Hathaway	Moss	

NAYS—48

Aiken	Cook	McClure
Allen	Domenici	Nunn
Baker	Dominick	Packwood
Bartlett	Eastland	Pearson
Beall	Ervin	Percy
Bellmon	Fannin	Roth
Bennett	Fong	Scott, Hugh
Bentsen	Goldwater	Scott, William L.
Bible	Griffin	Stafford
Brock	Hansen	Stennis
Buckley	Haskell	Stevens
Byrd, Harry F., Jr.	Helms	Taft
Byrd, Robert C.	Hruska	Talmadge
Cannon	Inouye	Weicker
Case	Long	Williams
Chiles	Mathias	
	McClellan	

NOT VOTING—9

Cotton	Hatfield	Muskie
Curtis	Johnston	Saxbe
Fulbright	Mansfield	Sparkman

So Mr. CLARK's amendment (No. 627) was rejected.

Mr. TALMADGE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

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

The motion to lay on the table was agreed to.

Mr. TALMADGE. Mr. President, I think the Senator from Iowa has an amendment.

Mr. CLARK. Mr. President, I send to the desk an unprinted amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On line 6, before the period, insert the following: "and inserting in lieu thereof '(or of cotton, corn, grain sorghums, or barley planted in lieu of wheat)'.".

On line 10, before the period, insert the following: "and inserting in lieu thereof '(or of wheat, or cotton planted in lieu of the allotted crop'.".

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

Mr. CLARK. I yield.

Mr. TALMADGE. Mr. President, I have discussed the proposed amendment with the Senator from Iowa. Is it identical with the previous amendments except for the word "soybeans" being stricken on line 2 thereof?

Mr. CLARK. And on line 5.

Mr. TALMADGE. And on line 5. In other words, soybeans is stricken wherever it appeared in the previous amendment.

Mr. CLARK. That is correct. The amendment is sponsored by the Senator from Minnesota (Mr. HUMPHREY) and me.

Mr. TALMADGE. Mr. President, speaking for the Committee on Agriculture and Forestry I have no objection to the amendment. I hope the Senate will agree to it.

I yield back the remainder of my time.

Mr. CLARK. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back.

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. GRIFFIN. I withdraw the request.

Mr. AIKEN. Mr. President, I think this change is all right.

I was very much worried about the previous amendment. If it had been adopted, it would have left out feed grains, wheat, corn, and cotton, without any recourse. But with this modification there is no harm in it. I say that, of course, because I come from the great grain-producing State of Vermont.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Iowa.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no amendment to be proposed, 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.

The PRESIDING OFFICER. Do Senators yield back the remainder of their time?

Mr. TALMADGE. I yield back the rest of my time.

Mr. AIKEN. I yield back the remainder of my time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (S. 2491) was passed as follows:

S. 2491

An act 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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 107(c) of the Agricultural Act of 1949, as amended, is amended by deleting the parenthetical phrase "(or other nonconserving crop planted instead of wheat)" wherever it appears therein and inserting in lieu thereof "(or of cotton, corn, grain sorghums, or barley planted in lieu of wheat)".

(b) Section 105(b)(1) of the Agricultural Act of 1949, as amended, is amended by deleting the parenthetical phrase "(or other nonconserving crop planted instead of feed grains)" wherever it appears therein and inserting in lieu thereof "(or of wheat, or cotton planted in lieu of the allotted crop".

Mr. TALMADGE. Mr. President, I move that the Senate reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, what is the pending question before the Senate, if any?

The PRESIDING OFFICER. There is no pending business.

Mr. ROBERT C. BYRD. Mr. President, I thank the Chair.

EAGLES NEST WILDERNESS, ARAPAHO, AND WHITE RIVER NATIONAL FORESTS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 434, S. 1864.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1864) to designate the Eagles Nest Wilderness, Arapaho, and White River National Forests in the State of Colorado.

The PRESIDING OFFICER. Is there objection to the consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Insular Affairs with amendments on page 1, line 8, after the word "dated", strike out "May" and insert "October"; on page 2, line 5, after the word "and", strike out "twenty-five" and insert "twenty-eight"; and, in line 6, after the word "thousand", insert "three hundred and seventy-four"; 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, in accordance with subsection 3(b) of the Wilderness Act (78 Stat. 891; 16 U.S.C. 1132(b)), the area classified as the Gore Range-Eagles Nest Primitive Area, with the proposed additions thereto and deletions therefrom, as generally depicted on a map entitled "Eagles Nest Wilderness—Proposed", dated October 1973, which is on file and available for public inspection in the office of the Chief, Forest Service, Department of Agriculture, is hereby designated as the "Eagles Nest Wilderness" within and as part of the Arapaho and White River National Forests comprising an area of approximately one hundred and twenty-eight thousand three hundred and seventy-four acres.

SEC. 2. As soon as practicable after this Act takes effect, the Secretary of Agriculture shall file a map and a legal description of the Eagles Nest Wilderness with the Interior and Insular Affairs Committees of the United States Senate and House of Representatives, and such description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description and map may be made.

SEC. 3. The Eagles Nest Wilderness shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

SEC. 4. The previous classification of the Gore Range-Eagles Nest Primitive Area is hereby abolished.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Colorado is recognized.

Mr. HASKELL. Mr. President, the pending bill was introduced by my senior colleague (Mr. DOMINICK) and me. It creates the Eagles Nest Wilderness—a 128,374-acre wilderness area in the State of Colorado approximately 60 miles west of Denver.

The bill was reported unanimously from the Committee on Interior and Insular Affairs.

Mr. President, I reserve the remainder of my time.

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

Mr. HASKELL. I yield.

Mr. DOMINICK. Mr. President, this is largely for the RECORD. However, I want to say to begin with that I very much appreciate my colleague's bringing this bill both before the subcommittee which he chairs so ably and before the full committee and getting it to the floor. It is a very good bill.

As we both know, the Denver Water Board has been a little uptight about this bill. They wanted me to find out from my colleague his opinion as to whether in the process of collecting water rights, on which they have spent a considerable amount of money over a period of years, they will be able to operate underground without disturbing the surface and, therefore, without disturbing the wilderness area contemplated.

It is my understanding that they would be able so to do for a collection system in order to be able to use their water rights which are excluded from the wilderness area.

Mr. HASKELL. Mr. President, I respond to my senior colleague by reading a section of the committee report. I would refer my senior colleague to page 6 of the committee report at the bottom of the page which reads as follows:

The deletions would allow construction and operation of the tunnel if, among other things, Denver voters cast a favorable vote on the Water Board bond issue; . . .

I point out to my senior colleague that there is no question that the Denver Water Board would prefer to have more than they have received. There is no question about that. However, on the other hand it was our attempt in the subcommittee and in the full committee to balance equities and to recognize the need of a wilderness area—not to unduly restrict its boundaries so that it would no longer be a viable wilderness and at the same time not to be unjust to the Denver Water Board.

I think that we have struck a balance here. However, I would certainly say to my senior colleague that proposed wilderness is by no means as small as the Denver Water Board would have liked it.

Mr. DOMINICK. Mr. President, I would agree with my junior colleague, the manager of the bill.

I believe that their main concern at this time is to be able to have some kind of record indicating that, provided they did not disturb the surface of the wilderness area, they would be able to construct it underground within the wilderness area.

This a kind of moot question. However, it seems to me that in the process of my conversations with them, the purpose of the wilderness area is to be able to preserve in a relatively unspoiled state the landscape which my colleague and I could see while walking over it, and which I had been over several times, without disturbing the animal life, the bird life, and obviously the horticultural abundance there is in that area.

It would seem to me that this would be proper. However, it is something that I wanted to get the Senator's opinion on.

Mr. HASKELL. Yes. I would read further from the committee report at the top of page 7, completing the sentence, the first part of which I quoted earlier:

> An environmental impact statement is carefully prepared pursuant to section 102 (2) (c) of the National Environmental Policy Act of 1969 (83 Stat. 852); and clear evidence is supplied and full assurance is provided that the tunnel can be constructed and operated without any permanent surface disturbance to, or any permanent damage to the wilderness values of, the proposed wilderness.

Mr. DOMINICK. Mr. President, I think that helps materially as far as the record is concerned.

Once again, I congratulate my colleague for having done what I consider to be a very fine job in bringing out a bill which could have been quite controversial.

Mr. HASKELL. Mr. President, I thank my senior colleague very much.

Mr. McCLURE. Mr. President, would the Senator yield?

Mr. HASKELL. I yield.

Mr. McCLURE. Mr. President, I join in the commendation of the chairman of the Public Land Subcommittee of the Interior and Insular Affairs Committee for his handling of this legislation. I commend both Senators from Colorado for their leadership in bringing to the Congress a wilderness proposal which appears to be fully justified. My purpose in taking a little time today is to do the same thing which I tried to do in the subcommittee when this matter was first pending, to indicate as forcefully as I know how to do that we have to be very careful in the evaluation of resource proposals which will reduce or subtract in any way from the resource base of our land.

We are involved right now in a very critical time of watching the events in the Middle East for a number of reasons, not the least of which, of course, are moral and humanitarian concerns about what happens between the two warring factions and our moral and humanitarian interest in people on both sides of the Israeli-Arab conflict.

We are also very much concerned about what happens in the Middle East, because of the lack of a sufficient and sufficiently developed energy base within our own country. This has pointed a very sharp finger at the practice which has been all too evident in recent years of expecting that we could without question depend upon the resources of other areas of the world, and that they would without question provide us whatever our dollars would induce them to part with in terms of their natural resources.

But there are people within the Arab world who are today saying, "We don't want your dollars; we don't care how many dollars you give us for the oil, we will not sell it to you."

They have a variety of reasons, some very justifiable, for making those statements.

Some might ask, "What relationship does that have to a wilderness proposal in Colorado?"

Let me say only that it has no direct relationship. It has to do only with our understanding of our dependence upon our resource base within this country to remain in a free people. If we continue to do what we have been doing for the last several years, without regard to our resource base increasing our dependence upon foreign countries, then we will lose our freedom.

While this Eagle's Nest Wilderness is not involved in that kind of a conflict, happily, because we did in the subcommittee look to see if that kind of resource conflict was involved, and it is fully supportable, nevertheless it needs to be said, and said strongly, that we are a resource-deficient Nation today, because we have chosen to be a resource-deficient Nation in terms of the development of our own resources.

I think the conflict in the Middle East and the crisis in energy bring into sharp focus the question of whether or not we can continue to do what we have done in recent years with basic resources in our country, and maintain the ability to be strong, in a world that respects only strength, if we want to maintain the kinds of freedom that we as Americans have enjoyed.

Again, I state my support for this legislation, and commend the Senators from Colorado for their proposal, and also for their handling of this particular legislation, because after the analysis which was given to this bill in the subcommittee, we were able to say and are able to say on this floor today that we have considered the resources that will be included within this wilderness, we have considered the impact upon the resource base of this country, and we have concluded that we can, in this instance, safely, and properly designate this as a wilderness, as its highest and best use, and one which we can all proudly support.

But, again, we must be conscious of these decisions, and we must be aware of what may happen to our Nation if we are not.

Mr. HASKELL. I would concur in the comments of the Senator from Idaho, and, just for the record—because, as the Senator from Idaho has said, there is no problem such as he mentions involved here, but for the record, the U.S. Geological Survey made a 2-year field investigation. Together with the Bureau of Mines, they took rock samples, conducted stream sedimentation tests, and undertook 52 man-weeks of foot traverses of the area. They concluded—I refer to Geological Survey Bulletin 1319–C, on page C–3—as follows:

> In summary, the Gore Range-Eagle's Nest Primitive Area contains no known ore deposits and no geological evidence exists to indicate a likelihood of hidden deposits below it.

So, as the Senator from Idaho has said, no such problem exists in relation to the Eagles Nest Wildnerness, but I certainly concur with his thought that we must be jealous of our national resources.

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

Mr. HASKELL. Certainly.

Mr. DOMINICK. I just want to compliment the Senator from Idaho for bringing this point up. I think he is totally accurate, and it is a subject on which I have given, I think, somewhat in excess of 50 talks, to alert the people of my own State to the problem which he has mentioned.

This bill and the Flat Tops bill, which I assume will be coming up shortly, have no geologic value insofar as natural resources are concerned. I am glad to say that my colleague and I are doing our best to avoid stumbling into that pitfall.

Mr. McCLURE. Will the Senator yield further?

Mr. HASKELL. I yield.

Mr. McCLURE. I thank both Senators for their comments, and want to point to just one further thing:

I guess the USGS has made a study here and it has been somewhat more extensive than some of their other studies. I am not critical of the USGS; I think they are doing a fine job within the limits of their personnel and budget. But just as we are sometimes penny-wise and pound-foolish in other areas, I think we come dangerously close to that on the money which is allocated to our resource management agencies. The USGS has been asked to make surveys which they have not been able to do as well as they admit they should do—in other areas, not in this one—and some of the wilderness surveys that they have made, of those which were designated under the original Wilderness Act, were by any test superficial, and the USGS would be the first to admit that they were superficial, but they were the best they could do in the time and with the personnel and the funding given to them by Congress.

We are similarly underfunding the management functions given to the U.S. Forest Service and the Bureau of Land Management, and doing so to our detriment. There will be an immutable balance drawn, one that we cannot escape no matter how much we might wish. Some of those balances may not be apparent during the period of service of those who serve in the Congress of the United States today, and because of that we may escape having to face the consequences of our own misjudgments; but certainly that balance will be drawn, and the balance sheet will show the results of

the failure to provide our resource management agencies with sufficient money to manage properly today and to give us the kind of information upon which we can make properly informed judgments.

Again I think this particular proposal today is not subject to the faults that I have just outlined, but I think we as a Nation and certainly those of us who represent the people of this country in the Congress of the United States had better wake up to what is happening and start requiring of ourselves as well as our citizens a better understanding of resource management.

I thank the Senator for yielding.

Mr. HASKELL. There are several committee amendments. I ask unanimous consent that they be agreed to en bloc.

The PRESIDING OFFICER. Without objection, the committee amendments are agreed to en bloc.

The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the third reading of the bill.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall it pass?

The bill (S. 1864) was passed, as follows:

S. 1864

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with subsection 3(b) of the Wilderness Act (78 Stat. 891; 16 U.S.C. 1132(b)), the area classified as the Gore Range-Eagles Nest Primitive Area, with the proposed additions thereto and deletions therefrom, as generally depicted on a map entitled "Eagles Nest Wilderness—Proposed", dated October 1973, which is on file and available for public inspection in the office of the Chief, Forest Service, Department of Agriculture, is hereby designated as the "Eagles Nest Wilderness" within and as part of the Arapaho and White River National Forests comprising an area of approximately one hundred and twenty-eight thousand three hundred and seventy-four acres.

SEC. 2. As soon as practicable after this Act takes effect, the Secretary of Agriculture shall file a map and a legal description of the Eagles Nest Wilderness with the Interior and Insular Affairs Committees of the United States Senate and House of Representatives, and such description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description and map may be made.

SEC. 3. The Eagles Nest Wilderness shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

SEC. 4. The previous classification of the Gore Range-Eagles Nest Primitive Area is hereby abolished.

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

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

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, October 11, 1973, he presented to the President of the United States the enrolled bill (S. 1317) to authorize appropriations for the U.S. Information Agency.

ORDER FOR ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 12 o'clock noon tomorrow.

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

QUORUM CALL

Mr. GRIFFIN. Mr. President, I suggest the absence of quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, on tomorrow, the Senate will convene at 12 o'clock noon. The Senate will proceed to the consideration of morning business, as provided for under rule VII.

Following the introduction of concurrent and other resolutions, but before the morning business is closed, the Chair will lay before the Senate, Senate Resolution 185, relative to the Senate's consideration of a nomination to fill the vacancy in the Office of the Vice President. This resolution would then be before the Senate for debate until 2 o'clock, if not disposed of before that time, and any of the eligible motions would be in order. For example, to table, to postpone indefinitely, to postpone to a day certain, or to refer, and all except the motion to table would be debatable.

If none of these motions is made, an amendment to the resolution would be in order. At the hour of 2 o'clock, the resolution would go to the calendar.

After 2 o'clock, a motion to take up the resolution, since there is no unfinished business, would be in order, but it too would be debatable.

There being no unfinished business, the Senate may take up, following the morning hour—or, depending upon circumstances, before the expiration of the morning hour—conference reports—or any other measure that has been cleared for action.

The foregoing is not meant to leave the inference that there will not be yea-and-nay votes tomorrow.

During the next 2 weeks, the Senate will meet as developments require. A recess of 2 weeks duration is no longer advisable, in view of recent events—both here and abroad—over which the leadership has no control. During these 2 weeks, conference reports and other matters coming over from the House will be taken up, and, where possible, adopted on a voice vote. Where rollcall votes are indicated, the leadership will do everything possible to give Members sufficient notice in advance.

In any event, the Veterans' Day recess—from the close of business on Thursday, October 18, until noon on Tuesday, October 23—will be observed as scheduled.

ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 12 o'clock noon tomorrow.

The motion was agreed to; and, at 3:06 p.m., the Senate adjourned until tomorrow, Friday, October 12, 1973, at 12 o'clock noon.

NOMINATIONS

Executive nominations received by the Senate October 11, 1973:

DEPARTMENT OF STATE

Joseph S. Farland, of West Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to New Zealand, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to Fiji, to Western Samoa, and to the Kingdom of Tonga.

O. Rudolph Aggrey, of the District of Columbia, a Foreign Service Information Officer of Class one, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Senegal, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of The Gambia.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 11, 1973:

NATIONAL LABOR RELATIONS BOARD

Howard Jenkins, Jr., of Colorado, to be a member of the National Labor Relations Board for the term of 5 years expiring August 27, 1978.

ACTION

Marjorie W. Lynch, of Washington, to be an Associate Director of ACTION.

RAILROAD RETIREMENT BOARD

Wythe D. Quarles, Jr., of Virginia, to be a member of the Railroad Retirement Board for the term of 5 years from August 29, 1972.

NATIONAL SCIENCE FOUNDATION

Lowell J. Paige, of California, to be an Assistant Director of the National Science Foundation.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

The following-named persons to be Members of the National Commission on Libraries and Information Science for terms expiring July 19, 1978:

Bessie Boehm Moore, of Arkansas.

Julia Li Wu, of California.

Daniel William Casey, Sr., of New York.

(The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)