Under oath, Mr. Helmut Sonnenfeldt denied the charge. However, Mr. Koczak named witnesses who could support his charges who were not called by Senator Long.

October 2, 1973: Under oath, Mr. Otto Otepka charged that Mr. Helmut Sonnenfeldt violated US criminal statute by "leaking" classified information to representatives of Israel and to others not authorized to receive it.

Under oath, Mr. Sonnenfeldt testified in a manner to convey the impression that he denied Mr. Otepka's charges. However, Mr. Otepka named individuals who would support his charges, under oath, in detail.

It is obvious, even to a layman, that, at the very least, the crime of perjury is established by this testimony.

Chairman Long has claimed that the above matters have been investigated, but it is clear that the investigation, such as it was, was far from complete. For example, the FBI files were not complete, when summarized for Senator Long; neither has the FBI contacted Mr. Koczak or me in connection with recent testimony.

The testimony of many other witnesses is not yet in the record—in the FBI files or elsewhere. This testimony includes that of Mr. Lampe of State Department Security (named by journalist Paul Scott), Mr. Niland of Justice (named by Mr. Otepka) and other witnesses, such as those named by Mr. Koczak.

I have been told that the statute of limitations does not apply to some of the criminal aspects of the matters discussed at this hearing. Whether this is true or not, the evident perjury discernable in the transcript is of a recent date.

Your attention to this matter is invited with a view to determining your own duty to prosecute any violation of statutes concerning perjury or other crimes. I would appreciate an early report from you concerning the procedures you intend to take to move forward in this matter.

Sincerely yours,

JOHN D. HEMENWAY.

EMERGENCY MEDICAL SERVICE SYSTEMS

HON. MARVIN L. ESCH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 1973

Mr. ESCH. Mr. Speaker, last week I voted in support of H.R. 10956, the Emergency Medical Services Systems Act. This bill, which except for the provisions of the Public Health hospitals, is identical to the bill vetoed by the President earlier this year. I chose to override the President's veto, because I firmly believed that we needed an emergency medical system that can reach out to the millions who could be helped and many of whose lives could be saved if such a system were established.

Even without the Public Service hospitals, this is a good bill and at an authorization of $185 million, not a very expensive one.

First I would like to congratulate the members of the Health Subcommittee and full Interstate and Foreign Commerce Committee for moving so expeditiously in reporting a bill, despite the veto. It is clear the members of the committee, unlike a few on the Education and Labor Committee who are sitting on the minimum wage bill, are more concerned with passing laws for the good of Americans than playing politics.

When this bill becomes law, as I am sure it will, it is estimated that the lives of between 60,000 and 100,000 Americans can be saved through the use of trained personnel and insured ambulance service.

SENATE—*Friday, November 2, 1973*

The Senate met at 10 a.m. and was called to order by the Acting President pro tempore (Mr. METCALF).

PRAYER

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

The Lord is nigh unto all who call upon Him, to all that call upon him in truth. He will fulfill the desire of them that fear Him: He also will hear their cry, and will save them.—Psalms 145: 18, 19.

O Lord our God, look upon this Nation and bring to it cleansing, renewal, and fresh power. Deliver us from coldness of heart, from indifference to Thy laws, from moral numbness, and from neglect of the things of the spirit. Make us ever ready to confess our sins and even more ready to accept Thy forgiveness. Replenish us with the grace, the wisdom, and the power Thou hast promised to those who love Thee and seek to do Thy will. Support and strengthen all who bear the burdens of government. May we pray for one another, work with and for one another as sons of the great redemption in a nation under God.

In Thy holy name we pray. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, October 30, 1973, be dispensed with.

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

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 9286) to authorize appropriations during the fiscal year 1974 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve for each Reserve component of the Armed Forces, and the military training student loads, and for other purposes.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 8916) making appropriations for the Departments of State, Justice, and Commerce, the judiciary, and related agencies for the fiscal year ending June 30, 1974, and for other purposes; had agreed to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. ROONEY of New York, Mr. SLACK, Mr. SMITH of Iowa, Mr. FLYNT, Mr. SIKES, Mr. MAHON, Mr. CEDERBERG, Mr. ANDREWS of North Dakota, and Mr. WYATT were appointed managers of the conference on the part of the House.

The message further announced that the House insists upon its amendments to the bill (S. 1570) to authorize the President of the United States to allocate crude oil and refined petroleum products to deal with existing or imminent shortages and dislocations in the national distribution system which jeopardize the public health, safety, or welfare; to provide for the delegation of authority to the Secretary of the Interior; and for other purposes, disagreed to by the Senate; had agreed to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. STAGGERS, Mr. MACDONALD, Mr. VAN DEERLIN, Mr. BROWN of Ohio, and Mr. COLLINS of Texas were appointed managers of the conference on the part of the House.

The message also announced that the House had agreed to the amendments of the Senate to the amendment of the House to the bill (S. 2410) to amend the Public Health Service Act to provide assistance and encouragement for the development of comprehensive area emergency medical services systems.

The message further announced that the House had passed the bill (H.R. 9456) to extend the Drug Abuse Education Act of 1970 for 3 years, in which it requests the concurrence of the Senate.

The message also announced that the House had agreed to the concurrent resolution (H. Con. Res. 373) directing the Clerk of the House of Representatives to make corrections in the enrollment of H.R. 9286 in which it requests the concurrence of the Senate.

ENROLLED BILL SIGNED

The message further announced that the Speaker had affixed his signature to the bill (S. 11) to grant the consent of the United States to the Arkansas River Basin compact, Arkansas-Oklahoma.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. METCALF).

HOUSE BILL REFERRED

The bill (H.R. 9456) to extend the Drug Abuse Education Act of 1970 for 3 years was read twice by its title and referred to

the Committee on Labor and Public Welfare.

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

NOMINATION BY PRESIDENT OF SENATOR SAXBE TO BE ATTORNEY GENERAL OF THE UNITED STATES, AND DESIGNATION OF LEON JAWORSKI TO BE SPECIAL PROSECUTOR

Mr. HUGH SCOTT. Mr. President, the President has announced the appointment of one of our beloved colleagues, Senator WILLIAM B. SAXBE, of Ohio, to be Attorney General of the United States, and Acting Attorney General Bork has announced the designation of Mr. Leon Jaworski, of Texas, to be special prosecutor.

In the first instance, as to Senator SAXBE, I would hope that the Senate would proceed in accordance with its ancient traditions and will proceed decently and in order toward the steps preceding confirmation. I would hope that confirmation could be had expeditiously. If the Senate wishes to waive a hitherto unbroken tradition, of acting immediately on the nomination of the Senator, I would hope that it will also do that with dignity and that it will proceed with whatever reasonable dispatch it can summon, as I do cherish the traditions of this body—as I am sure we all do.

We know our colleague from Ohio. We know his character, his reputation, and the high regard in which he is held. Therefore, I would hope that the Senate would not use the appointment of Senator SAXBE, of Ohio, to be Attorney General for any purpose other than to determine his competence for the office and his ability to assume its responsibilities.

We will, of course, miss him very much in this Chamber. I have no better friend.

As to the appointment of Mr. Leon Jaworski, whom I do not think I know so far as I can recall, we know that he was a past president of the American Bar Association, that he was frequently counsel for the late President Lyndon Johnson, that he was chief counsel, I believe, at war crimes trials, beginning his labors with the trial of the criminals at Dachau.

Mr. Jaworski refused the job of Special Prosecutor once before because he did not feel that it carried with it the assurances of complete independence. He has now received those assurances and they will be buttressed by the undertaking of the Attorney General, the Acting Attorney General, and, more importantly, of the President of the United States, that he cannot be removed from this office save after consultation with the majority leader, with myself, with the majority and minority leaders of the House, with the chairmen and ranking members of the Judiciary Committees of both bodies, and that a consensus is required. We had a discussion of the consensus yesterday. It can be interpreted to mean a substantial majority or an overwhelming majority. It cannot be interpreted to mean a bare majority. Therefore, members of both parties and, for the most part, nearly all of them, would have to agree. Therefore, the power of removal is volunteered by the Executive even though it cannot be forced from him or coerced out of him constitutionally, in view of the decision of Myers against the United States, Chief Justice Taft's opinion, which has not, in that regard, ever been overruled by any other decision. The power to appoint is the power to remove and Congress cannot prohibit the exercise of that power to remove officers of this kind.

Myers against United States is one way of going at this thing. A better way is, as I have suggested on previous occasions with regard to the President, the way of conciliation, the way of cooperation, the way of ready willingness to concede rights and privileges where the public interest demands.

I took that position—I believe I was the second Senator to take it—with regard to the special prosecutor. I believe it here.

I believe that we should not, here in Congress, or elsewhere, rely solely on our privileges but on consideration also of our responsibilities. So I hope that is the way we will proceed here. This is an offer made in good faith, and made to the American people as well as to Congress.

Mr. President, I ask unanimous consent to have printed in the RECORD a transcript of yesterday's statements by the President, by Attorney-General-designate SAXBE, and by Acting Attorney General Bork.

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

EXCHANGE OF REMARKS BETWEEN THE PRESIDENT AND ATTORNEY-GENERAL-DESIGNATE WILLIAM B. SAXBE

Ladies and gentlemen, I have an announcement today with regard to the new Attorney General.

I shall send to the Senate, as soon as the papers are prepared, the nomination of William Saxbe, Senator Saxbe of Ohio, as Attorney General of the United States.

The Senator and I, as I have found from reading press reports, have had several discussions on this in recent days, and I have found that he is eminently qualified, which I had known before, having known him for 25 years. I met him first when he was Speaker of the House of Representatives for the State of Ohio, knew him when I was Vice President, also, when he was Attorney General of the State of Ohio, on two different terms.

Not only is he eminently qualified, but he is an individual who wants to take this position, and who will do everything that he possibly can to serve the Nation as the first lawyer in the Nation. As a matter of fact, as you know, Bill Saxbe had already indicated that he wasn't going to run for the Senate again in Ohio this year, and he wanted to practice law. So I have given him the opportunity, with the Senate's consent, which I think will be overwhelming, to head the largest law firm in America, the Department of Justice.

He will have, of course, under the rules, only a brief statement to make, since he has to answer questions in his confirmation hearings and has to delay any other questions which might relate to those hearings. But you can make a statement, Bill, as I understand, when I complete my own statement with regard to you, and also with regard to Mr. Bork.

Mr. Bork, the Acting Attorney General, who has handled this position with very great ability during a very difficult time, has an announcement with regard to the Special Prosecutor. Mr. Bork will make the announcement and then will be prepared to answer any questions you ladies and gentlemen may have with regard to the Special Prosecutor and his activities in the future.

This matter we have already discussed with various congressional leaders and, of course, discussed it this morning with the Republican congressional leaders in our regular leadership meeting, and they generally felt that the selection which Mr. Bork will announce is one that is perhaps the best we could get for this very important position.

And so, Mr. Saxbe, Senator Saxbe, whom shortly we hope we will call Mr. Attorney General, you will have an opportunity to speak to the members of the press here at the White House now, and when you finish your statement, Bob, if you will then make your announcement with regard to the Special Prosecutor and take any questions that the ladies and gentlemen may have on that, I would appreciate that.

Thank you.

Senator SAXBE. Thank you, Mr. President.

The PRESIDENT. Congratulations.

Senator SAXBE. Most of you I had rather extensive talks with yesterday. I certainly don't feel inhibited in talking about the job because I think I have said about all I have to say on it, but I do understand and comprehend the difficult times that I feel that our country is in, a crisis of leadership. I believe that I can help solve this problem.

I think everyone in this country wants to get back to routine affairs and the very difficult things that we have to settle both nationally and internationally. I hope that I can contribute to this and I certainly am anxious that it proceed just as rapidly as it can and without any limitations in regard to the affairs that Mr. Bork is going to talk about.

I am anxious to undertake this job. I have no reluctance and I have no doubts that I can handle it. I know it is going to be difficult, but it is going to be one that I am familiar with and one that I am happy to tackle.

I want to turn this over to Mr. Bork at this time. I certainly hope that he will stay with me. It is going to be a difficult job to get a staff, and his record as Solicitor General has been outstanding, and I certainly want him to stay. His coolness during this difficult time of the last few weeks has been outstanding. The rest of my staff will have to wait until I get down to the business of confirmation, and I cannot say more about that. I have got to make my calls and be prepared to go before the committee.

Mr. Bork.

PRESS CONFERENCE OF ACTING ATTORNEY GENERAL ROBERT H. BORK

The ACTING ATTORNEY GENERAL. Ladies and gentlemen, in my capacity as Acting Attorney General, I am announcing today that I have appointed Leon Jaworski as Special Prosecutor for the investigation of the Watergate matter and related subjects.

Mr. Jaworski is a distinguished member of the Bar and he has a long record of outstanding public service. He has extensive prosecutorial experience. Born and raised in Texas, he personally prosecuted the first major war crime trials in the European Theater during World War II. He later served as Special Assistant to the Attorney General in

the Kennedy and Johnson Administrations, and as advisor to President Johnson.

In 1971 and 1972, Mr. Jaworski was president of the American Bar Association. He is also a past president of the American College of Trial Lawyers. Today, he is a senior partner in a Houston law firm, a position which he is relinquishing, of course, as he takes on this new assignment.

As Special Prosecutor, Mr. Jaworski's jurisdiction will be defined in the same terms as those first established for his predecessor. He has been promised the full cooperation of the Executive branch in the pursuit of his investigations. Should he disagree with a decision of the Administration with regard to the release of Presidential documents, there will be no restrictions placed on his freedom of action.

There is no expectation whatever that the President will ever have an occasion to exercise his constitutional right to discharge the Special Prosecutor or that it would ever be necessary in any way to limit the independence that he is being given. Should that expectation prove to be ill-founded, the President has given his personal assurance that he will not exercise his constitutional powers with regard to the Special Prosecutor without first consulting the Majority and Minority leaders and chairmen and ranking members of the Judiciary Committees of the Senate and the House, and ascertaining that their consensus is in accord with his proposed action.

I want to point out that the decision to name Mr. Jaworski to this post is one I made personally. Senator Saxbe participated in the closing stages of the selection process and concurred in the result. The selection also has the approval of President Nixon.

I should conclude by saying that, as one who has committed his honor and professional reputation to achieving justice in this case, I am totally satisfied with the process of selection, with the terms of the new charter, and most especially with the man who is going to be taking on these new duties. I believe the public is being well served.

Q. Mr. Bork, was there any discussion between you or any other member of the Administration with Mr. Jaworski about the Presidential tapes and other documents?

The ACTING ATTORNEY GENERAL. Was there any discussion between me and who?

Q. Mr. Jaworski.

The ACTING ATTORNEY GENERAL. No.

Q. And any other member of the Administration and Mr. Jaworski?

The ACTING ATTORNEY GENERAL. Not that I know of.

Q. So you know of no understanding that has been reached between Mr. Jaworski and—

The ACTING ATTORNEY GENERAL. No. Mr. Jaworski is not coming on with any understandings that limit his freedom of action. I thought I made that quite plain, and it must be quite plain.

Q. Sir, you said you didn't think there would be any difficulty with him at this time, as there was with his predecessor. Is this because you have elicited some promise from him?

The ACTING ATTORNEY GENERAL. I have elicited no promise from Mr. Jaworski. Mr. Jaworski would not give any such promise if he were asked for one. He is a man of complete independence and integrity.

I anticipate reasonableness on both sides. I anticipate cooperation from the White House. There is no promise that he will in any way be limited in the actions he is free to take.

Q. Will his charter be word for word the same one that governed Mr. Cox?

The ACTING ATTORNEY GENERAL. Yes, except for this additional safeguard about the President's personal assurance that he will not exercise any constitutional power without first consulting with these Members of Congress I have named.

Q. Was there any understanding with Mr. Jaworski about the present special Watergate prosecutorial staff?

The ACTING ATTORNEY GENERAL. Mr. Jaworski, of course, has complete freedom, but I have discussed that with Mr. Jaworski. I have stated to him that I thought that staff is indispensable to the rapid investigation and prosecution of these cases, and Mr. Jaworski fully agrees. Mr. Jaworski, I am sure, will be up here to meet with the staff very early, and I know will urge them to stay with the cases and discharge their professional obligations.

Q. Mr. Bork, if his charter is to be precisely the same as Mr. Cox's was, why was it necessary for you to revoke the departmental order which created that one, and are you now going to reissue it?

The ACTING ATTORNEY GENERAL. The answer to that is, at the time we had no Special Prosecutor. The matter was to be held and handled within the Criminal Division under my overall authority and under Mr. Henry Petersen's direct supervision, and that charter was inappropriate at that time. Now it becomes appropriate with the appointment of a new Special Prosecutor.

Q. What relationship will Mr. Henry Petersen have to this investigation now?

The ACTING ATTORNEY GENERAL. Mr. Petersen will no longer be involved in the investigation. Mr. Petersen will continue to run the Criminal Division, but the Special Prosecutor will run these matters.

Q. Mr. Bork, who brought Mr. Jaworski to your attention?

The ACTING ATTORNEY GENERAL. I had access to the files that Elliot Richardson had gathered in his rather extensive search for a Special Prosecutor. Mr. Jaworski's name was very prominent in those files. I think that is where it first came to my attention, although, of course, I knew of the reputation of the man.

Q. Governor Connally nor Professor Wright, neither discussed it with you?

The ACTING ATTORNEY GENERAL. No. I have never discussed this matter with Governor Connally, and I know Mr. Wright did not bring it to my attention. I have discussed, I should say, the question of a Special Prosecutor extensively within my own staff—well, I should back up on that.

It is a little hard to discuss matters extensively within my own staff within the Department of Justice because it is a very tiny staff, but insofar as it is possible, I discussed it with my own staff. I have discussed it with leaders of the Bar and I have discussed it with lawyers I know personally whose judgment I trust.

Q. Who elicited the assurance of the President that he would not fire the man unless he has the acquiescence of Congress?

The ACTING ATTORNEY GENERAL. I am not sure whose idea that originally was, but when it was brought to my attention, I thought it was a very good idea.

Q. It was not your idea?

The ACTING ATTORNEY GENERAL. No, I did not dream that one up.

Q. On that point, in the event that the President did find it necessary to discharge the new Special Prosecutor and consulted with these Members of Congress, would there be some provision for them voting, and a majority vote would be able to veto the decision, or would he only have to inform them and get their opinion and still be free to do as he chose?

The ACTING ATTORNEY GENERAL. No. My understanding of this personal assurance of the President is that when he says he will consult with them and ascertain that their consensus is in accord with his proposed action, by that he means he would want and need a substantial majority that agreed with him.

Q. Mr. Bork, do you see any change in the scope of the jurisdiction of the Special Prosecutor's office? Will Mr. Jaworski be free to pursue inquiries into the Rebozo-Hughes $100,000 contribution, the dairy fund contribution, and related acts not specifically involved in the Watergate break-in?

The ACTING ATTORNEY GENERAL. If you have read the original charter, which will now be reissued, it contains four heads of jurisdictions. One is the unauthorized entry into the Democratic National Committee headquarters at the Watergate. Number 2 is all offenses arising out of the 1972 Presidential election for which the Special Prosecutor deems it necessary and appropriate to assume responsibility. The third head of jurisdiction is allegations involving the President, members of the White House staff or Presidential appointees. And the fourth head of jurisdiction is any other matters which he consents to have assigned to him by the Attorney General.

Q. Mr. Bork, what moves will be made to extend the life of the various Watergate Grand Juries in view of the length of time it will take for Mr. Jaworski now to orient himself and his activities; and secondly, will you stay on in the Justice Department?

The ACTING ATTORNEY GENERAL. First, the Justice Department has submitted a bill to Congress asking that the life of those Grand Juries be extended. I will fully support that bill, and I trust it will pass.

Will I stay on in the Department of Justice? Yes.

Q. In what capacity, sir?

The ACTING ATTORNEY GENERAL. I would like to stay on in the capacity which is the only one I have ever aspired to, and I would like to try the job out, and that is Solicitor General, which to me is a lawyer's dream job and the one I want to hold.

Q. Is it your intent, as the Acting Attorney General, to assign to Mr. Jaworski the job of investigating those items in my previous question; that is, the milk fund and the Rebozo-Hughes $100,000 contribution?

The ACTING ATTORNEY GENERAL. To answer that question, I think, would be to make a statement about whether or not they are already under investigation, and I am not going to talk about what that staff is presently doing.

Q. Mr. Bork, what if the Attorney General does not want to sign an indictment that Mr. Jaworski might want to bring?

The ACTING ATTORNEY GENERAL. The Special Prosecutor will have the power to sign his own indictments.

Q. The White House has complained that Mr. Cox had "roamed far afield" in his investigation, going into these various matters. Is it your understanding or expectation that none of the investigations, whatever they are, that have been conducted under Mr. Cox would be curtailed, or will they be continued?

The ACTING ATTORNEY GENERAL. That is a decision for the Special Prosecutor. I certainly intend in no way to try to influence his decision. I am confident—knowing Mr. Jaworski and his reputation—I am confident that if there is any investigation that is going forward which he perceives as a live investigation, he will not curtail. But I certainly do not intend to begin in any way to try to tell Mr. Jaworski what he ought or ought not to do.

Q. Mr. Bork, the President said that the general feeling was that Mr. Jaworski was very good and perhaps the best we could get. What, if any, reservations have been expressed to you about him, and were you in the leadership meeting to know what, if any, were expressed there?

The ACTING ATTORNEY GENERAL. I heard no reservations expressed about him this morning. I have talked to a number of leading figures in the American Bar and to a number of personal friends whose judgment I trust, and to tell you the truth, I have heard no reservations.

The man appears to be, and is, an inde-

pendent type of man, an experienced prosecutor, experienced trial lawyer. Nobody questions his integrity. I am delighted with this choice.

Q. Mr. Bork, is Mr. Jaworski your selection or was he recommended to you by somebody in the White House?

The ACTING ATTORNEY GENERAL. No, he is my selection, but we discussed him—I discussed him with my staff in the Justice Department, I discussed him with some lawyers in the White House, I discussed him with members of the Bar, but he is my selection, and it has been my understanding from the outset that this was to be my selection.

Q. If I could follow up on that, what lawyers did you discuss it with in the White House?

The ACTING ATTORNEY GENERAL. Len Garment and Fred Buzhardt. I ask them what they knew about the man and they knew his reputation, is about it, I think.

Q. Will they not be representing the President to this new prosecutor, and is this a proper move, to consult an adversary lawyer on something like that?

The ACTING ATTORNEY GENERAL. I asked them if they knew anything about the man, and they knew his reputation and that was about it, to tell you the truth.

Q. Did they talk to him, Mr. Bork?

The ACTING ATTORNEY GENERAL. Yes. Listen, one of the reasons it is essential, I think, that they talk to him is that Mr. Jaworski have it understood all the way around about his independence, and that was fully agreed to. Of course he would want to talk to them.

Q. Mr. Bork, is there now any understanding with the leaders of Congress that they will back off from the legislation permitting the court to appoint its own Special Prosecutor?

The ACTING ATTORNEY GENERAL. I have no such understanding, and I know of no such understanding. I would hope that many Congressmen would perceive this Special Prosecutor office as fulfilling the needs they feel, and also as not raising the serious constitutional questions that some of the other proposals do raise.

Q. Mr. Bork, was Mr. Jaworski among your top five?

The ACTING ATTORNEY GENERAL. Oh, yes. I started off with an extensive number of names suggested to me from various sources and Mr. Jaworski was not only among my top five, but as the process continued, he became my top one.

Q. Mr. Bork, would you give us, in some more detail, the underlying reason for your apparent settled conviction that there is not going to be any more confrontation between the White House and the Special Prosecutor?

The ACTING ATTORNEY GENERAL. Because the President told me he wanted full investigation, he wanted full prosecution. I believe that is what he wants. I think the President fully understands that with Mr. Jaworski that is what he is going to get, and I don't think anybody wants any further confrontations of that sort.

Q. Mr. Bork, did you say that the President concurred in your choice of Mr. Jaworski, and the second part to that question, was Mr. Jaworski the first name you submitted to the President for concurrence?

The ACTING ATTORNEY GENERAL. I didn't submit any names to the President for concurrence. The President approves of Mr. Jaworski because he has the record of the man's accomplishments and integrity. He knows about him.

Q. Had he disapproved anyone else?

The ACTING ATTORNEY GENERAL. No.

Q. When does he go to work?

The ACTING ATTORNEY GENERAL. He hopes to be up here Monday morning, or as soon as the plane gets in from Texas, which may be noon or something like that.

Q. Did Mr. Jaworski require any urging by you or anyone else to accept the job, and if he did, who else besides you urged him to do so?

The ACTING ATTORNEY GENERAL. Insofar as I could see, Mr. Jaworski was aware that he was taking on responsibilities and duties of the most difficult and profound nature, and I think Mr. Jaworski was acutely aware of the personal sacrifice he was making, but also of the service he was going to perform to the nation at this time.

Q. Was Mr. Jaworski active in the Democrats for Nixon Campaign in 1972 which Governor Connally ran down in Texas?

The ACTING ATTORNEY GENERAL. I have no idea. I know Mr. Jaworski is a Democrat, but I did not in any way try to figure out his political activities. I didn't think they were important.

Q. Mr. Bork, you may have stated it generally, but so it is perfectly clear and specific, is it clearly understood by you and by Mr. Jaworski that he is free to go to court to press for additional tapes or Presidential papers if he deems it necessary?

The ACTING ATTORNEY GENERAL. That is absolutely clear.

The PRESS. Thank you, sir.

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

Mr. KENNEDY. Mr. President, I have just listened to the remarks of the distinguished minority leader and I, too, would join in congratulating Senator SAXBE on winning the confidence of the President and obtaining this nomination. I also congratulate Mr. Jaworski for the confidence he has been able to achieve in being selected by the President as special prosecutor.

I had the opportunity to introduce Elliot Richardson, the past Attorney General, a man from my State, to the Committee on the Judiciary and to urge, on the opening day of the hearings, the quick and expeditious consideration of his nomination. Mr. Richardson is a person who had served with considerable distinction in a variety of different executive positions, and who had held important positions of public interest and trust in my own State of Massachusetts.

I believe that the Committee on the Judiciary wisely spent a significant period of time—a period of some 3 weeks—and explored with Mr. Richardson his views about the special prosecutor and about a number of other matters of significant public interest.

As a member of the Judiciary Committee, I had a deep interest in a wide variety of matters before the Attorney General's office. In the course of the hearings, Mr. Richardson displayed a clear sensitivity to many of those interests, which was a matter of great satisfaction to many members of the committee.

I am hopeful that we will have a similar opportunity in the Judiciary Committee to explore with our distinguished colleague, Senator SAXBE, his views on many of the matters which are of consequence and importance to this country today. Obviously, we have a very high regard for our colleague. But, if the Senate were to put its stamp of approval on a fellow Member of this body without careful exploration of his views on matters of importance and consequence to the country today, we would fail in our responsibility to the Senate and to the American people. The historic precedents are an important factor, but I think we also have this responsibility.

In addition, I would think that Senator SAXBE would welcome such opportunity. In a brief and informal conversation with him yesterday—he was kind enough and generous enough to come by and talk with me briefly on some of the matters of my particular interest—I gathered the impression that he would welcome the opportunity to explore various issues before the committee and, hopefully, before the American people, and to give us his views on a number of matters of importance.

I must say that, as a member of the Judiciary Committee, I would also welcome the opportunity to explore similar matters with Mr. Jaworski, either at the same time or approximately the same time, so that we may hear his views on how he expects to proceed as the special prosecutor. We had the opportunity to do this with Mr. Cox and Mr. Richardson together, when the arrangements for the special prosecutor were first made, and I think it will be interesting and rewarding for the committee and for the Senate if we have a chance to exchange ideas and to question Mr. Jaworski.

I think we realize at the outset that he has already assumed his position today. Under the terms of the previous arrangement, he already is the special prosecutor, and there is absolutely no existing requirement that his selection must be submitted for the advice and consent of the Senate. But I think we would be negligent in our responsibility on the Judiciary Committee if we do not call him to testify at an early time. I agree with the minority leader that it should be done promptly.

The Judiciary Committee has already scheduled a hearing with a representative of the American Bar Association, on Monday, to be followed by former Attorney General Richardson. We have already heard from Mr. Cox, who was the special prosecutor. I would hope that after Mr. Richardson, we could move ahead with Mr. Saxbe and Mr. Jaworski, and continue with our committee deliberations leading to passage of the special prosecutor legislation and the extension of the Watergate grand jury.

I do feel, as I am sure others do, that there is a very favorable atmosphere and climate within the Judiciary Committee. I certainly share that feeling toward Mr. SAXBE and Mr. Jaworski, and as I have stated earlier, there are extremely significant institutional questions to be resolved with respect to Mr. Jaworski's appointment and his independence from the executive. In spite of the assurances that have been given about consultation with particular congressional leaders prior to any effort to dismiss him, I do not find these assurances sufficiently reassuring. The Judiciary Committee had assurances that Mr. Cox would be fired only for extraordinary improprieties, and we found that he was fired because he apparently had a disagreement with the White House, a disagreement which he was prepared to take to the Supreme Court of the United States.

I wish I could say that I felt a greater

sense of reassurance after the statements and comments that have been made on Mr. Jaworski, but I do not. And so, I feel the Judiciary Committee must explore in detail the understanding that Mr. Jaworski has of his independence, after he has had a chance over the weekend to plan his approach to this job. We want to learn what assurances he can give to the Senate and to the American people about his commitment to an independent investigation, and to the pursuit of all the evidence and other materials he will need to do his job effectively.

I would also hope that Mr. Jaworski would retain the Cox team that has been developed in the special prosecutor's office. Mr. Cox has urged that they remain, and I think the Justice Department has urged them to continue. I am hopeful that Mr. Jaworski will share that view.

THE ATLANTIC ALLIANCE

Mr. KENNEDY. Mr. President, last week I paid a brief visit to Brussels to fulfill a speaking engagement and meet with a number of officials in the European Commission. It was a fortuitous moment to be in Europe. Negotiations were just beginning in Geneva on the "Tokyo round" of tariff negotiations, and the MBFR talks were set to begin in Vienna this Monday. Meanwhile the United States and the Soviet Union were engaged in the second round of the SALT talks to limit the nuclear arms race, and 35 nations were involved in the Conference on European Security and Cooperation.

These four conferences—on troops and trade, and on strategic arms and security—all have immense consequences for the current well-being and future development of the Atlantic alliance. The terms of alliance are changing; there are new problems and difficulties; and new opportunities for promoting good relations across the Atlantic for the years ahead.

Throughout this process, the climate of our relations is of the highest importance. This is a time when we must talk with one another; we must understand one another's interests and desires; and we must seek to resolve difficulties before they produce crisis or conflict. If, together, the allies do these things, then I am confident that the next generation of North Atlantic relations will be as rewarding as the last.

We cannot exaggerate the importance of current negotiations, as well as the hopeful opportunities that exist both for the future of Atlantic relations and for moving beyond the era of cold-war confrontation. Thus all of us view with distress the unfortunate disruption of our relations with our European allies that took place last week.

The immediate problem began on October 25, when President Nixon ordered U.S. conventional and nuclear forces on worldwide alert. By all accounts, he took the decision without either informing or consulting a single one of our European allies. He did this even though U.S. forces in Europe were involved, and even though Europe's fate is inextricably bound up with our own.

Last Thursday, I approved the President's decision to place U.S. forces on alert, based on the information that was available to me. But I did not and cannot approve the administration's failure to take our allies into its confidence. Consulting with our allies would not have meant changing our actions to support Israel, to maintain the cease-fire, or to prevent a superpower confrontation in the Middle East. But it would have meant preserving the basis for good relations with our allies, both now and in the future.

The reaction from Europe was predictable. It is one of shock and anger. A decision was taken that could have vitally affected our allies, yet there was virtually no effort by the administration to inform them, much less to consult actively with them.

Here in Washington, the administration still shows no awareness of the threat it has posed to alliance cohesion.

Instead, various administration officials, up to and including the President, have been publicly and privately criticizing our European allies for their actions during the Middle East war. Secretary of Defense Schlesinger stated that the administration will be forced "to consider established notions and established doctrine." The State Department spokesman added his criticisms. The President chastised Europe with the remark that it "would have frozen to death this winter" if there had not been a settlement. And Dr. Kissinger was reported as being strongly displeased with the allies.

It is hard to believe that these statements came from the administration's highest officials. It is incredible to be told that Portugal, of all countries, should now be considered our one reliable Atlantic ally. These comments are all the more incredible coming, as they do, after years of U.S. neglect of the Atlantic Alliance.

Of course, many of us do not approve of the attitude taken by a number of European countries in the recent Middle East conflict. We would have all welcomed more European support for U.S. actions. But, like it or not, our membership in the NATO Alliance compels us to consider the European point of view, just as Europe must consider ours.

Until now, every President since Harry Truman has understood the demands of alliance. One cardinal rule has applied to every nation in NATO: There must be close consultations among allies when one another's interests are at stake.

Along with other allied nations, the United States has generally tried to follow this principle. We have done rather well over the years, especially in the most critical circumstances. President Eisenhower set a high standard, and Presidents Kennedy and Johnson sought to follow his example. Secretary Kissinger himself wrote a distinguished book—"NATO: The Troubled Partnership"—which argued strongly for close consultations between the United States and its NATO allies. Last week, however, all this experience and good advice was ignored. America chose to go it alone, unmindful of its obligations to Europe.

This is a serious development. But it did not just happen in the last few weeks. For several years, this administration has permitted relations with Europe to deteriorate, while it concentrated on other aspects of its foreign policy. It was understandable, perhaps, that President Nixon and Dr. Kissinger wanted to focus on relations with the Soviet Union and China—pursuing arms control and détente with the former, and ending two decades of almost total hostility with the latter.

Yet there is no excuse at all for the United States to ignore Atlantic relations. There has been—and continues to be—a danger of isolating our NATO allies during bilateral negotiations with the Soviet Union. There is a danger of giving the impression that we are prepared to reach agreements with Moscow at Europe's expense. And there is a danger of allowing serious conflict to develop in economic relations among Atlantic States—relations that have been neglected by this administration for far too long.

Earlier this year, Dr. Kissinger proclaimed a "year of Europe," and proposed the adoption of a new Atlantic Charter. There was a mixed reaction to these proposals in Europe. At long last, it seemed, this administration was ready to take allied interests seriously. But at the same time, there was concern in Europe that the administration did not understand the difficulties that lay ahead. How was it possible to chart a new course in Atlantic relations in a single year? How could a set of complex relations be reduced to a single charter?

A new Atlantic Charter can work for the alliance or against it. It could stimulate new approaches to both old and new problems. Or it could be a way for the United States to obscure real problems; to play one European ally off against the others; and to try insuring American supremacy in the alliance, at the very moment when we are being called upon to share our power, our influence, and our responsibilities.

Since then, very little has come of Dr. Kissinger's "year." To be sure, his proposal for a new Atlantic Charter helped stimulate the nations of the European Community into preparing common positions on a range of issues.

Yet it is reported that this response did not please the administration. There was pique, not pleasure, that Europe was beginning to speak with one voice. Despite 20 years of American support for unity in Europe, its tentative steps in that direction were viewed with concern, and with disappointment that Europe could act without tutelage from officials in Washington.

Nagging questions remain. Is this administration really concerned to bolster the Atlantic alliance? Does it intend to work with our allies in meeting the demands of our relations for the 1970's? Can it come to grips with the economic problems of alliance? Or has the new dialog with the Soviet Union become so important that nothing can stand in the way—including the interests and needs of our allies? Despite reassurances from the administration that we are not seeking a "condominium," there has long been reason to believe that Atlantic relations still occupy a very low priority

in administration thought and action. And there is continuing evidence that the administration is too overpreoccupied with military issues to act on the critical problems of allied economic relations.

Mr. President, the administration has helped to resolve a crisis in the Middle East. But in the process it has needlessly created a crisis in the Atlantic alliance. It is even now issuing vague hints that the United States will reconsider its policies concerning the maintenance of U.S. troops on the continent—not after careful evaluation and consultation with the allies on the appropriate force structure, not through MBFR, but in retaliation for an alleged lack of European euthusiasm and support for U.S. policies.

I deplore this approach. It goes against American interests in the defense of Europe and in the strength of alliance. And it calls into question the credibility of the administration in managing the foreign relations of the United States.

At a critical time in détente, when negotiations to reduce troops in Europe are just beginning in Vienna, and when the SALT talks raise European concerns about U.S. intentions, stimulating strife and dissension within the alliance is sheer folly. It will make it more difficult to work with our allies on effective preparations for East-West negotiations, on putting the role of military force in proper persceptive, and on creating a new set of economic relations that can benefit all nations.

Our European allies cannot be expected to forget what the President has done, the next time the administration talks of Atlantic charters or years of Europe.

Mr. President, the Atlantic alliance can be—it must be—revived and strengthened. But to do this, the United States must take several specific steps:

The principle of allied consultation must be reaffirmed, and applied consistently to United States-Soviet negotiations, to negotiations on troop reductions and European security, and to matters within the alliance itself.

The administration must work even more closely with the Congress on trade legislation that will permit negotiations on this vital issue;

It must not delay the reform of the international monetary system; it must make the basic decisions required, and negotiate seriously;

The administration must join with Europe in meeting our shared commitment to the economic development of poor nations;

It must make a firm commitment to include our European allies in all U.S. decisions affecting troop levels in Europe;

It must abandon the attempt to link levels of U.S. forces in Europe to European concessions on issues in trade and monetary relations;

It must finally appoint a new Ambassador to the OECD;

It must foreswear any return to the six-gun diplomacy that was uppermost when John Connally was Secretary of the Treasury;

And it must finally take a strong and forthright stand on developing a genuine energy policy, both here at home and in the alliance.

Above all, the attitudes of this administration must change. It must stop patronizing Europe. It must stop seeing relations with the Soviet Union—important as they are—as justifying the neglect of our allies. And it must begin realizing that our future is bound up with that of Europe, and that we must all work together. If the administration hopes to restore the credibility of its foreign policy, it must indicate that it understands the true demands of the alliance—and of foreign policy—in these difficult times.

Mr. President, I ask unanimous consent to have printed in the RECORD an editorial entitled "What 'Year of Europe'?" published in the New York Times of October 31, 1973, and an editorial entitled "NATO and the Mideast," published in the Washington Star-News of November 1, 1973. Both editorials relate to this subject.

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

WHAT "YEAR OF EUROPE"?

What the United States had envisioned as the Year of Europe, a period of imaginative updating and refurbishing of the NATO Alliance, capped with a new Atlantic Charter, has become instead the year in which Washington's relationship with its European partners has struck an all-time low.

The Administration's unprecedented decision last week to trumpet its resentment against the allies for not lining up solidly behind United States actions in the Middle East—not once but thrice in a day, the last shaft delivered by President Nixon himself—understandably provoked anger and bewilderment in nearly every NATO capital in Europe. The climate was not improved by Secretary of State Kissinger's alleged remark to visiting European-parliamentarians this week that during the two-week Middle East crisis the European's "acted as though the Alliance did not exist." And his reported expression of "disgust" with NATO during an appearance before the House Foreign Affairs Committee could only further sour relations.

Most NATO members had made clear in advance, privately or publicly, either that they did not share Washington's assessment of the crisis or that they could not afford to take a stance that might have the result of cutting off the flow of Arab oil which, as Mr. Nixon pointed out, is far more vital to Western Europe than to the United States.

Apart from any desire to remain officially neutral between Israel and the Arab states, however, the allied governments felt strongly that once again they were being asked to support an American policy on which they had not been consulted. These feelings were exacerbated when Washington did not notify them in advance of its worldwide security alert, obviously of concern to every country allied with the United States and especially those in which American military bases are situated.

President Nixon was right about Western Europe's tremendous stake in a Middle East cease-fire. State Department spokesman Robert J. McCloskey stated the obvious in saying that maintenance of the military balance and establishment of a durable peace in the Middle East "is just as much in the vital interest in West Germany and the other NATO allies as it is in our interest." The relevant point, however, remains the right of the European allies to be consulted about policies crucial to their survival.

Washington's failure to consult, despite countless promises to do so, and its decision not to give its allies advance warning of a military alert that inevitably affected their interests, fits a dismally familiar pattern for this Administration. Mr. Nixon and Secretary Kissinger can speak eloquently about the indispensable American-European connection; but their actions, particularly in crisis, do not match their words.

Some allied governments did go to unnecessary lengths to "separate themselves publicly" from the United States—one of Mr. McCloskey's complaints. West Germany might at least have made through diplomatic channels, rather than by public pronouncement, its demand that the United States halt arms shipments to Israel from German territory. But no constructive purpose was served by the peevish public criticisms of allied behavior from an Administration whose policy in crisis had been carried out in disregard of the interests of its European partners.

NATO AND THE MIDEAST

An important side-effect of American involvement in the Middle East crisis is the acute embarrassment of the North Atlantic Treaty Organization. The problem needs top-level attention to avoid a severe wrenching of the 24-year-old alliance.

The United States has pretty well gone it alone in its policy of supplying Israel to maintain a military balance between that country and its Soviet-supported Arab opponents, both to ensure Israel's survival and to promote an eventual settlement. The crunch came when, in the latest Arab-Israeli war, the Russians mounted a resupply effort for the Arab side and Washington decided it must do the same for Israel.

This produced a public scramble by most of our European allies to avoid identification with the American action and even, in the view of some U.S. officials, to hinder it. Only Portugal permitted overflight and landing by Israel-bound supply planes and fighters. West Germany made a public fuss over the discovery of American tanks being loaded abroad Israeli ships at Bremerhaven. Turkey and Greece, among the countries warning our planes off, reportedly permitted Soviet overflights (which Greece denied in its case).

The spectacle of our NATO allies treating us like lepers caused deep hurt in Washington, even after giving due weight to the European desire to avoid giving offense to the Arabs and jeopardizing the major part of their oil supplies. Defense Secretary Schlesinger and State Department spokesman McCloskey voice unprecedented criticism of our NATO partners, and the President commented bitterly at his generally bitter news conference Friday night. Mr. Nixon turned the oil argument around, saying Europe "would have frozen to death this winter" without the Mideast settlement that American policy seeks to promote.

The rift has pointed up the disparity between European and American attitudes toward the Mideast conflict. It also reveals some basic disagreements on the loyalty to be expected among NATO allies and on American freedom to shift Europe-based equipment and forces to trouble spots elsewhere, even to such a contiguous zone as the Mideast. Russia's role there as Arab sponsor and would-be oil broker can hardly be of no consequence to NATO.

Blame in the current misunderstanding surely belongs on both sides, with Washington still subject to reproach for failure to communicate and consult, especially on the near-confrontation with Moscow that provoked our military alert last Thursday. But the seeming desertion by our European partners could produce enough American resentment to hasten the withdrawal of substantial American forces from Europe. There is important congressional sentiment for doing

this, and the administration now is restudying our NATO deployment especially with a view of our flexibility in using men and equipment wherever needed.

The NATO alliance obviously needs intense medication, and it is too bad the necessity has been shown this painfully as an unwanted highlight of Mr. Nixon's "Year of Europe." It is worth taking a moment to reflect that the Atlantic partnership still is vital to the security of all of us.

ORDER OF BUSINESS

The PRESIDING OFFICER (Mr. ALLEN). In accordance with the previous order, the Chair now recognizes the Senator from Michigan (Mr. GRIFFIN).

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator from Michigan yield me a minute?

Mr. GRIFFIN. Mr. President, I yield to the distinguished Democratic whip.

ORDER FOR ADJOURNMENT UNTIL MONDAY

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 on Monday next.

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

ORDER FOR RECOGNITION OF SENATOR DOMENICI ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized under the standing order on Monday, the distinguished Senator from New Mexico (Mr. DOMENICI) be recognized for not to exceed 15 minutes.

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

ORDER FOR TRANSACTION OF ROUTINE BUSINESS ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, following the recognition of the distinguished Senator from New Mexico (Mr. DOMENICI) on Monday, I ask unanimous consent that there be a period for the transaction of routine morning business of not to exceed 30 minutes.

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

ORDER FOR CONSIDERATION OF CONFERENCE REPORT ON MILITARY PROCUREMENT BILL ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, following the conclusion of routine morning business on Monday, I ask unanimous consent that the Senate proceed to the consideration of the conference report on the military procurement authorization bill.

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

FEDERAL FIRE PREVENTION AND CONTROL ACT

Mr. ROBERT C. BYRD. Mr. President, I have discussed the request I am about to make with the distinguished assistant Republican leader (Mr. GRIFFIN) and have likewise cleared it with the distinguished Senator from Washington (Mr. MAGNUSON) and the distinguished Senator from New Hampshire (Mr. COTTON): that the yea-and-nay vote which has been scheduled on the final passage of S. 1769, to establish a U.S. Fire Administration and a National Fire Academy in the Department of Housing and Urban Development, occur at no later than the hour of 12:30 p.m. today; that rule XII be waived; that there be a limitation of 30 minutes on amendments to the bill; that there be a limitation of 20 minutes on any amendment to an amendment, debatable motion, or appeal; and that the agreement be in the usual form; with the added proviso that if at the hour of 12:30 p.m. an amendment is pending, the time allotted to the amendment under the agreement be allowed to run, unless such time is yielded back.

The PRESIDING OFFICER (Mr. ALLEN). Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, if the distinguished Senator does not want to utilize his time at this moment——

Mr. GRIFFIN. I would like to yield to the Senator from Oklahoma. He will not use all the time.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. BARTLETT. I thank the distinguished Senator from Michigan and the distinguished Senator from West Virginia for yielding to me at this time.

THE PRESIDENT CAN BE REMOVED ONLY AFTER IMPEACHMENT

Mr. BARTLETT. Mr. President, I am very concerned by the suggestions and demands that President Nixon resign his office because of the accusations, insinuations, and innuendoes of Watergate. Well-meaning people may not realize the long-term consequences of such a decision.

One of the greatest strengths of our form of government is the constitutionally guaranteed continuity of government through the elective process.

Article II, section 4, of the Constitution provides that the President shall be removed from office only after impeachment for and the conviction of treason, bribery, or other high crimes and misdemeanors.

There is no provision in the Constitution that a President should resign because of accusations or because of public clamor. If this were so, many of our great Presidents would never have served out their terms. President Lincoln was perhaps subjected to the greatest abuse of any President in our history. Both President Truman and President Wilson plunged to perilous lows of popular support.

If a President who is innocent of an impeachable offense resigns from office because of the tremendous public pressure brought to bear on him, the voters who elected that President are denied their mandate.

Once such a resignation occurs, the precedent is established for a minority to succeed through pressure where it failed through the electoral process.

Certainly, if a President is guilty of wrongdoing he should resign or be impeached. But it is a dangerous idea to suggest that the President resign solely because public opinion has turned against him and that he may be impaired in carrying out his duties. Even the national trauma of an impeachment proceeding would not have the long-term adverse impact of the forced resignation of an innocent President.

The integrity of the constitutional office of the President is far more important than specious and emotional demands.

I yield back to the Senator from West Virginia.

Mr. GRIFFIN. Mr. President, I now yield to the Senator from Louisiana.

PRESIDENT NIXON'S NOMINATION OF SENATOR WILLIAM B. SAXBE AND APPOINTMENT OF LEON JAWORSKI

Mr. LONG. Mr. President, I applaud President Nixon's decision to nominate Senator WILLIAM B. SAXBE to become Attorney General and the appointment of Leon Jaworski as the new independent prosecutor.

Senator SAXBE'S record of independence during his service in the Senate and his crisp and outspoken criticism of the President on a number of issues should demonstrate to any doubters that he will perform the job fearlessly and that he will exercise the judgment that the Nation expects at this time.

I am sure BILL SAXBE would not leave the Senate prior to the completion of his term if he were not certain that he could handle the Attorney General's duties effectively and without partisanship.

While I do not know Mr. Jaworski personally, his credentials are as impressive as any attorney's in this Nation and they are in line with the highest ethics of the legal profession.

I had the opportunity to watch the "Today" show on nationwide TV this morning, in which Mr. Jaworski was interviewed. It took only about 10 minutes to watch that interview to convince anyone that this great jurist is entitled to all the acclaim that has come to him during the past 50 years, because he is the type of person who clearly inspires the confidence of people. Obviously, his elevation to the presidency of the American Bar Association occurred because of his very fine performance of the tasks assigned to him in different areas.

Public service is not new to Mr. Jaworski, and it is entirely unlikely that he would have accepted this appointment had he not thoroughly believed his duties would be performed as was expected of him.

A man of such distinction throughout his life would not accept an appointment of this sort without first setting terms and conditions under which he would be expected to pursue his task. We have heard those terms spelled out—that Mr. Jaworski had a firm agreement with the

President that, if there are disagreements, they would be submitted to the joint leadership—both Republicans and Democrats—of the House and Senate, and the President and Mr. Jaworski would abide by the judgment of the congressional leaders.

Mr. SAXBE explained on television this morning that this would not be just a simple majority of the leadership, but an overwhelming one. He would expect at least six of the leaders would have to agree that Mr. Jaworski was not doing his duty the way it should be performed for the President to be supported against Mr. Jaworski's views.

I do think it was very unfortunate that the situation developed as it did with regard to Mr. Cox. But, in fairness to the President, what has transpired since that time has supported the President's obvious feeling that he was not being treated fairly by Mr. Cox.

I regret that Mr. Cox did something which he admitted was a grave violation of legal ethics. Mr. Cox described it as "unpardonable." Now we see that perhaps the President did have a basis for feeling that he was not being treated fairly by the prosecutor.

I think Mr. Jaworski's appointment now makes it unnecessary for Judge Sirica to name his own special prosecutor at a time when the Nation is beset with serious divison and controversy. I have not heard a single person argue the proposition that a judge should be both prosecutor and judge, or that a judge should be the prosecutor, particularly of the President of the United States, without creating grave constitutional doubts of such a course. In a time of national hysteria, this is also no time for Congress to embark on a journey into a constitutional no-man's land.

It would seem to me the proper approach would be that if Congress thinks a President has committed a crime, it could have all the investigators it wants. But that should start in the House, because the appropriate procedure, under the Constitution, would be impeachment.

I think it is time for many in this body and the other body and news commentators to start being fair to the President. From time to time I think it would be fair for some people even to issue an apology for some of the things they have said that are unfair and unkind.

As I say, it seems to me that if Congress wants to investigate further, it should do so on its own account, either through the Watergate Committee or the Judiciary Committee which is looking into the matters at the present time.

However, I do think that in this time of national unrest, it is no time to depart from the procedures set forth by the Founding Fathers and to embark upon an area that, in my judgment, creates the gravest of constitutional doubts. Even one of its most fervid advocates, Mr. Cox, appeared on public television and stated himself that he had grave doubts about the constitutionality of a court-appointed prosecutor. And if it is doubtful as to whether it should be funded and upheld by the courts, that would then mean that all of those who were charged and prosecuted by this man would have to be turned loose and those indictments would have to be found invalid. I believe that is something we ought to try to avoid.

I would think that others would look into the credentials and understand that the President has an independent prosecutor who feels reassured, as I do, that he will be able to act independently.

I would point out that there is a great difference between Attorney General Richardson's making a commitment to his independent prosecutor and the President himself making that commitment to his prosecutor.

The PRESIDING OFFICER. Does the Senator from Michigan desire to be recognized?

Mr. GRIFFIN. I do.

Mr. President, I commend the distinguished Senator from Louisiana for the very important statement he has made. I must say that this Senator had mixed feelings about the route that we should go in reestablishing a special, independent prosecutor.

There is a lot of appeal in the argument of those who say that the administration should not appoint a prosecutor to investigate itself. On the other hand, as a lawyer, I have been very concerned about the constitutionality of a court-appointed prosecutor since the court would then listen to the testimony and decide the cases.

When Professor Cox himself, as the Senator from Louisiana has said, admits that this is of doubtful constitutionality, it seems to me that we should take a long look at it. The last thing we should want is to have all of those indictments declared invalid because they have come down from a court-appointed prosecutor.

However, there is no question that a special prosecutor appointed by the President is constitutional. And the indictments would be held to be valid.

As a result of being at a leadership meeting on yesterday I can report that the President himself has not talked with Mr. Jaworski. The only person who has is Mr. Bork, the Acting Attorney General, whose job it has been to seek out and name the special prosecutor.

The Senator from Louisiana would agree that if Judge Sirica had appointed Mr. Jaworski, that appointment would meet with general approval. He is a lifelong Democrat, a former war crimes prosecutor, and past president of the American Bar Association. He is a man of impeccable credentials—a man who will insist on independence. He is the kind of person who would resign if he got into a situation where he could not be independent.

Mr. LONG. Mr. President, if the Senator will yield, I think the Senator is aware of the fact that Mr. Jaworski was offered the job before Mr. Cox and he declined it. I assume that one of the reasons he did so was because he did not have the kind of assurances that he has now. He would have to have the assurances of the President and he would want the procedure that he has apparently arranged with the President.

And if he and the President should be at loggerheads about how he is doing the job, the matter would be submitted to what I believe would be a fair jury. And who would be better than the Congress itself, which, incidentally, is far more appropriate than to have the Judiciary Committee decide the matter. The matter would be submitted to the leadership of the Congress. And we in Congress, which has the impeachment function in the last analysis, would look into the matter.

It is agreed, as I understand it, that the President would listen to the views and the consensus of the Congress, so that the President would have to have, let us say, six out of a group of eight, composed equally of Democrats and Republicans, sustain his position in order for Mr. Jaworski to be relieved.

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

Mr. ROBERT C. BYRD. Mr. President, if the Chair will recognize me, do I have any time remaining?

The PRESIDING OFFICER. The Senator from West Virginia has 9 minutes remaining.

Mr. ROBERT C. BYRD. Mr. President, I yield the Senator from Michigan as much time as he desires.

Mr. GRIFFIN. Mr. President, I thank the distinguished acting majority leader.

I want to add another point which I think is important. Obviously, if a different person had been appointed, then I could understand the continuing debate. However, knowing who the man is, it would seem to me that we would want to get on with the job rather than be tied down trying to get the legislation approved in both Houses of Congress and in the face of a possible veto on constitutional grounds.

If we wait for that procedure to be finished before we get a special prosecutor, a lot of time will be wasted. There is need to do that because we now have a special prosecutor. He has the independence that he wants. He is extremely well qualified. He has assurances from the President as to the procedures to be followed in the event there was disagreement and he was to be relieved.

Does anyone really doubt as a practical matter that this appointee is going to be discharged? The public pressure would not tolerate it.

Mr. LONG. Mr. President, any fair-minded person would admit that if Leon Jaworski was appointed special prosecutor by the other route, by being appointed by Judge Sirica, then all of those who are the accusers of the President would be acclaiming the appointment from the house-tops because Judge Sirica would have appointed as eminent a man as could be found anywhere on God's green Earth.

The only objection would be that the man happens to get the job by the only way that is clearly constitutional and by the precedents.

It will be amusing to watch the challenges made concerning a man who is clearly qualified and obviously the right man for the job merely because he got there in the way he is supposed to get there.

Mr. GRIFFIN. Mr. President, it seems

to me that even those who would admit begrudgingly that this is the kind of man we ought to have, would say that we should get on with the job.

Mr. LONG. I would hope so.

SENATE RESOLUTION 194—SUBMISSION OF A RESOLUTION RELATING TO SENATE RESOLUTION 60

(Ordered to be placed on the calendar.)

Mr. ERVIN. Mr. President, I send to the desk a resolution and ask for its immediate consideration. I do this in behalf of all the members of the Senate Select Committee on Presidential Campaign Activities.

The assistant legislative clerk read the resolution by title.

The resolution (S. Res. 194) is as follows:

Resolved That,

SECTION 1. By S. Res. 60, 93d Cong., 1st Sess. (1973), Sec. 3(a)(5), the Select Committee on Presidential Campaign Activities was and is empowered to issue subpenas for documents, tapes and other materials to any officer of the executive branch of the United States Government. In view of the fact that the President of the United States is, as recognized by S. Res. 60, an officer of the United States, and was a candidate for the office of President in 1972 and is therefore a person whose activities the Select Committee is authorized by S. Res. 60 to investigate, it is the sense of the Senate that the Select Committee's issuance on July 23, 1973, of two subpenas *duces tecum* to the President for the production of tapes and other materials was and is fully authorized by S. Res. 60. Moreover, the Senate hereby approves and ratifies the Committee's issuance of these subpenas.

SEC. 2. On August 9, 1973, the Select Committee and its members instituted suit against the President of the United States in the United States District Court for the District of Columbia to achieve compliance with the two subpenas referenced in Section 1 above, and since that time, in both the District Court and the United States Court of Appeals for the District of Columbia Circuit, have actively pursued this litigation. It is the sense of the Senate that the initiation and pursuit of this litigation by the Select Committee and its members was and is fully authorized by applicable custom and law, including the provisions of S. Res. 262, 70th Cong. 1st Sess. (1928). In view of the entirely discretionary provisions of Section 3 (a) (6) of S. Res. 60, it is further the sense of the Senate that the initiation of this lawsuit did not require the prior approval of the Senate. Moreover, the Senate hereby approves and ratifies the actions of the Select Committee in instituting and pursuing the aforesaid litigation.

SEC. 3. The Select Committee and its members, by issuing subpenas to the President and instituting and pursuing litigation to achieve compliance with those subpenas, were and are acting to determine the extent of possible illegal, improper or unethical conduct in connection with the presidential campaign and election of 1972 by officers or employees of the executive branch of the United States Government or other persons. It is the sense of the Senate that, in so doing, the Select Committee and its members were and are engaged in the furtherance of valid legislation purposes, to writ, a determination of the need for and scope of corrective legislation to safeguard the processes by which the President of the United States is elected and, in that connection, the informing of the public of the extent of illegal, improper or unethical activities that occurred in connection with the presidential campaign and election of 1972 and the involvement of officers or employees of the executive branch or others therein. It is further the sense of the Senate that the materials sought by the Committee's subpenas are of vital importance in determining the extent of such involvement and in determining the need for and scope of corrective legislation.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. GRIFFIN. I would have to reserve the right to object because I do not know what the resolution is or its fundamental purpose.

Mr. ERVIN. Mr. President, the resolution is to make it plain that the Senate Select Committee in bringing a suit in the District Court of the United States to require access to certain specified tapes is acting in behalf of the Senate.

Mr. GRIFFIN. May I inquire of the distinguished Senator from North Carolina, does he really expect the matter to be considered and voted on this morning, or is it acceptable to the Senator——

Mr. ERVIN. I would ask unanimous consent that the resolution be placed upon the calendar, and that it be called up Tuesday morning, if that does not interfere with the program.

Mr. GRIFFIN. I suppose it would be called up in the normal course at that time, would it not, if we could have it called up under the same circumstances. The Senate is not coming in on Tuesday, necessarily.

Mr. ROBERT C. BYRD. Mr. President, I was going to reserve the right to object simply to state that it is not certain that the Senate will be in on Tuesday. The Senate will come in on Monday.

Mr. ERVIN. There may be some objection to considering it Monday. I ask unanimous consent——

Mr. GRIFFIN. But to have it go on the calendar——

Mr. ERVIN. I ask unanimous consent that the resolution be placed upon the calendar, and that it not be called up before Tuesday morning.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. Mr. President, I shall not object to that. I realize that many of my colleagues, perhaps, will think that this matter should go to a committee, and we should have some hearings on it, and that would be a preferable way to legislate. But, on the other hand, the Senator from North Carolina, under the parliamentary situation, is clearly able, through this procedure, to ask unanimous consent for immediate consideration to get it to the calendar without it going to a committee, and if he wants to take that route he is certainly within his rights, and the only thing we are doing here by unanimous consent is to avoid the parliamentary steps that would be necessary.

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

Mr. ERVIN. I make this request because time is of the essence. A suit that this resolution might possibly affect is now pending, and may come up any day in the circuit court.

I ask unanimous consent to have printed in the RECORD a statement prepared by me explaining the nature and purpose of the resolution, for the information of the Senate.

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

STATEMENT OF SENATOR ERVIN

The Resolution before the Senate is intended to aid in resolving certain questions that have been raised concerning the Select Committee's actions.

It states that it is the sense of the Senate that the Committee, under S. Res. 60, had and has authority to subpena the President, who is an "officer" of the United States amenable to subpena under Sec. 3(a)(5) of S. Res. 60, to obtain certain information relating to possible improper, illegal, or unethical conduct in connection with his candidacy for the Presidency in 1972. It further states that the Senate approves and ratifies the Committee's action in regard to its subpenas.

It states it is the sense of the Senate that the Committee and its members were and are fully empowered by applicable custom and law, including S. Res. 262, 70th Cong., 1st Sess. (1928), to sue to enforce the Committee's subpenas and that the Senate approve and ratifies the initiation and prosecution of this litigation.

Finally, it states that it is the sense of the Senate that the Committee and its members, in subpenaing and bringing a civil action to enforce its subpenas, were and are acting in furtherance of valid legislative purposes—a determination of the need for and scope of corrective legislation relating to presidential campaigns and, in that regard, the revelation to the public of the extent of corruption in the 1972 presidential campaign and election. It also states that it is the sense of the Senate that the information sought is vital to the performance of the Committee's functions.

The members of the Committee are fully confident that they have complete authority to pursue the activities referred to in this Resolution, and are acting in this request with valid legislative purposes. The Resolution, however, removes all doubts.

INTRODUCTION OF S. 2641, A BILL TO CONFER JURISDICTION UPON THE DISTRICT COURTS OVER CERTAIN CIVIL ACTIONS BROUGHT BY CONGRESS

Mr. ERVIN. I send forward a bill and ask for its immediate consideration. I might state that this bill is introduced in behalf of every member of the Senate Select Committee on Presidential Campaign Activities.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2641) to confer jurisdiction upon the District Courts of the United States over certain civil actions brought by the Congress, and for other purposes.

Mr. ERVIN. The purpose of the bill is to make clear that the U.S. District Court for the District of Columbia will have jurisdiction of suits brought by authorized congressional committees to enforce subpenas. The necessity for it is occasioned by the fact that Judge Sirica, under his ruling on the 17th of this month in a suit brought by the select committee at the insistence of all the members of the select committee to enforce subpenas which we had issued to

the President calling for the production of tapes for September 15, 1972; February 28, 1973; March 13, 1973; and March 21, 1973, held that the District Court of the District of Columbia had no jurisdiction to pass upon the merits or demerits of the subpena, and he pointed out the fact that the committee had not pursued either of the two remedies that would ordinarily have been available in this connection. One of these remedies is to seek to prosecute in the criminal courts of the district for contempt of the Senate the person who refused to obey the subpena.

Manifestly, the committee did not think it would be appropriate to try to prosecute the President of the United States in the courts for contempt of the Senate, and therefore did not make a recommendation to that effect. The other available remedy is to seek to bring before the Senate itself for punishment the offending party.

We did not think that this would be an appropriate remedy.

The purpose of this bill is to make clear that the District Court of the District of Columbia shall have jurisdiction of a civil action to enforce a subpena directed to the President, the Vice President, or any other officer of the Federal Government, by a congressional committee where the committee is seeking to obtain information which is relevant to an investigation the committee is authorized to make.

I sincerely hope that when this matter is considered on its merits, every Member of the Senate and every Member of the Congress who thinks it is time for the Congress of the United States to quit playing second fiddle to the White House will support this bill.

I ask unanimous consent that the bill be placed upon the calendar, and that it not be called up for consideration prior to Tuesday of next week.

The PRESIDING OFFICER (Mr. KENNEDY). Is there objection to the bill being placed on the calendar, and not considered before Tuesday? The Chair hears none, and it is so ordered.

Mr. ERVIN. Mr. President, I also ask unanimous consent to have printed in the RECORD a statement prepared by me explaining the nature and purpose of the bill, for the information of Senators.

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

STATEMENT BY SENATOR ERVIN

The bill before the Senate responds to Judge Sirica's ruling on October 17 that the District Court has no jurisdiction to hear the Select Committee's suit seeking enforcement of its two subpenas. The Committee believes that the Court has jurisdiction in its case and that the Committee would eventually prevail on appeal, but this bill removes any doubt that its suit is properly before the Court. This bill will also permit the Committee to resolve the jurisdictional issue more promptly than if the matter were left solely to litigation.

But the bill has a broader usefulness because it will allow suit against any officer or employee of the executive branch to test the validity of a Congressional subpena. The bill provides a nonexclusive remedy. Other remedies available to the Congress to enforce its subpenas are its implied self-help procedures and the statutory contempt power, but the use of these processes may be inappropriate, unseemly, or nonefficacious where executive officers are involved. Moreover, a civil suit may be a quicker way of enforcing subpenas than either of these other two processes. Use of self-help procedures and the statutory contempt power can result in a court determination of the validity of a Congressional subpena, so there is nothing novel in turning over the question of validity to the courts.

The bill applies to suits seeking to enforce subpenas for "information, documents and other materials." The tapes and documents the Committee seeks would be covered. The use of the phrase "information, documents and other materials" indicates that it is not necessary that the subpenas seek evidence that would be admissable in a judicial proceeding. The bill is limited to subpenas to officers and employees of the executive branch and does not apply to subpenas to private individuals.

The bill is jurisdictional; it deals with the right of the District Court for the District of Columbia to hear suits to enforce subpenas against executive officials and in no way touches on the merits of those suits.

The term "any committee" is used in the bill to demonstrate that it applies to select and special committees, as well as standing committees.

The bill also provides that the Houses and their Committees have *standing* to prosecute a suit of this type.

And the bill provides that the Houses and their committees may employ attorneys of their choice to prosecute their litigations, thus making plain that the provisions of 28 U.S.C. §§ 516–519, which provide that suits on behalf of the United States shall be brought and prosecuted by the Attorney General and his subordinates, are inapplicable to litigation initiated under this bill.

It is anticipated that this section will be seldom used. In most cases where the Congress seeks information from the executive branch, any dispute can be resolved by the normal processes of political accommodation.

Mr. GRIFFIN. Mr. President, I merely want to add, following that last unanimous-consent agreement, that the same explanation in terms of the responsibility of the leaderships on this side would apply to the bill as to the resolution which the Senator from North Carolina offered earlier.

I see no particular reason for having him present it and have it objected to today, and then come back in on Monday, which he could do, have it offered, and then have it objected to again, in which case it would go on the calendar automatically under our rules.

He has asked unanimous consent to bypass those procedural steps and have it go right to the calendar rather than to committeee, and it seems to me that the rights of Senators are protected to the same degree as they would be otherwise.

Mr. ERVIN. I thank the Senator from Michigan.

I would point out that he has reserved, on behalf of any Member of the Senate, the right to make a motion; to refer the resolution or the bill when a motion to call up either of them is made.

Mr. GRIFFIN. I thank the Senator.

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER (Mr. KENNEDY). Under the previous order, there will now be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements therein limited to 3 minutes.

QUORUM CALL

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

The PRESIDING OFFICER (Mr. KENNEDY). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

APPOINTMENT OF A SPECIAL PROSECUTOR

Mr. ERVIN. Mr. President, when the nomination of Elliot Richardson to be Attorney General of the United States came up before the Committee on the Judiciary, Mr. Richardson made a specific agreement with the Senate Judiciary Committee. As I understand it, Mr. Richardson assured the Judiciary Committee that he had been authorized by the President to appoint a special prosecutor to have charge of the prosecution of criminal actions arising out of that unhappy series of events known collectively as the Watergate affair. As I understand it, Mr. Richardson's agreement with the committee pledged that the special prosecutor would not be discharged except for gross improprieties.

Pursuant to that agreement, Mr. Richardson was confirmed as Attorney General of the United States. He appointed Archibald Cox, an outstanding teacher of law, who had served with rare distinction as Solicitor General of the United States, to act as special prosecutor.

From such information as I have on the subject, Mr. Cox was summarily discharged, not for gross improprieties, but simply because he undertook to perform his duty as special prosecutor in a courageous and intelligent manner.

I have grave misgivings about taking any power out of the hands of the executive department of Government, but there is an old proverb which says, "If you fool me one time, it is your fault, but if you fool me the second time, it is mine."

Now, we are assured that Mr. Jaworski, who is a most eminent lawyer and a fine gentleman, will have independence. We were given the same assurance in respect to Mr. Cox. No special prosecutor can truly enjoy independence in the discharge of his duties if he is subject to removal by either the Department of Justice or the White House.

I am not concerned by the argument that an effort to obtain congressional action to insure the independence of a special prosecutor will delay matters.

The Department of Justice has had jurisdiction of the Watergate affair since the morning of the 17th of June 1972. During that time, justice has been traveling on leaden feet.

I think that we need a truly independent special prosecutor.

Section 2 of article II of the Constitution, which deals with appointments of civil officials by the President, subject to the advice and consent of the Senate, expressly states that Congress may provide for the appointment of inferior officers by the President, or by the courts, or by the head of an agency or a department.

In the case of *ex parte Siebold*, 100 U.S. 471, the Supreme Court of the United States held under that provision——

The PRESIDING OFFICER (Mr. NUNN). The time of the Senator from North Carolina has expired.

Mr. ALLEN. Mr. President, I ask for recognition in order that I might yield my time to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina may proceed.

Mr. ERVIN. The Supreme Court held that an act of Congress which provided that supervisors of elections could be appointed by the circuit courts—the court which at that time corresponded to our present day district courts—was constitutional under section 2 of article II of the Constitution.

So, certainly, it would seem to me, that if Congress can authorize a circuit court—or the district court—to appoint supervisors of elections, it can authorize the court to appoint a person much more narrowly related to the activities of the judicial branch of the Government; that is, prosecutors.

Mr. President, if the American people are going to have confidence in the integrity of their Government, it is essential to have a special prosecutor of criminal cases arising out of the Watergate affair who is independent of the Department of Justice and independent of the White House. For that reason, I support this procedure.

After all Mr. President, grand juries, which are recognized constitutional institutions, are the ones who will return any bills of indictments, not the special prosecutor. Those who are indicted will be tried on the bills of indictment returned by grand juries, if any are returned, by the courts and the petit jurors.

I therefore respectfully submit that the appointment of a special prosecutor authorized by an act of Congress or by the courts is perfectly constitutional. But, if it is not, the special prosecutor would be at least a de facto prosecutor and his actions would not be subject to collateral attack.

Therefore, I apprehend no impediment through prosecution on bills of indictment returned by a grand jury when trial is had before counts and by petit jurors.

I think the time has come to restore the confidence of the American people in the administration of justice. I do not think that Congress should sit by and receive a second promise that we will have an independent prosecutor when the first promise proved worthless.

Mr. KENNEDY. Mr. President, will the Senator from North Carolina yield?

Mr. ERVIN. I am glad to yield to the Senator from Massachusetts, if I have any time left.

Mr. KENNEDY. Mr. President, may I ask for recognition during the morning hour in my own right for 3 minutes?

The PRESIDING OFFICER. The Senator from Massachusetts is entitled to 3 minutes and is so recognized for that purpose.

Mr. KENNEDY. Mr. President, all Americans are in the debt of the distinguished chairman of the Watergate committee. As was seen at the time of his appointment, there is a unanimous feeling within this body of the fairness of the distinguished Senator from North Carolina, who has been an outstanding judge, a thoughtful member of the Committee on the Judiciary, and a great constitutional scholar.

I would like to ask the Senator from North Carolina, who has spoken so eloquently of the importance of a truly independent special prosecutor, why he is not satisfied with the statements that have been made by the White House with respect to the independence of the new special prosecutor. What reservations does the Senator from North Carolina have about the independence that has been promised to the new appointee?

I am interested in knowing whether the distinction between the assurances given by the White House about the independence of the appointee and the statutory independence of a special prosecutor created by Congress outside the appointment of the Executive is a question merely of semantics, or whether there is a real difference of substance.

Is the Senator from North Carolina satisfied with the recent assurances given to the American people that there must be consultation with congressional leaders before the new special prosecutor can be removed? Do these assurances provide the special, independent atmosphere and climate which the Senator from North Carolina feels is essential to assure the American people that this prosecutor will be truly independent? Is the Senator from North Caroina satisfied that those assurances would truly provide the kind of independence which the Senator feels is so essential, and with which I agree?

Mr. ERVIN. Simply because the Supreme Court, in the case of United States against Myers, held that the President had the power to remove, at his own whim and caprice, any executive officer appointed by him. To be sure, this power may be subjected to certain limitations in the cases of quasi-judicial officers.

Our friends talk about the proposal to appoint a special prosecutor as being unconstitutional. I say that it is unconstitutional for the President of the United States to say, "I won't exercise my constitutional power to remove an officer appointed by me, without the consent of the majority and minority leaders of the House and the Senate."

While we are standing for the Constitution, I think we ought to get a constitutional agreement on this matter and not have an unconstitutional agreement such as that now proposed by the administration.

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

Mr. ROBERT C. BYRD. Mr. President, how much time remains for morning business?

The PRESIDING OFFICER. Sixteen minutes.

Mr. ROBERT C. BYRD. If the Chair will recognize me, I will yield my 3 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator is recognized.

Mr. KENNEDY. I would like to inquire further of the Senator. Article II, section 2, clause 2 of the Constitution gives Congress the power in certain cases to allow the courts to appoint Federal officials. As I understand it, the test applied by the Supreme Court in interpreting this provision is the test of congruity. In other words, if it is not incongruous for the courts to appoint the official in question, then Congress can appropriately and constitutionally vest the appointment power in the courts. That is the test announced in the Siebold case in 1879, and it seems to me that under this test, it is entirely proper for Congress to authorize the courts to appoint a special prosecutor.

I wonder whether the distinguished Senator from North Carolina, who is a constitutional authority, feels that we have the power constitutionally to act to create a truly independent prosecutor in this, I also wonder whether the Senator would agree with me that it would be grossly irresponsible if we do not act to create an independent prosecutor.

Mr. ERVIN. I think that under the decision of the Supreme Court in the Siebold case, Congress has power to pass a law authorizing the courts to appoint a special prosecutor for these particular cases. It is well recognized in many judicial opinions that where there is an emergency which renders the regular district attorney or the regular prosecuting attorney unable to prosecute a case, the court has the power to appoint someone to act in his stead, without any act of Congress. The court also has the right to appoint, and is required by law to appoint, lawyers to defend indigent defendants.

If the courts can exercise such powers without a specific act of Congress, I cannot see why, under section 2, article II, the court cannot be authorized by an act of Congress to appoint a special prosecutor to prosecute a specific line of cases.

Also, the necessary and proper clause of the first article says that Congress can pass any law which is necessary or proper to implement any powers given to any officer of the Federal Government, including the President. The President should see that the laws are faithfully executed; but if a President does not exercise that power, is the country to be helpless? I think Congress can pass a law to make effective that duty of the President, and I believe the appointment of a special prosecutor would fit within that category.

Mr. KENNEDY. A final inquiry. In listening to the discussions here this morn-

ing, the question of constitutionality has been raised by some Members of the Senate.

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

Mr. HARRY F. BYRD, JR. Mr. President, I yield time to the Senator from Massachusetts.

Mr. KENNEDY. It has been said that if the special prosecutor were actually appointed by the courts pursuant to a statute we enact, and the act is subsequently found to be unconstitutional, many guilty persons may go free. They also say that, in any event, the act may take a long time to test in court. Therefore, they argue, in order to achieve speed of justice in terms of the prosecution of those who are guilty, Congress would be wise not to insist on a court-appointed prosecutor.

Obviously, in an area like this, it is always possible to develop constitutional arguments on both sides. But my own view, after studying the relevant precedents, is that we are on extremely solid constitutional ground in urging a court-appointed prosecutor. Clearly, the 21 law school deans who have filed statements or comments with the Judiciary Committee assuring us of the constitutionality of our legislation also agree.

I would be interested in the response of the Senator from North Carolina, a former jurist, to this question.

Mr. ERVIN. My answer to that question is this: While bills of indictments are ordinarily drawn by the prosecuting attorney, the bills of indictment are totally without effect unless they are returned as true bills by the grand jury. When they are returned as true bills by the grand jury, I do not think the courts are going to waste their time inquiring as to who drew the bill of indictment. Any bill of indictment that is returned by a grand jury as a true bill, even though it may have been drawn by a special prosecutor instead of some hireling in the Department of Justice or somebody in the district attorney's office, would be perfectly valid and could be used as a basis for a valid trial, even if the courts would be so foolish as to reverse the decision in the Siebold case and say that section 2, article II, of the Constitution does not mean what it says.

Mr. KENNEDY. I thank the Senator from North Carolina for his comments.

QUORUM CALL

Mr. HARRY F. BYRD, JR. 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. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

ACCOUNTABILITY OF FEDERAL JUDGES

Mr. HARRY F. BYRD, JR. Mr. President, earlier this year, Senate Joint Resolution 13 was introduced by the Senator from Virginia on behalf of himself, the distinguished Senator from Alabama (Mr. ALLEN), the distinguished Senator from South Carolina (Mr. THURMOND), the distinguished Senator from Georgia (Mr. TALMADGE), and the distinguished junior Senator from Georgia (Mr. NUNN), who is now presiding over the Senate.

This joint resolution would attempt to bring some accountability to the Federal judges. In the present situation, Federal judges are appointed for life. They are accountable to no one. This proposal would require reconfirmation at the end of an 8-year period. It is an attempt to bring some accountability to the Federal judiciary.

I submit that in a democracy, it is not logical or wise for a public official to have lifetime appointment and to be completely unaccountable for his actions. In the whole world, the only individuals today who have lifetime tenure are kings, queens, maharajas, and U.S. Federal judges. I think it is time that something be done about this situation.

I am prompted to make these remarks because I received a letter today from the Governor of the State of New Hampshire, the Honorable Meldrim Thomson, Jr. Governor Thomson is interested in the proposed legislation, and in his letter to me he said this:

> Such legislation is long overdue and, in fact, is essential if we are not to have a nation run by judicial dictatorship.

This is a personal letter, and I would not make a comment on it publicly without his approval. I telephoned Governor Thomson, and I have his approval to insert his letter in the RECORD. I welcome his support.

I might point out that the proposal which has been offered to the Senate is in line with 47 of the 50 States.

Forty-seven of the 50 States have fixed tenure for their State judges, and the proposal offered by the distinguished Senator from Alabama, the distinguished Senator from South Carolina, the two distinguished Senators from Georgia, and myself would attempt to do the same thing for the Federal judiciary.

I might state also that the Legislature of Virginia, at its last session, approved a resolution memorializing the Congress of the United States to adopt such an amendment to the Constitution and to submit it to the States for ratification. I think there is a clear, unequivocal indication that our citizens believe that lifetime tenure for Federal judges is a practice which should be ended.

NATIONAL VOTER REGISTRATION AGENCY

Mr. HARRY F. BYRD, JR. Mr. President, I note that proposed legislation to establish a National Voter Registration Agency in the Bureau of the Census, to provide for the post card voter registration at Federal elections, has been tabled by the Subcommittee on Elections of the House of Representatives. The subcommittee conducted extensive hearings on this subject and tabled the measure in mid-September. I commend the House subcommittee for this action. I think it is very undesirable legislation which has been proposed.

A similar proposal passed the Senate by a large vote, I am sorry to say. I call it tombstone legislation. Under the bill, persons, whether existing or nonexisting, could be registered by postcard. I submit that such a bill would probably help to reduce unemployment, but it would not help the electoral process. The reason why it would help to reduce unemployment is that people would be employed by politicians to go around looking at tombstones for names of persons to be registered. I think that to pass such legislation would be very undesirable and could lead to fraud and corruption.

I wanted to speak on this subject today and to commend the House Subcommittee on Elections for tabling this measure and, I hope, killing what I regard as a very bad piece of proposed legislation.

U.S. COMMITMENT TO THE SOUTHEAST ASIA COLLECTIVE DEFENSE TREATY AND ORGANIZATION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar 453, Senate Resolution 174.

The PRESIDING OFFICER. The resolution will be stated by title .

The legislative clerk read as follows:

> A resolution (S. Res. 174) relating to the United States commitment to the Southeast Asia Collective Defense Treaty and Organization.

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

There being no objection, the Senate proceeded to consider the resolution.

Mr. ROBERT C. BYRD. Mr. President, there is probably no other alliance of nations that is as outdated as is the Southeast Asia Treaty Organization. Throughout all the years that the United States was bogged down in the tragic war in Vietnam, SEATO contributed nothing but meaningless rhetoric.

In March of 1971, I suggested that the United States use its position of prominence within SEATO to Asianize the Organization; and, if such efforts failed, I said that America should withdraw completely from SEATO.

It is now clear, Mr. President, that SEATO is not going to change in any respect. It is not going to become responsive to the problems unique to Southeast Asia unless it is forced to do so by the withdrawal of its most formidable and powerful member, the United States. And I look upon the resolution that is before the Senate today as the first step toward such a withdrawal.

The resolution, which I cosponsored along with the distinguished Senator from Idaho (Mr. CHURCH) and the distinguished Senator from Vermont (Mr. AIKEN), calls for the Senate Foreign Relations Committee to review American commitments under the SEATO ac-

cords. Such a review would be especially timely, Mr. President, in light of the growing disinterest among member nations, the recent formation of all-Asian alliances, and the violence that produced changes in the Government of Thailand.

I hope that the Senate will adopt this resolution, that the review will be conducted as expeditiously as possible, and that the United States will finally remove itself from SEATO.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 174) was agreed to, as follows:

Resolved, by the United States Senate that the Committee on Foreign Relations undertake a full and complete review of United States participation in the Southeast Asia Collective Defense Treaty and Treaty Organization and report to the Senate the committee's findings and recommendations no later than March 31, 1974. Such review shall include reexamination of the basic foreign policy considerations which originally led the United States to join the SEATO Organization and reassessment of those considerations in the light of subsequent developments relating to that Organization and the foreign policy interests of the United States.

Mr. MANSFIELD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, November 2, 1973, he presented to the President of the United States the following enrolled bill:

S. 11. An act to grant the consent of the United States to the Arkansas River Basin compact, Arkansas-Oklahoma.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

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

S. 1070. A bill to implement the International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969 (Rept. No. 93-482).

S. 2651. A bill to amend the Federal Aviation Act of 1958 and the Interstate Commerce Act in order to authorize reduced rate transportation for handicapped persons and for persons who are 65 years of age or older or 21 years of age or younger (Rept. No. 93-483).

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

S. 1432. A bill to amend the Federal Aviation Act of 1958 to authorize free or reduced rate transportation for widows, widowers, and minor children of employees who have died while employed by an air carrier or foreign air carrier after 20 or more years of such employment (Rept. No. 93-484).

EXECUTIVE REPORTS OF COMMITTEES

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

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

Robert H. Miller, of the District of Columbia, to be an Assistant Director of the U.S. Arms Control and Disarmament Agency;

J. Owen Zurhellen, Jr., of New York, to be Deputy Director of the U.S. Arms Control and Disarmament Agency;

O. Rudolph Aggrey, of the District of Columbia, 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;

Nicholas W. Craw, of the District of Columbia, to be an Associate Director of the Action Agency; and

Donley L. Brady, of California, to be a member of the Board of Directors of the Overseas Private Investment Corporation.

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

By Mr. MAGNUSON, from the Committee on Commerce:

George Henry Hearn, of New York, to be a Federal Maritime Commissioner; and

Mary Elizabeth Hanford, of North Carolina, to be a Federal Trade Commissioner.

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

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

Hugh F. Owens, of the District of Columbia, to be a Director of the Securities Investor Protection Corporation for the remainder of the term expiring December 31, 1973;

Hugh F. Owens, of the District of Columbia, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1973; and

Glenn E. Anderson, of North Carolina, to be a Director of the Securities Investor Protection Corporation.

The above nominations were reported with the recommendation that they be confirmed subject to the nominees' commitment to respond to requests to appear and testify befor any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. PACKWOOD (for himself and Mr. PROXMIRE):

S. 2640. A bill to provide for full deposit insurance for public funds, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. ERVIN (for himself, Mr. BAKER, Mr. TALMADGE, Mr. INOUYE, Mr. MONTOYA, Mr. GURNEY, and Mr. WEICKER):

S. 2641. A bill to confer jurisdiction upon the District Courts of the United States over certain civil actions brought by the Congress, and for other purposes. Ordered to be placed on the Calendar.

By Mr. TAFT:

S. 2642. A bill to establish an independent Special Prosecution office, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. KENNEDY:

S. 2643. A bill to revise the Immigration and Nationality Act. Referred to the Committee on the Judiciary.

By Mr. GRIFFIN:

S. 2644. A bill for the relief of Mr. Joselito S. Arca and Dr. Corazon I. Arca. Referred to the Committee on the Judiciary.

By Mr. PASTORE (by request):

S. 2645. A bill to amend Public Law 93-60 to increase the authorization for appropriations to the Atomic Energy Commission in accordance with Section 261 of the Atomic Energy Act of 1954, as amended, and for other purposes. Referred to the Joint Committee on Atomic Energy.

By Mr. INOUYE:

S. 2646. A bill for the relief of Amador Domingo Domingo. Referred to the Committee on the Judiciary.

By Mr. STEVENS:

S. 2647. A bill to amend 5 U.S.C. 5343 (c) (1) to expand the data base for federal wage surveys in certain areas of the United States wherein there is insufficient private industry to determine comparable wages or where State and local governments exert a major influence on wage rates. Referred to the Committee on Post Office and Civil Service.

By Mr. STENNIS:

S. 2648. A bill for the relief of Katherine Whiteman Jackson. Referred to the Committee on the Judiciary.

By Mr. McCLURE:

S. 2649. A bill to provide for the public disclosure by candidates for election to Federal office of their Federal income tax returns. Referred to the Committee on Finance.

By Mr. CRANSTON (for himself and Mr. ABOUREZK, Mr. BROCK, Mr. FONG, Mr. GRAVEL, Mr. HATFIELD, Mr. HUMPHREY, Mr. KENNEDY, Mr. McGOVERN, Mr. McINTYRE, Mr. PACKWOOD, Mr. METCALF, Mr. PERCY, Mr. RIBICOFF, and Mr. SPARKMAN):

S. 2650. A bill to provide for the early commercial demonstration in residential housing and other buildings of technology for solar heating and combined solar heating and cooling by the Secretary of Housing and Urban Development, to establish a National Solar Energy Coordinating Council, and for other purposes. Referred, by unanimous consent, jointly to the Committees on Banking, Housing and Urban Affairs, and Commerce; and if and when one of these committees reports the bill, then to be referred to the Committee on Labor and Public Welfare.

By Mr. MAGNUSON (for himself, Mr. BURDICK, Mr. CANNON, Mr. CHURCH, Mr. DOLE, Mr. FONG, Mr. GRAVEL, Mr. GRIFFIN, Mr. GURNEY, Mr. HATFIELD, Mr. HUGHES, Mr. HUMPHREY, Mr. KENNEDY, Mr. McGOVERN, Mr. MONTOYA, Mr. MOSS, Mr. PERCY, Mr. STEVENSON, and Mr. WILLIAMS):

S. 2651. A bill to amend the Federal Aviation Act of 1958 and the Interstate Commerce Act in order to authorize reduced rate transportation for handicapped persons and for persons who are 65 years of age or older or 21 years of age or younger. Referred to the Committee on Commerce.

By Mr. JACKSON (for himself and Mr. RANDOLPH):

S. 2652. A bill entitled the National Coal Conversion Act of 1973. Referred to the Committee on Interior and Insular Affairs.

By Mr. GRAVEL:

S. 2653. A bill to authorize and direct the Secretary of the Department under which the U.S. Coast Guard is operating to cause the vessel *Miss Keku*, owned by Clarence Jackson, of Juneau, Alaska, to be documented as a vessel of the United States with coastwise priviliges. Referred to the Committee on Commerce.

S. 2654. A bill to confer jurisdiction upon the U.S. District Court for the District of Alaska to hear, determine, and render judgment with regard to claims concerning certain lands in the city of Fairbanks, Alaska, and for other purposes; and

S. 2655. A bill for the relief of Richard

Zorza. Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PACKWOOD (for himself and Mr. PROXMIRE):

S. 2640. A bill to provide for full deposit insurance for public funds, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. PACKWOOD. Mr. President, on behalf of myself and Senator PROXMIRE, I am introducing legislation which will provide for 100-percent insurance of deposits of public agency funds in all federally insured financial institutions.

The Committee on Banking, Housing and Urban Affairs considered this matter during the course of our investigations last year into the need for Federal legislation dealing with State taxation of national banks. In the form of an amendment to the pending legislation, Senator PROXMIRE proposed that we add to the pending bill provision for 100-percent-deposit insurance for public fund deposits .

After this flurry of activity, the 92d Congress finally did nothing to eliminate the insurmountable hurdles that prevent thrift institutions from receiving public fund deposits.

Currently, most States require that deposits of public funds, whether they be from the State government or from units of local government, in effect, be secured by pledged collateral. Such collateral is essentially in the form of Federal, State, and local government obligations. The problem is that thrift institutions are prohibited from pledging government obligations as collateral for public fund doposits.

The inevitable result of this conflict is that nearly all public fund deposits are held by commercial banks, with only a pittance held by thrift institutions.

The latest figures show that commercial banks, with about half of all savings deposits, hold $30 billion worth of public fund deposits. Thrift institutions—savings and loan associations, credit unions, and mutual savings banks—account for only $550 million worth of public fund deposits. In other words, thrift institutions hold, overall, about half of all savings deposits on record; but, because of the hurdles that various levels of government have placed in their way, they hold only 1.8 percent of public fund deposits.

Mr. President, we are talking about billions of dollars of the American taxpayers' money that effectively must be limited in the choice of depositories. At a time when this Nation is experiencing a severe shortage of adequate funds for housing, it is particularly important that we take such action as we can to insure that thrift institutions are in a position to acquire every possible dime in deposits as to insure that those funds will be made available for meeting the housing needs for our people.

During the course of the hearings held by the Committee on Banking, Housing and Urban Affairs last year, I became convinced of the need for this legislation. As the committee proceeds early next year to consider legislation dealing with restructuring of financial institutions following from the President's recommendations based on the Hunt Commission Report, I want to make certain that we consider this very important element of the overall debate: the ability of thrift institutions to compete for fund deposits from whatever source to insure an adequate and continuing supply of mortgage credit to meet the housing needs of this country. One way to insure that this desired end is accomplished is to approve the legislation that Senator PROXMIRE and I are introducing today.

I ask unanimous consent that the text of our proposal 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. 2640

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

SECTION 1. (a) The Federal Deposit Insurance Act is amended—

(1) in subsection (m) of section 3 (12 U.S.C. 1813(m)), by inserting immediately after "depositor" in the first sentence the following: "(other than a depositor referred to in the third sentence of this subsection)";

(2) in subsection (i) of section 7 (12 U.S.C. 1817(i)), by striking out "Trust" and inserting in lieu thereof the following: "Except with respect to trust funds which are owned by a depositor referred to in paragraph (2) of section 11(a) of this Act, trust"; and

(3) in subsection (a) of section 11 (12 U.S.C. 1821(a)), by inserting "(1)" immediately after "(a)", by striking out "The" in the last sentence and inserting in lieu thereof the following: "Except as provided in paragraph (2), the", and by inserting at the end of such subsection the following:

"(2) (A) Notwithstanding any limitation in this Act or in any other provision of law relating to the amount of deposit insurance available for the account of any one depositor, in the case of a depositor who is—

"(i) an officer, employee, or agent of the United States having official custody of public funds and lawfully investing the same in an insured bank;

"(ii) an officer, employee, or agent of any State of the United States, or of any county, municipality, or political subdivision thereof having official custody of public funds and lawfully investing the same in an insured bank in such State;

"(iii) an officer, employee, or agent of the District of Columbia having official custody of public funds and lawfully investing the same in an insured bank in the District of Columbia; or

"(iv) an officer, employee, or agent of the Commonwealth of Puerto Rico, of the Virgin Islands, of American Samoa, or of Guam, or any county, municipality, or political subdivision thereof having official custody of public-funds and lawfully investing the same in an insured bank in the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, or Guam, respectively;

his deposit shall be insured for the full aggregate amount of such deposit.

"(B) The Corporation may limit the aggregate amount of funds that may be deposited in any insured bank by any depositor referred to in subparagraph (A) of this paragraph on the basis of the size of any such bank in terms of its assets."

(b) Title IV of the National Housing Act is amended—

(1) in section 401(b) (12 U.S.C. 1724 (b)), by striking out "Funds" in the third sentence and inserting in lieu thereof the following: "Except in the case of an insured member referred to in the preceding sentence, funds";

(2) in section 405(a) (12 U.S.C. 1728(a)), by inserting after "except that no member or investor" the following: "(other than a member or investor referred to in subsection (d));" and

(3) by adding at the end of section 405 (12 U.S.C. 1728), the following new subsection:

"(d) (1) Notwithstanding any limitation in this subchapter or in any other provision of law relating to the amount of deposit insurance available for any one account, in the case of an insured member who is—

"(i) an officer, employee, or agent of the United States having official custody of public funds and lawfully investing the same in an insured institution;

"(ii) an officer, employee, or agent of any State of the United States, or of any county, municipality, or political subdivision thereof having official custody of public funds and lawfully investing the same in an insured institution in such State;

"(iii) an officer, employee, or agent of the District of Columbia having official custody of public funds and lawfully investing the same in an insured institution in the District of Columbia; or

"(iv) an officer, employee, or agent of the Commonwealth of Puerto Rico, or of the Virgin Islands, or of any county, municipality, or political subdivision thereof having official custody of public funds and lawfully investing the same in an insured institution in the Commonwealth of Puerto Rico or the Virgin Islands, respectively;

the account of such insured member shall be insured for the full aggregate amount of such account.

"(2) The Corporation may limit the aggregate amount of funds that may be invested in any insured institution by any insured member referred to in paragraph (1) of this subsection on the basis of the size of any such institution in terms of its assets.".

Mr. PACKWOOD. Also, Mr. President, I ask unanimous consent that some material on a closely related matter be printed in the RECORD. This is the package of recommendations submitted to the Congress earlier this year by the President calling for a substantial restructuring of our financial institutions. It would be in concert with our consideration of these recommendations that the legislation that Senator PROXMIRE and I are proposing will be considered.

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

RECOMMENDATIONS FOR CHANGE IN THE U.S. FINANCIAL SYSTEM, AUGUST 3, 1973

To the Congress of the United States:

Our country depends on a strong, efficient and flexible financial system to promote sound economic growth, including the provision of adequate funds for housing. Such a system is one which allows financial institutions to adapt to the changing needs of borrowers and lenders, large and small, and is free to make full use of technological innovations.

Events during the last decade, however, have revealed significant defects in the operations of our financial institutions. On two recent occasions when the Federal Reserve System moved to restrain the economy, it was found that the inadequacies of our financial structures created unnecessarily severe burdens for the business community and the consuming public. The consumer-saver was denied a fair market return on his savings, while the consumer and small businessman, as borrowers, often could not obtain adequate funds to meet their requirements.

The inflexibility of our financial system can be directly attributed to the methods

used by the Government to direct credit flows—methods designed to meet the depressed economic conditions of the 1930's but poorly suited to cope with the expansionary conditions of the past decade. In recent years, government regulations have limited the efficiency and flexibility of our financial system. Ironically, those regulations that were designed in part to keep a steady flow of funds moving into housing loans actually served to diminish that flow, severly penalizing both the borrower, who could not find funds, and the saver who received an unfairly low return on his savings.

As the Government tries to play its proper role in building a better financial system, we must proceed with one basic assumption: the public interest is generally better served by the free play of competitive forces than by the imposition of rigid and unnecessary regulation.

By law, thrift institutions—a category primarily composed of savings and loan associations but also including mutual savings banks—were created to provide funds for housing by maintaining large holdings of residential mortgages. However, earnings on holdings of previously acquired mortgages do not respond to changes in market interest rates. When market rates rise, the ability of thrift institutions to attract funds is limited and their ability to lend additional mortgage money is diminished.

Attempts to alleviate this problem by restrictive laws and regulations have achieved very little at great cost. The main technique has been to impose ceilings on the interest rates that financial institutions could pay savers for funds. The result, however, has often been a reduction in the flow of deposits to financial institutions. In many cases, in fact, deposits have been withdrawn so that they could be invested in higher yielding securities. Thus interest ceilings that were intended as a protective shield for the housing market turned out instead to be an additional burden.

Interest rate ceilings proved harmful to Americans both as savers and as borrowers in the late 1960's. Because the interest rate ceilings for deposits were often below market interest rates, small savers, who depended on banks and other savings institutions, were denied a fair rate of return on their money. On the borrowing side, smaller increases in savings deposits resulted in a sharp drop in loan funds available to consumers and small business firms.

Since financial institutions were prohibited from paying better interest rates, they were forced to compete for customers in other ways. Much of the public had to settle for so-called "free services" or even offers of consumer goods when in fact they may have preferred to receive higher interest on their deposits. In addition, such competition often led to increases in operating costs which prevented lending rates from declining when credit conditions later eased.

Finally, because of reduced inflows of savings, thrift institutions cut back on their mortgage lending or borrowed from Federal Home Loan Banks which had to pay market rates for their funds. Although the Federal Government stepped in and picked up some of the slack, mortgage flows were still disrupted.

Recognizing the need for action on all these problems, I appointed a Presidential Commission on Financial Structure and Regulation during my second year as President to study this entire matter and to make recommendations for reforming our financial institutions. The Commission's report identified quite precisely the causes of rigidity and instability in our financial institutions. Its recommendations were of major assistance in our further deliberations concerning the best ways to correct the weaknesses in our financial system.

The time to correct those weaknesses has come. Our current efforts to fight inflation and preserve the value of the dollar at home and abroad require strong financial markets. Without strong markets, the American public will be forced once again to bear excessive burdens.

If we do not act promptly, there is every reason to believe that those burdens will be even greater in the 1970's than they were in the 1960's. Educated by the last two credit crunches and by constant advertisements about interest rates, even the small saver will shift his funds to places offering higher yields. As market rates rise above passbook ceilings and the saver shifts his funds to obtain the higher interest rates, the result may be that little loan money is available from financial institutions.

In keeping with that analysis, I will propose to the Congress legislation designed to strengthen and revitalize our financial institutions. These proposals may be divided into seven major areas:

(1) Interest ceilings on time and savings deposits should be removed over a 5½ year period.

(2) Expanded deposit services for consumers by federally chartered thrift institutions and banks should be allowed.

(3) Investment and lending alternatives for federally chartered thrift institutions and banks should be expanded.

(4) Federal charters for stock savings and loan institutions and mutual savings banks should be permitted.

(5) Credit unions should be provided with greater access to funds.

(6) FHA and VA interest ceilings should be removed.

(7) The tax structure of banks and thrift institutions should be modified.

These recommendations would achieve the basic reforms our financial system requires. They represent the best suggestions from many different sources—from the Presidential Commission and from business, Government, consumer and academic communities.

The first five of these recommendations are designed to provide increased competition among banks and thrift institutions. Such competition would help to eliminate the inequities now imposed upon the small saver and borrower. My recommendations, and the increased competition that would follow, should reduce the cost of the entire package of financial services for the consumer. Furthermore, the saver would be assured a fair return on his money. In addition, thrift institutions would be strengthened, so they would no longer need the Government support required in the past.

Recommendations 6 and 7, along with the other recommendations, are designed to promote adequate funds for consumer needs, including housing finance. It is clear that interest ceilings on FHA and VA mortgage loans have failed to keep costs down, as evidenced in part by the widespread use of discount "points." At the same time, these ceilings have restricted the flow of private funds into mortgage markets. I will urge that individual states follow our lead and remove similar barriers to housing finance wherever such barriers exist.

The final recommendation would substantially broaden the base of housing finance. Although the final details have yet to be worked out, active consideration is being given to the creation of an income tax credit tied to investments in housing mortgages. Such a credit would be available to all lenders and could vary in direct proportion to the percentage of invested funds held in the form of such mortgages.

These recommendations are not the only steps being taken to strengthen the housing finance market. In my State of the Union message on Community Development of March 8, 1973, I pledged that this Administration would undertake a comprehensive evaluation of our housing policies and programs and would recommend new policies to eliminate waste and better serve the needy. An interagency task force, under the leadership of Secretary Lynn, is now completing that task, and my recommendations will be presented to the Congress in the near future.

My recommendations on restructuring financial institutions represent a coordinated approach to this challenge, and I urge that they be considered as a package. For example, removing interest ceilings will not make a positive contribution unless banks and thrift institutions can expand their deposit and lending services. Flexibility and efficiency will be enhanced by placing competing institutions on a roughly equal footing with regard to three essential considerations: deposit powers, lending powers, and tax burdens. Finally, the tax recommnedation and the removal of FHA and VA interest ceilings will help ensure more adequate funds for housing. The need for reform of our financial institutions is pressing. I urge the Congress to give these proposals its prompt and favorable consideration.

RICHARD NIXON.

THE WHITE HOUSE, *August 2, 1973.*

SUMMARY OF THE PRESIDENT'S RECOMMENDATIONS

Events during the latter part of the 1960's showed that U.S. financial markets are ill-equipped to deal with periods of credit restraint. As interest rates rose because of inflation, thrift institutions faced a severe profit squeeze which threatened to cut off funds for housing.

Attempts to alleviate the crisis by regulation, mainly the imposition of ceilings on the amounts financial institutions could pay for funds, failed to keep funds flowing into the institutions at previous levels.

Interest ceilings adversely affected the public directly and indirectly. In their role as savers, for whom the thrift institution was a major place at which to save, consumers were denied a market rate of return on their money. Moreover, thrifts reduced in a disproportionate manner the availability of funds to consumers and small business firms.

Less direct, but equally costly to the public, interest ceilings contributed to severe setbacks in efforts to meet our housing objectives, and helped make the Federal Reserve's attempt to combat inflation with monetary policy needlessly costly and complicated.

The time to correct those defects in our financial structure is now. Current efforts to fight inflation and preserve the value of the dollar at home and abroad require strong financial institutions. Without them, there is every reason to believe that the burdens of credit restraint will be even greater than before.

Financial institutions are to be strengthened by phasing out Regulation Q over a 5½ year period; permitting all federally chartered banks and thrift institutions to offer a full range of checking and savings accounts, and permitting federally chartered thrifts to offer consumer and real estate related loans in competition with banks. Housing finance will be strengthened by the elimination of Federal Housing Administration and Veterans Administration interest ceilings and by a tax credit to all taxpayers investing in residential mortgages.

The dual banking system will be preserved and strengthened. Federal Reserve requirements on "checking" accounts will apply only to members of the Federal Reserve and Federal Home Loan Bank systems. Federal charters will be available for stock thrift institutions and for savings banks.

Credit unions are to be strengthened by broadened asset and liability powers and by access to a new source of liquidity administered by the National Credit Union Administration.

BEFORE AND AFTER STATUS OF FINANCIAL INSTITUTIONS

COMMERCIAL BANKS

Before

Deposit Powers

Payments of interest: severe restrictions on all types of deposits.

Savings accounts: individuals only.
Demand accounts: full powers; individual and corporate.

Negotiable Order of Withdrawal (N.O.W.) accounts: not permitted.

Lending and Investment Powers

Real estate loans: severe restrictions *re* collateral, loan size, maturity and method of repayment.

Equities: holdings severely restricted.

Taxes

Tax credits: none.

Chartering Alternatives

Federal: yes.
State: yes.

Branching

National banks and State banks: State law governs location of branches.

Summary

Consumer interests penalized. Opportunities to compete for funds limited and prohibitions restrict participation in housing and real estate finance. Absence of mortgage investment incentives given S&L's.

After

Deposit Powers

5½ year phase-out of restrictions, then interest freely determined. However, no interest on demand deposits.
Savings accounts: full powers; individual and corporate.
Demand accounts: full powers; individual and corporate (no change).
N.O.W. accounts: full powers; individual and corporate.

Lending and Investment Powers

Real estate loans: model restrictions *re* collateral, loan size, maturity and method of payment; *plus* community rehabilitation loans under a 3 percent leeway authority.
Equities: holdings severely restricted (no change).

Taxes

Tax credits: special tax credits for investing in residential mortgages.

Chartering Alternatives

Federal: yes, no change.
State: yes, no change.

Branching

National banks and State banks: State law governs location of branches (no change).

Summary

Consumer interests given high priority. Virtually unlimited opportunities to compete for funds; restriction against housing and real estate finance modified, and positive incentives for such investment, identical to those given S&Ls.

THRIFT INSTITUTIONS

Deposit Powers

Payment of interest: severe restrictions on all types of deposits.

Savings accounts: full powers; individual and corporate.

Demand accounts: not permitted.
N.O.W. accounts: not permitted.

Lending and Investment Powers

Loans for housing and closely, related areas.

Equities: no acquisition of private sector issues.
Securities: no acquisition of private debt securities.

Taxes

Loan loss deductions: preferential treatment compared to banks.

Tax credits: none.

Chartering Alternatives

Federal: mutual associations only.
State: mutual and stock associations.

Branching

Federally chartered: governed by FHLBB.
State-chartered: governed by state law.

Summary

Consumer interests penalized owing to prohibitions against service competition and enforced specialization between thrift institutions and banks.

Opportunities to compete for funds limited and little ability to withstand tight-money pressures without substantial government support.

Deposit Powers

5½ year phase-out of restrictions, then interest freely determined. However, no interest on demand deposits.
Savings accounts: full powers; individual and corporate (no change).
Demand accounts: full powers; individual and corporate.
N.O.W. accounts: full powers; individual and corporate.

Lending and Investment Powers

Loans for housing and closely related areas; *plus* (on a limited basis) consumer loans; real estate loans under same conditions as commercial banks; construction loans not tied to permanent financing; community rehabilitation loans under a 3 percent leeway authority.

Commercial loans permitted only to extent they are closely related to housing.

Equities: no acquisition of private sector issues (no change).
Securities: limited acquisition of high-grade private securities.

Taxes

Loan loss deductions: will move to experience basis; same treatment as banks.

Tax credits: special tax credits for investment in residential mortgages; significant incentive to retain high percentage of portfolio in residential mortgages.

Chartering Alternatives

Federal: mutual and stock associations.
State: mutual and stock associations (no change).

Branching

Federally-chartered: governed by FHLBB (no change).
State chartered: governed by state law (no change).

Summary

Consumer interests strengthened by availability of new sources of supply of both deposit services and lending services and the promise of direct price competition between thrift institutions and banks.

Virtually unlimited opportunities to compete for funds. Ability to withstand tight-money pressures strengthened, minimizing need for government rescue operations.

CREDIT UNIONS

Lending and Investment Powers

Severe restrictions.

Chartering Alternatives

Conversion to Mutual Thrift Institutions not permitted.

Sources of Liquidity

Private sector institutions only.

Taxes

Tax-exempt.

Lending and Investment Powers

Less severe restrictions.

Chartering Alternatives

Conversion to mutual thrift institutions permitted.

Sources of Liquidity

Private sector institutions, *plus* NCUA-administered Central Discount Fund for emergency, temporary liquidity purposes only.

Taxes

Tax-exempt (no change).

NARRATIVE EXPLANATION: BACKGROUND OF ISSUES AND RECOMMENDATIONS

ISSUE 1

Payment of interest on deposit accounts

Background

Prohibitions against the payment of interest on demand deposits and interest ceilings on savings accounts were initially a product of the 1930's. The popular notion at that time—since proved incorrect—was that excessive interest rate competition among banks was the cause of bank failures. Thus Congress, with the enactment of the Banking Act of 1933, prohibited banks from paying interest on demand deposits and authorized the Federal Reserve Board to regulate the rate of interest member banks may pay on savings accounts. That era was also characterized by an orientation toward the borrower, in an attempt to bring the nation out of the Depression, rather than toward the consumer/saver.

Studies of the prohibition of payment of interest on demand deposits have shown the reasons for it were ill-founded. Moreover, the prohibition has not kept bank costs from rising during tight-money periods because banks have developed other sources of funds for which they have paid market rates. Unfortunately, misconceptions about the prohibitions are so widely and strongly held that removal is not feasible.

However, development of "negotiable order of withdrawal" (N.O.W.) accounts and the development of "electronic funds transfer systems" (EFTS) can be expected to blur the difference between demand and savings accounts to such an extent that the prohibition will become meaningless. N.O.W. accounts provide most of the benefits that would be derived from interest-bearing checking accounts without forcing banks to pay interest on current demand deposits. They also allow banks a means of experimenting before any move to a system where interest is explicitly paid on demand deposits.

Working with the money flow theories of the 1930's, Congress, in September 1966, turned to interest ceilings to protect the deposit holdings of thrift institutions and thus the flow of funds into mortgage markets. It enacted legislation giving the Federal Home Loan Bank Board (FHLBB) and the Federal Deposit Insurance Corporation (FDIC) authority to regulate, in conjunction with the Federal Reserve Board (FRB), interest payments made by the institutions they supervise. The three supervisory authorities then agreed to formalize the historical interest differentials paid by thrift institutions over those paid by commercial banks at about 50 basis points (reduced to 25 basis points on July 5, 1973).

Interest ceilings on savings accounts have failed to achieve their objectives. Contrary to expectations, they did not protect the liquidity of thrift institutions by preventing an outflow of funds during periods of tight money, and thus did not produce funds for the mortgage market. Large savers enjoyed many alternatives for their savings which paid the higher market rates and reacted accordingly. Faced with a loss of funds, thrift institutions cut back on their mortgage lending or borrowed from especially created agencies, which had to pay market rates for their funds, or did both. The result was significant instability in mortgage markets, and accentuated differences between the rate of return to large and small savers.

Ironically, even though the small savers received less than the large saver, the cost of funds to thrift institutions rose appreciably. Ceilings did force those who, due to their unsophistication or small savings, had only limited outlets for their savings to accept less than market rates. However, large savers who withdrew their funds had the option of acquiring debt issues of Federal Home Loan Banks at market rates. Funds raised in that manner were then relent to thrift institutions at rates which were generally above deposit rates.

Interest ceilings also hampered the implementation of restrictive monetary policy. Because depository institutions could not attract funds, large and increasing credit flows were moving outside the banking sector. The base on which the Federal Reserve operates decreased in relative terms, and its restrictive policies had to be made increasingly stringent at the same time that they became increasingly ineffective.

Formalized interest differentials may have prevented, to some extent, a shift of deposits from thrift institutions to commercial banks. If they did, the interest differential helped to maintain the viability of thrift institutions. That does not necessarily imply however, that the differentials will be effective in future periods of high and rising interest rates. Educated by the last two "credit crunches" and by constant advertisements about interest rates, even the less sophisticated savers will shift their funds to the highest yield if market rates greatly exceed the passbook ceilings. Such shifts began occurring in the summer of 1973.

Thus it is increasingly unlikely that interest ceilings or differentials will continue to protect thrift institutions. Additionally, large corporations, which are not subject to ceilings, have already successfully experimented with small-denomination capital debentures —e.g., savings bonds. Any corporation or governmental unit is a potential competitor for the savings dollar. Savings institutions therefore must be allowed to compete for these funds if they are to continue to provide their intermediation function.

Should "free-competition" for funds cause some institutions to make imprudent lending and investing decisions, the situation can be remedied effectively through actions of the federal and state supervisory authorities. Blanket regulation of the entire deposit industry, geared to the lowest common denominator of management competence, is neither justified nor desirable.

RECOMMENDATION

The payment of interest on demand deposits will remain prohibited for all institutions.

Regulation Q is to be phased out over a period of five and one-half years. Parity of interest ceilings between commercial banks and thrift institutions is to be achieved by raising the rate permitted banks in four annual steps commencing 18 months after enactment of the recommendation. At the same time, preparations can be made for the complete elimination of interest ceilings on time and savings accounts.

N.O.W. accounts are to be subject to ceiling rates so long as the ceiling system remains in force. Such ceilings are to be uniform for banks and thrift institutions and may be no higher than the maximum rate on passbook accounts.

Administrative decisions on the actual levels of ceiling rates will be made by a coordinating committee composed of the FDIC, the FHLBB, the FRB, and the Treasury Department.

ISSUE 2

Expanded deposit liability powers and reserves

Background

The elimination of preferential interest rate treatment for thrift institutions will necessitate adjustments in the structure of their deposit liabilities and assets so that they will be able to compete with commercial banks and other seekers of the savings dollar. Additionally, the decreasing effectiveness of interest ceiling differentials and technological innovations that blur the traditional lines between savings accounts and demand deposits are actual developments which call for the same remedy.

In the area of deposit powers, federally insured thrift institutions are prohibited by law from offering third-party payment services (i.e. bona fide checking accounts) but they may issue non-negotiable orders of withdrawal.

For their part, commercial banks are prohibited from offering savings accounts to their corporate customers. Such accounts were prohibited by the FRB in 1936 on the theory that they represent the indirect payment of interest on demand deposits. (Section 19 of the Federal Reserve Act prohibits member banks from paying interest directly or indirectly on demand deposits.)

Those constraints upon federally insured thrift institutions and member banks can be effective only in a world where all thrift institutions operate under the same rules and where there are relatively high costs attached to shifting funds from savings accounts to demand deposits. If that ever were the case, it no longer is so. Non-federally chartered thrift institutions in Massachusetts and New Hampshire are offering negotiable order of withdrawal (N.O.W.) accounts which are tantamount to and near-perfect substitutes for interest-bearing checking accounts. Such a system is made possible by advances in computer technology which enable any institution to offer customers low-cost rapid transfers of funds from checking to savings accounts and the reverse.

It seems imprudent to try to block those innovative changes sought by the consumer. Innovative minds will always find ways around piecemeal restrictions. However, if commercial banks and thrift institutions are permitted to offer the same range of services, some suggest that they should operate subject to the same ground rules. The more important of those rules covers the holding of reserves against accounts subject to third-party payments.

Imposition of comparable deposit reserves on all banks and thrift institutions is controversial. Comparability does not exist now, and differences between the Federal Reserve and the individual states on the issue of reserves is one of the important factors keeping the dual banking system alive. Of the 509 state-chartered banks opened for business in 1970 through 1972, only 30 joined the Federal Reserve System. However, Federal Reserve member banks hold approximately 80 percent of all demand deposits. There are substantive advantages to maintaining the dual system, particularly the advantages and innovations of competitive regulation and the avoidance of overly restrictive chartering policies.

Recommendations

For federal thrift institutions, checking accounts, third party payment powers, credit cards, and N.O.W. accounts will be available to all customers, individual and corporate.

For national banks, savings accounts and N.O.W. accounts will be available to all customers, individual and corporate.

All federally chartered institutions and all state chartered institutions which are members of the Federal Reserve System or the Federal Home Loan Bank System will be required to maintain reserves against deposits in demand and N.O.W. accounts in a form and amount prescribed by the FRB after consultation with the FHLBB. State chartered savings and loan associations insured by the Federal Savings and Loan Insurance Corporation (FSLIC) need not be members of the Federal Home Loan Bank System, just as state chartered banks need not be members of the Federal Reserve System.

N.O.W. deposits will be subject to the same range of reserves as demand deposits. However, the FRB after consultation with the FHLBB may establish a different level of reserves for N.O.W. accounts.

Required reserves for demand deposits and N.O.W. accounts will range from 1 to 22 percent. Those for savings accounts will range

from 1 to 5 percent and those for time accounts will range from 1 to 10 percent.

For state chartered institutions FDIC and FSLIC statutes will be changed to permit competitive equality, if such equality is sanctioned by state law.

ISSUE 3

Expanded lending and investment powers

Background

The removal of interest ceiling and the granting of a greater range of deposit powers can be expected to alter significantly the maturity structure of thrift institutions deposits. Those changes on the liability side require flexibility for compensating adjustments on the asset side. Such compensations should look to increasing income and enhancing liquidity through portfolio diversification—objectives that can be achieved only through the acquisition of shorter term and more diversified assets, such as consumer loans. Opening up those areas to thrift institutions can be expected to create downward pressures on the cost of credit to consumers and governmental bodies.

It might be argued that such significantly liberalized lending authority may curtail the flow of funds into housing. That issue is not easily resolved, but the Administration's task force concluded that the expansion of powers, coupled with the suggested tax changes, should not adversely affect the supply of mortgage funds. It is impossible to give definitive support to that position because theoretical arguments on both sides abound. The key seems to be the extent to which: (1) thrifts will shift long-term funds into short-term (non-mortgage) assets, and (2) the extent to which that shortfall would create market inducements encouraging other institutions (e.g. commercial banks and real estate investment trusts) to fill the gap. In its study of the issue, an Administration housing study group, chaired by the Council of Economic Advisers, concluded that the former would likely be small and that the latter would operate, leaving mortgage flows unaffected.

The possibility that commercial banks may fill the gap will be enhanced if current restrictions on their real estate lending are removed, especially in light of the removal of interest ceilings on savings accounts. Furthermore, commercial banks will be confronted by thrift institutions armed with a full range of consumer finance powers and, therefore will need to be more attentive to mortgage credit demands if they are to hold their customers for other consumer business.

However, since housing has a high social priority, it seems advisable to place some restrictions on the acquisition of "non-mortgage" assets and to increase the number of ways thrifts can participate in financing construction activity. In addition, changes are also being recommended in the taxation of banks and thrift institutions to assure a steady flow of funds into housing.

Since the impact of the proposed changes on the availability of mortgage funds is so important, a synopsis of the Administration's task force study on this matter will be found later in this booklet.

Recommendation

Federal savings and loan associations will be authorized to:

(1) make consumer loans not exceeding 10 percent of their total assets;

(2) make real estate loans under the same conditions as commercial banks;

(3) make construction loans not tied to permanent financing (i.e., interim construction financing as offered by banks);

(4) make community rehabilitation and development and mortgage loans on residential and related properties, including a participation in rental income or a share of capital gains on the sale of property, but with this leeway authority not to exceed 3 percent of their total assets;

(5) acquire high quality commercial paper and private investment-grade corporate debt securities in accordance with approved-list and other guideline procedures established by the FHLBB. Such investments are not to exceed 10 percent of total assets, with the maximum limitation to be set at 2 percent in the first year and growing to 10 percent, at the rate of 2 percent per year, over a 5-year period;

(6) utilize for consumer loans the unused portions of authorized investments in private corporate debt (commercial paper and debt securities) and leeway loans; and

(7) continue the acquisition of a full range of U.S. Government, state and municipal securities.

National banks will be granted:

(1) liberalized powers with respect to real estate loans;

(2) a leeway authority, not to exceed 3 percent of total assets, for community rehabilitation and development and mortgage loans on residential and related properties, including a participation in rental income, or a share of capital gains on the sale of property.

The FRB is to be granted more flexible authority to define assets eligible for discount, and the FHLBB is to be given expanded authority to broaden the definition of collateral required for advances to savings and loan associations.

ISSUE 4

Charters for thrift institutions

Background

The dual banking system has contributed a great deal to the more efficient operation of financial markets. It has permitted an element of competition among supervisory authorities which has been conducive to innovation and experimentation by financial institutions. In addition, it has restrained supervisory authorities from over-zealously protecting existing firms by restricting entry to the field.

The dual banking system is, however incomplete. Federal charters are not available to mutual savings banks and federal law explicitly prohibits the federal chartering of *stock* savings and loan associations. Both types of institutions have been operating in a more than satisfying manner at the state level for a number of years. There are no obvious reasons why federal charters should not be available to them.

Recommendation

The FHLBB is to be empowered to charter stock thrift institutions, granting them powers identical to those enjoyed by mutual savings and loan institutions.

Newly empowered federally chartered thrift institutions may be called either "savings and loan associations" or "savings banks."

State chartered mutual savings banks may convert to a federal charter and be granted all of the asset and liability powers available to all federally chartered thrift institutions. In additon, they may retain their life insurance, equity investments and corporate bond investments. Equity and corporate investments may be no greater than levels determined by their average percent of assets for the 5-year period January 1, 1968 through December 31, 1972.

State chartered mutual thrift institutions which convert to a federal charter will be insured by the FSLIC, even if they had been insured by the FDIC.

ISSUE 5

Credit Unions

Background

Credit unions represent a small but rapidly expanding portion of the nation's financial system. At the end of 1972, there were about 23,200 credit unions holding total assets of more than $24.8 billion. That represents only a 4.4 percent increase in the number of firms since 1965, but a 134.6 percent increase in their assets over the same period.

Because of their cooperative form of ownership credit unions enjoy, by law, many advantages not accorded other depository institutions, but must satisfy special conditions to keep those advantages.

Their principal advantage is exemption from income taxes, while the main constraint on their operations is inability to offer services to non-members. Membership is limited to those who share a "common bond of association."

That constraint does not impinge upon the operations of the vast majority of credit unions. Although there are credit unions that would prefer to offer the services of "mutual saving institutions," such an extension of powers would leave them indistinguishable from taxable institutions and their tax-free status could not be justified.

Credit unions deposit in and borrow from commercial banks. However, there is the possibility that in times of severe credit restraint, a credit union may face an emergency, such as a plant closing, and be unable to acquire short-term funds from the banking system. A totally-credit-union-financed "Emergency Fund" might be one method to solve this problem.

Recommendation

A Central Discount Fund will be established for insured (federal or state) credit unions solely to provide funds to meet emergency, temporary liquidity problems. Capital for the fund will be obtained through subscriptions by credit unions wishing to join. The Fund is to be administered by the National Credit Union Administration.

Additionally, there will be some minor liberalization of existing credit union powers. Credit unions will retain their tax-exempt status as long as they remain within the bounds of the existing tax law.

Credit unions that want to expand their services and assume the burdens of full service mutual thrift institutions will be permitted to do so. Procedures to facilitate an exchange of charters will be available.

ISSUE 6

FHA and VA interest ceilings

Background

One of many federal attempts to keep the cost of housing funds low is the administrative interest ceiling placed upon Federal Housing Administration-insured and Veterans Administration-guaranteed mortgage loans. Those attempts have by and large failed, as is evidenced by the widespread use of "points," and the move by the Federal National Mortgage Association in 1968 to a "free market system" for buying and selling mortgages. If administrative rates have kept costs down, it has been at the expense of fewer funds available for housing.

Recommendation

The FHA and VA interest ceiling will be removed.

ISSUE 7

Taxes

Background

In light of the expanded powers to be granted thrift institutions and the overall goal of reducing the degree of functional specialization among financial institutions, the basic objective of the tax proposals is a uniform tax formula for all financial institutions. A "tax neutrality" is sought, by providing that a given investment or activity will be subject to the same income tax provisions regardless of the functional type of financial institution making the investment or engaging in the activity.

However, differences in tax treatment, and

thus overall tax burden and effective rates of taxation among financial institutions, will continue to exist. Those differences will result from three factors: (1) the form of the institution, i.e., mutual bank versus capital stock corporation; (2) federal and state regulation which will grant certain types of institutions the power to make certain investments and engage in certain activities that are denied to other institutions; and (3) the extent to which an individual institution uses the powers granted to it.

The principal difference between existing income tax provisions applicable to commercial banks and savings institutions is in the area of deductions for additions to a reserve for losses on loans (Internal Revenue Code sections 593 and 585). Those provisions must be changed if there is to be a uniform tax formula. Furthermore, if changes are made in that area, conforming amendments will have to be made to a number of other provisions of the Internal Revenue Code which currently reflect the differences of existing law. Those other changes are technical in nature and do not involve policy considerations. Therefore, the recommendations which follow deal only with the provisions affecting deductions for additions to a reserve for losses on loans.

If the current subsidy being provided thrift institutions through the special bad debt reserve provisions is eliminated, a continued incentive to insure a flow of capital into the residential mortgage market may be provided through a mortgage interest tax credit. Such a credit would be equal to a percentage of the interest income earned on residential mortgages and would operate as a direct incentive in place of the indirect incentive currently being provided through provisions for loan losses. In addition, the mortgage tax credit could be used to compensate thrift institutions for the loss of tax benefit resulting from elimination of the special bad debt reserve deduction.

Recommendation

The special reserve provisions applicable to thrift institutions will be eliminated and all thrift institutions will compute reserve additions under an experience method similar to the one applicable to commercial banks.

Thrift institutions will be compensated for the tax benefit being eliminated by means of a new tax credit equal to a percentage of the interest earned from residential mortgages and other qualifying loans. The credit will be made available to all taxpayers and will serve as an incentive to attract capital into the residential mortgage market.

The size of the credit has not yet been decided, but it will be calculated so as to give thrift institutions full compensation for the tax benefit they would have received in the aggregate (based on projections for a future year) through deductions for additions to a reserve for losses on loans. To induce thrift institutions to continue their high level of investment in residential mortgages (to be eligible for the special bad debt reserve deduction they currently must invest 60 percent of their assets in qualifying real property loans and must invest 82 percent of their assets in such loans to receive the maximum tax benefit) and provide an incentive to other lenders to increase their level of investment in residential mortgages, the credit will be multi-level. For example, one rate might apply to those lenders who invest more than 70 percent of their assets in residential mortgages, a lower rate might apply to those lenders investing more than 50 percent of their assets in residential mortgages and still lower rates might be set for all other lenders. The specific rates and the investment levels have yet to be determined.

QUESTIONS AND ANSWERS

I: PAYMENT OF INTEREST ON DEPOSIT ACCOUNTS (REGULATION Q, ETC.)

Q. What are the current regulations governing the payment of interest on demand deposits?

A. Payment of interest on demand deposits by any insured bank is prohibited by federal statute, 12 U.S.C. 1828g.

Q. When and why was the payment of interest on demand deposits barred?

A. Payment of interest was prohibited in 1933 in the belief that deposit rate competition contributed to bank failures. Subsequent studies have failed to support that belief.

Q. What is the legal basis for the current regulations governing the payment of interest on time and savings accounts?

A. Federal law empowers the FRB, the FDIC, and the FHLBB to limit by regulation the payment of interest on time and savings deposits. Ceiling rates may be varied in accordance with deposit size, maturity, location of institution and any other basis deemed desirable in the public interest.

Q. When was that authority first granted those regulatory bodies?

A. The current broad grant of authority was first enacted in September 1966 at the time of the severe liquidity crisis.

Q. Why was it enacted?

A. It was believed at that time that ceilings on deposit rates would hold down the costs of deposit institutions (primarily S&L's) thereby alleviating the squeeze on their profits and maintaining them as viable suppliers of funds for housing. However, the ceilings failed to provide a protective shield.

Q. What is Regulation Q?

A. Regulation Q is a regulation issued by the FRB, under the authority mentioned above, governing the payment of interest by member banks on time and savings deposits.

Q. Are other regulatory bodies empowered to set interest ceilings for the depository institutions they supervise?

A. Yes. Under the legislation originally passed in 1966, both the FHLBB and the FDIC may set interest ceilings on the time and savings accounts of the institutions they supervise. Extension of that authority until December 31, 1974, is currently before Congress. Under current authority the FDIC has promulgated 12 CFR 7829.6 and the FHLBB 12 CFR 526.

Q. Are the same regulations applicable to commercial banks and thrift institutions?

A. Not entirely. The ceiling rate permitted thrift institutions is now generally 25 basis points higher than that permitted commercial banks. There are no ceiling rates on certificates of deposit of $100,000 or more, or on 4-year deposits of $1,000 or more (up to 5 percent of time and savings deposits).

Q. Has the differential between what commercial banks and thrift institutions can pay for time and savings accounts been due to a law or to administrative action?

A. Administrative action.

Q. Why are thrift institutions given an interest-rate advantage?

A. Because of the prominent role they play in funneling funds into housing markets.

Q. Why is elimination of that differential now being proposed?

A. The total package of recommendations contains other and more efficient means of encouraging financial support for housing, principally through the mortgage tax credit.

Q. What is a "N.O.W." account and how does it differ from a demand deposit?

A. A N.O.W. account in a negotiable order of withdrawal offered by mutual savings banks in Massachusetts and New Hampshire. In essence, they are checks drawn on savings accounts in those institutions. N.O.W. accounts differ from demand deposits in that such accounts bear interest and legally a bank does not have to honor it on demand.

Q. Why are you recommending the payment of interest on accounts that are essentially demand deposits while continuing the ban on interest payments for demand deposits?

A. Given the long period in which banks have not paid such interest they will need time to experiment with interest-bearing transaction accounts. Maintaining a distinction, however small, between N.O.W. accounts and checking accounts gives banks time for experimentation.

If interest could be paid immediately on demand deposits, it is believed that banks with their existing large balance of demand deposits would start paying interest on them and S&L's would never have a chance to attract such deposits. Also, many banks would feel that they were being forced by the government to pay such interest. And finally, by allowing N.O.W. accounts rather than interest on demand deposits we have introduced a degree of gradualism into the new world of paying interest on demand deposits.

Q. Why do you want to phase out Regulation Q?

A. We want consumer/savers to have the full benefit of market interests and thus to receive a fair return on their savings.

Interest ceilings on time and savings accounts have inhibited financial institutions from competing with the rest of the capital market for funds, particularly during periods of credit restraint.

Q. If you eliminate Regulation Q, won't we have the same type of cutthroat interest rate competition that led to numerous bank failures in the 1930's?

A. No. The statement that interest rate competition led to bank failures has not been supported by the evidence. There is little if any evidence that pure interest rate competition led to bank failures. The cause was, instead, poor investments.

If irresponsible deposit rates, inaugurated by isolated banks, should lead them to invest unwisely, this can best be handled on a case-by-case basis by the supervisory agencies. There is no point in penalizing all savers and all institutions for potential abuses by a few.

Interest rate ceilings in the past have proved to be discriminatory to the small unsophisticated saver while not really protecting the individual institutions.

Q. If you allow ceiling rates to increase, won't this mean higher rates on mortgages and bank loans?

A. Not necessarily. A number of interrelated factors have to be taken into account:

1. The interest rate for loans is determined by a market that is separate from the one which determines the interest rate for deposits. Although these two markets are indirectly related, they do not necessarily move in unison.

2. The market for mortgage loans is a long-term market, while the market for deposits is short and medium term.

3. To argue that removing Regulation Q will mean an increase in the average cost of funds for institutions is to assert that the Regulation has been effective in holding down the average cost of funds to the institutions. This has not been the case. What has happened has been a tilt in the yield curve with the average remaining about what it would have been otherwise—i.e., short-term Regulation Q rates have been depressed (savings accounts of small consumers) while the longer maturity deposits (big CD's) have been disproportionately bid up due to the intense competition by institutions for these relatively scarce deposits. We might expect this yield curve to "untilt" and thus not necessarily increase the average cost of funds to institutions.

4. However, the overall Regulation Q rates

may go up and loan rates may go up. But if this happens, there will merely have been a redistribution of income from borrowers to savers. Who is to say that the consumer savers should not receive a fair return on their savings?

Q. Why not remove Regulation Q immediately?

A. S&L's, due to their portfolios of substantially all long-term mortgages frozen into fixed rates, do not have the ability to immediately start paying free competitive rates. They must be given a couple of years to adjust their portfolios so as to shorten the maturity of some of their assets (i.e., consumer loans) and improve their overall yield.

II: EXPANDED DEPOSIT LIABILITY POWERS AND RESERVES

Q. What are the major differences in deposit liability powers between commercial banks and thrift institutions?

A. All thrift institutions, both federal and state chartered, offer a full range of savings account services to all customers, individual and corporate. However, thrift institutions may not offer demand deposit services. A major exception is the N.O.W. account offered by mutual savings banks in Massachusetts and New Hampshire. Among commercial banks only member banks of the Federal Reserve System may not offer a full range of both demand and savings account services to all customers. Member banks may not offer savings account services to their corporate customers. That prohibition is a regulation promulgated by the FRB. State chartered non-member banks are subject to state law on the issue of corporate savings accounts.

Q. Why have differing deposit liability powers for commercial banks and S&L's been established?

A. It has been generally believed that the longer maturity structure of thrift assets, vis-à-vis commercial banks, demands a longer maturity structure of deposit liabilities. Hence the general prohibition against S&L's offering checking accounts.

Q. Why the recommendation that the difference in deposit liability powers between S&L's and commercial banks be eliminated?

A. It will be beneficial for consumers and small businesses to be offered a full range of services by all institutions which wish to do so. The elimination of current differences is part of the overall plan to make thrifts more viable financial institutions. By possessing all the powers needed to compete for deposit funds, thrifts will no longer require the great rescue operations used in the past.

Q. Will changes in their liability powers require changes in their asset powers?

A. Yes. Permitting thrifts to have shorter-term liabilities requires that they possess shorter-term assets. Recommendations put forward by the President include proposals that would permit thrifts to make consumer loans and business loans related to real estate.

Q. Will these changes in liability powers mean changes in their deposit reserve responsibilities?

A. Not necessarily. If thrifts are members of the FHLBB system, and membership will be voluntary for state chartered institutions, reserves on their transaction accounts (demand and N.O.W. accounts, but not time and savings accounts) will be imposed by the FRB, after consultation with FHLBB.

Q. Will that be the same treatment accorded commercial banks?

A. Members of the Federal Reserve system will be subject to the same requirements on their transaction accounts as members of the FHLBB system. Again, membership will be voluntary for state chartered institutions.

Q. Will there be any differences between the reserve requirements for thrifts and commercial banks?

A. Yes. Current reserve (liquidity) requirements on time and savings deposits of thrifts will not be altered. Those on the time and savings accounts of commercial banks will be altered.

Q. Before we get into these changes what are the current limits on reserves?

A. Currently, the FRB is empowered to set reserve requirements on demand deposits from 10 percent to 22 percent for so-called reserve city banks and from 7 percent to 14 percent for all other banks.

Q. What are the requirements in effect today?

A. As of May 31, 1973 reserve requirements on demand deposits were:

Deposits ($ millions):	*Reserve requirements (percent)*
0–2	8
2–10	10
10–100	12
100–400	13
over 400	17½

Q. What will the new reserve requirements be?

A. They will range from 1 to 22 percent on transaction accounts (including demand and N.O.W. accounts), 1 percent to 5 percent on savings accounts, and 1 percent to 10 percent on time accounts.

Q. In what form will reserves be held?

A. For Federal Reserve and FHLBB members, reserves will be held in a form and amount to be prescribed by the FRB.

Q. Are reserve requirements imposed on savings accounts?

A. Yes. Currently, member banks of the Federal Reserve system are subject to reserve requirements on savings accounts. Such reserves may range from 3 percent to 10 percent. At the moment the requirement for all banks is 3 percent. Non-member banks are subject to state law.

Q. Are there any reserve requirements on time deposits and certificates of deposit?

A. Members of the Federal Reserve system must hold as reserves 3 percent of such deposits for the first $5 million and 5 percent for deposits over $5 million. Recently, the FRB imposed an 8 percent marginal reserve requirement (the regular 5 percent plus a supplemental 3 percent) on further increases in the total of (a) outstanding certificates of deposit of $100,000 and over issued by member banks, and on (b) outstanding funds obtained by a bank through issuance by an affiliate of obligations subject to the existing reserve requirement on time deposits. The 8 percent marginal reserve does not apply to banks whose obligations of those type aggregate less than $10 million.

Q. What proposals are being made for reserves on time and savings accounts in commercial banks?

A. For member banks reserve requirements on savings accounts will range from 1 percent to 5 percent and those on time accounts will range from 1 percent to 10 percent. State law will prevail for nonmember banks.

Q. What is the difference between savings accounts and time accounts?

A. Generally, the two differ in terms of the amount of time funds must remain on deposit and the rules governing withdrawal of funds.

For savings accounts, the depositor is not required by contract to leave funds on deposit for any specified period of time nor to give notice in writing of an intended withdrawal. However, the depositor may at any time be required by the bank to give at least 30 days notice.

For time accounts, the depositor agrees to leave funds on deposit for a specified minimum period of time and for many types of time deposits must give prior notice of withdrawal.

Q. Will new reserve requirements be imposed on time and savings accounts in thrift institutions?

A. No. The liquidity reserves imposed by the state or the FHLBB, whichever is applicable, will continue.

Q. Although the FRB imposes reserve requirements only on member banks, are you recommending that it set reserve requirements for all federally insured banks?

A. No—not all of them. The FRB will have authority to set, in consultation with the FHLBB, reserve requirements on transaction accounts of members of the FR and FHLBB systems.

Q. Won't that recommendation bring some thrift institutions under the control of the FRB?

A. Only with regard to reserve requirements on transaction accounts. There is no way to estimate at this time how many FHLBB thrifts will offer transaction accounts.

Q. Are there any reasons for preserving the dual banking system?

A. Yes. The dual system creates 52 laboratories for experimentation in bank regulation. Experimentation has taken place in areas of ancillary bank services and capital adequacy to the advantage of the banks and the public. In addition, the availability of alternative chartering agencies has resulted in increased competition and more service for the public.

Q. Why is it that state chartered banks which are not members of the Federal Reserve System do not have to hold the same reserves as the system members?

A. The history of our banking laws has been one of dual regulation of state chartered banks and federally chartered banks. We do not wish to damage this very healthy system of dual banking.

By providing a choice of chartering and supervisory agencies to banks and S&L's, we have fostered an innovative and progressive banking system.

We believe that states have the right to regulate their own banks so long as such regulation does not unduly interfere with the implementation of monetary policy which is, of course, a federal responsibility. From a practical point of view, most state banks hold reserves roughly equivalent to those of FR member banks. However, unlike the member banks, they are frequently able to put such reserve balance to productive use.

Q. Summing up, how will this decision on reserves affect financial institutions?

A. National banks—no change.

State Federal Reserve System member banks—no change.

State non-member banks—no change.

Federal S&L's—must hold reserves against demand deposits and N.O.W. accounts; no change on savings and time deposits.

State S&L's—if member of FHLBB (which almost all will remain), same as above. If not FHLBB member, state banking authorities will set reserve requirements. It is hoped they will be the same as for banks.

Mutual savings banks—same as for Federal and State S&L's.

The new ranges within which the Fed may set the reserve level are:

Demand deposits and N.O.W. accounts—1–22 percent.

Savings—1–5 percent.

Time—1–10 percent.

III: EXPANDED LENDING AND INVESTMENT POWERS

Q. What is the general purpose of expanding the lending and investment powers of thrift institutions and banks?

A. Generally, the expansion is part of the overall plan to make thrifts more viable financial institutions. More specifically, changes on the liability side require compensating adjustments on the asset side aimed at increasing income and enhancing liquidity. Those objectives can be achieved only through the acquisition of shorter term and more diversified assets, such as consumer loans. Opening up those areas to thrift in-

stitutions can be expected to create downward pressures on the cost of credit to consumers and governmental bodies.

Q. What are the current limitations on lending and investing by thrift institutions?

A. This can be answered precisely only about federally-chartered S&L's, since there are so many laws covering state-chartered institutions.

Currently, federally-chartered S&L's are generally restricted to making loans related to housing and real estate.

There are two exceptions to that rule. First, they may make passbook loans, that is loans to account holders secured by the deposits in their accounts. The size of loan is limited to the amount of funds in the account. Second, thrifts may make loans to individuals to pay for college, university or vocational expenses. Those loans are limited to 5 percent of assets.

Generally, S&L's are precluded by law and regulation from acquiring private sector debt obligations other than mortgages. They may, however, acquire the stock of so-called service corporations—corporations designed exclusively to provide related services such as data processing.

Q. What expanded lending and investing powers are being recommended for federal savings and loan associations?

A. Federal S&L's will be authorized to make consumer loans; make construction loans not tied to permanent financing; make community rehabilitation and development and mortgage loans on residential and related properties, including a participation in rental income or a share of capital gains on the sale of property; acquire high quality commercial paper and private investment grade corporate debt securities; utilize for consumer loans the unused portions of authorized investments in commercial paper and securities, and in community rehabilitation and development and mortgage loans.

Q. What expanded lending and investing powers are being recommended for national banks?

A. National banks will be granted liberalized powers with respect to real estate loans, and authority to invest in community rehabilitation and development and mortgage loans on residential and related properties, including a participation in rental income or a share of capital gains on the sale of property.

Q. Why should thrift institutions be given expanded lending authority?

A. This will allow them to pay the market rate for deposits by shortening the maturity and diversifying the composition of their assets, and increasing the yield thereon.

Q. Won't this diversification divert money from the home loan mortgage market?

A. The CEA study referred to earlier in the discussion of issue 3 concluded that such curtailment will not be significant in view of the other powers being extended to thrift institutions. Moreover, commercial banks can be expected to take up some of whatever slack does occur if current restrictions on their real estate lending are removed, particularly in light of the elimination of interest ceilings on savings accounts.

Q. Why are strict percentage-of-asset limitations being set on thrift institutions' expanded investment powers?

A. Since housing has a high social priority, it seems advisable to place some restrictions on the acquisition of non-mortgage assets and to increase the number of ways thrift can participate in financing construction activity.

IV. CHARTERS FOR THRIFT INSTITUTIONS

Q. Why are there no existing provisions for federally-chartered stock thrift institutions?

A. At the time the federal law was enacted savings and loan associations were looked upon simply as self-help cooperatives, and there was thought to be no role for stock savings and loan associations.

Q. Why is it being recommended that Federal charters now be granted to stock thrift institutions?

A. Presently 21 states charter stock savings and loan associations. Experience with stock savings and loan associations has been at least as satisfactory as that with mutuals; therefore there is no good reason for the present statutory ban on federal charters. It is also believed beneficial to have a dual option of chartering and supervisory agencies to avoid two problem areas which emerge when a particular type of financial institution can be chartered by only one agency: first, the agency may become overzealous in protecting existing firms; second, the agency may not be as innovative and imaginative as it should be in exercising its authority.

Q. Under the recommendations will there be any difference in activities permitted stock S&L's, mutual S&L's, mutual savings banks, and the new savings banks?

A. Under the recommendations all federally-chartered thrift institutions will have essentially the same asset and liability powers. "Savings bank" will just be an alternative title available to newly empowered federally-chartered thrift institutions. However, state-chartered MSB's which convert to a federal charter will be able to retain their life insurance, equity investments and corporate bond investments. This will enable them to maintain their customary investments which will not be available to other existing or newly chartered federal thrift institutions.

Q. Won't allowing MSB's to convert and retain their investments undermine a dual banking system?

A. No. Allowing mutual savings banks, which can now be chartered in 18 states and Puerto Rico, the option to convert to a federal charter and maintain their customary investments will enhance the dual banking system. Allowing them to retain their investments upon conversion will give them a real option between either remaining under their present state supervisory agency or coming under a federal supervisory agency.

V: CREDIT UNIONS

Q. What is a credit union, and what special privileges does it enjoy?

A. A credit union is a cooperative nonprofit organization of individuals with a common bond of occupation, association or residence. The credit union's objectives are to promote thrift among its members and to provide them with a source of credit at reasonable rates of interest. Credit unions enjoy an income tax-free status since they are nonprofit organizations.

Q. Are federal and state charters available to credit unions?

A. Yes; credit unions may be incorporated under a federal law or under the laws of 44 states.

Q. What resources are available to federal credit unions now to meet temporary liquidity problems?

A. Credit unions may use their investments or increase their direct borrowing from other credit unions and private sources such as commercial banks. However, to qualify for federal insurance, credit unions are limited by a ceiling on aggregate borrowing from all sources.

Q. What is being recommended to meet emergency problems?

A. The establishment of a Central Discount Fund (CDF) to be administered by the National Credit Union Administration is being recommended. It would provide funds to meet the temporary liquidity problems of its members.

Q. Will non-federally-chartered credit unions have access to the CDF?

A. Yes. All *insured* credit unions, either federal or state, may become members of the Fund.

Q. How will the CDF be funded?

A. The capital for the Fund will be supplied through subscriptions by member credit unions. (Presumably additional funds could be provided through the issue of debt obligations and from the deposits of credit unions as recommended by the Hunt Commission.)

VI: FHA AND VA INTEREST CEILINGS

Q. What are the current Federal Housing Administration and Veterans Administration interest ceilings on mortgages and who imposes them?

A. Interest ceilings on FHA-insured loans are set by the Secretary of Housing and Urban Development; those on loan guaranteed by the VA are set by the Administrator of Veterans Affairs. The ceiling on FHA-insured and VA-guaranteed loans was recently raised from 7 to 7¾ percent.

Q. What was the purpose of having interest ceilings on FHA- and VA-backed loans?

A. FHA insurance is intended to enable persons of modest incomes to more easily obtain residential mortgages. Ceilings on FHA and VA loans were imposed with the assumption that borrowers under these programs would pay reasonable rates of interest.

Q. Why are you recommending the elimination of those ceilings?

A. Experience has shown that the administratively set ceilings lag behind market rates for conventional mortgages. This has meant that either FHA- and VA-backed loans become unavailable during periods of rapidly rising interest rates, or the effective rate of interest on these loans is raised above the ceilings by the practice of charging "points," in effect buying the loan at a discount. Ending the ceilings will eliminate this practice and enable persons who rely on FHA- or VA-backed financing to obtain mortgages during periods of high interest rates.

Q. Won't elimination of the ceilings lead to a rise in mortgage interest rates?

A. At present, the interest rates on FHA- and VA-backed mortgages rise with market rates on conventional mortgages through the use of "points" (or mortgage money becomes unavailable). Elimination of the ceilings is not expected to increase the *effective* rate of interest charged on these mortgages but is expected to provide a steadier supply of funds for mortgages during tight money periods.

Q. Why won't there be a phase-out period for these ceilings, as is planned for the interest ceilings on time and savings deposits?

A. The removal of interest ceilings on FHA- and VA-backed mortgages is not expected to sharply affect interest rates charged on mortgage loans so their removal should not disrupt the mortgage market. Some fear that the removal of ceilings on time and savings deposits may lead to substantially higher interest rates on those deposits. Rather than expose financial institutions to perhaps damaging and sudden competition for those funds, a period of adjustment will be provided, during which these institutions will be able to learn through experience what rates are needed to attract necessary funds without damaging their viability.

Q. Will removal of FHA and VA interest ceilings eliminate all usury-type barriers to mortgage financing?

A. No. Currently, many states employ usury ceilings in the mortgage area. It is the Administration's hope that states which impose such ceilings will move toward eliminating them as soon as possible. During periods of severe credit stringency, arbitrary ceilings below market rates can keep funds from mortgage markets.

VII: TAXATION

Q. Why are changes being recommended in the taxation of banks and thrift institutions?

A. The purpose is threefold: (1) to assure a steady flow of funds into housing; (2) to achieve a tax neutrality by providing that the income from a given asset will be subject to the same tax provisions, regardless of the functional type of financial institution holding the asset; and (3) to place competing institutions on an equal footing.

Q. What are the current special reserve provisions which apply to thrift institutions and how do they differ from the reserve provisions applying to commercial banks?

A. The principal difference between existing income tax provisions applicable to commercial banks and savings institutions involves deductions for additions to a reserve for losses on loans. Currently, thrift institutions are granted more favorable terms than commercial banks.

Q. Will the recommendations completely eliminate all differences in taxation between thrift institutions and commercial banks?

A. Generally, yes. The special reserve provisions applicable to thrift institutions will be eliminated, and all thrift institutions will compute reserve additions under an experience basis rule of the type currently applicable to commercial banks.

Q. How will thrift institutions be compensated for this tax loss?

A. Thrift institutions will be compensated for loss of the tax benefit by means of a new tax credit equal to a percentage of the interest earned from residential mortgages and other qualifying loans.

Q. Would the proposed mortgage interest tax credit be available to all lenders?

A. Yes.

Q. What are the current provisions of tax law with regard to the treatment of loan losses of thrift institutions?

A. In computing taxable income, all deposit institutions may deduct from gross income an expense item called additions to reserves for bad debts.

Currently, thrift institutions may, in calculating that expense item, use the same methods available to commercial banks or, in the case of qualifying real property loans, a special method designed to increase the after-tax profitability of their mortgage holdings.

Under the second alternative, thrift institutions may deduct, for the year 1973, up to 49 percent of taxable income. Between 1973 and 1979 that maximum figure will be reduced gradually to 40 percent.

To obtain the maximum deduction permitted by law, at least 82 percent of a thrift institution's assets must be in so-called eligible assets. As the amount of eligible assets declines so does the percent of gross income which may be deducted as a business expense. If the percentage of eligible assets falls below 60 percent of total assets, the special method is not available.

With regard to non-qualifying loans, bad debt reserve deductions are made under the same ground rules as are applicable to commercial banks.

Q. What changes in the tax treatment of "additions to reserves" are being recommended?

A. As of the effective date of the legislation, all deposit institutions would operate under the provisions now available to commercial banks.

Q. What are those provisions?

A. Banks may deduct amounts in accordance with an "experience method" or a "percentage of eligible loan method."

Under the "percentage of eligible loan method," the amount to be deducted is the amount necessary to bring the level of the reserve for bad debts up to a specified percentage of eligible loans. That percentage is currently 1.8 percent but will be reduced to 1.2 percent in 1976 and to 0.6 percent in 1982. This method will cease to be available after 1988.

Under the experience method, the amount to be deducted is the amount necessary to bring the level of the reserve up to an amount reflecting the actual loss experience for the current year and preceding 5 years.

Q. When thrifts convert to the provisions available to banks, will the level of their reserves be low enough to permit them to deduct loan losses as a business expense?

A. Generally, no.

Q. Will thrifts be given any special treatment as a result?

A. Yes. Highly technical changes in the tax law will be made so that thrifts will continue to be able to deduct additions to reserves for bad debts as a business expense. However, the amount of the deduction will be substantially lower than that which is available under current law. Thrift institutions will always be able to receive a deduction for actual loan losses.

Q. Are the proposed changes in tax law designed to equalize the effective tax rates or tax burden?

A. No. The object of the recommendations is to create a tax neutrality with regard to the lending and investment activities of deposit institutions. Under the proposal, differences in effective tax rates and burden will continue to exist. Such differences will result from a combination of three factors: (1) the form of the institution (i.e. mutual vs. capital stock corporation); (2) differences in federal and state regulation governing the permissibility of certain investments and ancillary activities; and (3) the extent to which the individual institution utilizes the powers granted to it.

Q. What is the background of the bad debt reserve deduction?

A. Under current law a thrift institution is entitled to the special bad debt reserve deduction with respect to all *qualifying real property loans* (defined to include all loans secured by an interest in improved real property or secured by an interest in real property which will be improved from the proceeds of the loan). Improved real property includes residential property such as a single family home or apartment house as well as office buildings, shopping centers, warehouses, hospitals or other health, welfare, or educational facilities.

Based on 1971 figures, approximately eight percent of loans made by S&L's were not secured by an interest in *residential* property. In the case of MSB's virtually all of their mortgage loans were secured by an interest in residential real property.

The proposed mortgage interest tax credit is *limited to interest income from residential mortgages*, but is designed to compensate thrift institutions for the tax benefit they presently enjoy with respect to all real property loans.

Q. If the credit is limited to residential mortgages, what loans would be excluded?

A. All mortgages secured by an interest in commercial and industrial property, and loans secured by an interest in educational, health or welfare institutions or facilities including facilities used to house students, residents, patients, employees of staff members of such institutions or facilities.

Q. What effect will the proposal regarding bad debt deductions have on student loans?

A. Under current law, student loans are one of the types of investments that a thrift institution may make in order to meet the 82 percent test which will entitle it to the maximum bad debt deduction. However, the percentage of taxable income method is available only with respect to qualifying real property loans and does not include student loans.

Under the proposed change, the bad debt reserve deduction with respect to student loans will be unaffected. However, since thrift institutions will no longer be required to maintain a specified percentage of assets in eligible assets, student loans will be classified as consumer loans, for which there will be ample lending authority.

VIII: MORTGAGE AND HOUSING MARKETS

Q. Is the mortgage lending industry viable with its existing structure and regulations?

A. We take "viability" to mean the ability to withstand the effects of cyclical changes in credit market conditions without the need for massive Federal supportive intervention.

A conclusive case that the industry is not viable cannot be made on the basis of available evidence, but there appears to be a high enough probability to warrant attention. The instructive value of 1966 and 1969–70, the last two complete occasions when mortgage markets were under severe pressure, is not easily assessed, since many structural and regulatory changes have taken place over the last few years.

The chance of severe harm to thrift institutions has to some extent been moderated since 1969 by the improvement of the secondary market for both conventional and insured mortgages and by improvements in government sources of emergency liquidity. Moreover, thrifts and banks are now able to offer a "no-ceiling" deposit (minimum $1000 and 4 years) to the small consumer. On the other hand, there seems to be a general awakening of savers to the various forms of holding wealth alternative to deposits at thrift institutions. In addition, new alternatives to savings accounts have emerged in the last two years.

On balance, it appears that if present institutional arrangements were to continue, there would be good cause for concern about large-scale reductions in deposit inflows when market rates climb appreciably.

Q. How can we make the mortgage lending industry more viable without increased Federal support?

A. By implementing the balanced program of broadened asset and liability powers for financial institutions and restructuring tax support for residential mortgage lending.

Q. What are the present forms of government activities relating to housing and mortgage markets, including taxation?

A. Federal assistance to housing now takes two forms: (1) direct assistance to low-income persons building, buying or occupying dwellings and (2) a number of general tax incentives, some with accompanying restrictions, designed to encourage those same activities. Two major incentives are the deductibility of mortgage interest paid from homeowner's taxable income and the favorable manner in which savings institutions can add to bad debt reserves (beyond the levels warranted by losses) in return for the restriction that a high portion of their assets be held in residential real estate mortgage loans.

Q. How will Federal expenditures and tax preferences change if the President's recommendations are implemented?

A. The President's recommendations would not affect the structure of any direct program, but would substitute a tax credit for the bad debt provision for thrift institutions, and would make the residential mortgage tax credit available to all taxpayers. The amount of existing bad debt preferences for thrift institutions was estimated to be $545 million in fiscal 1971. If the tax credit is set at a level which does not alter the taxes paid by thrift institutions, the overall tax subsidy to housing will be larger since other investors will utilize the tax credit. If the overall subsidy is maintained at the current level, thrift institutions would receive less of the tax subsidy, with other holders of residential mortgages receiving the remainder.

Since the outlays in some Federal direct

programs are positively related to mortgage rate levels, these would rise if rates increased and decline if rates decreased. If a mortgage tax credit is established in such a way as to compensate for the loss of subsidy through the bad debt reserve treatment, residential mortgage interest rates should not be higher as a result of this package. Indeed if anything they should be lower, as the tax credit would benefit all holders of mortgages. This would reduce direct Federal outlays on housing support programs.

Q. How would adoption of the President's recommendations on expanded powers affect mortgage markets both in the long run and cyclically?

A. The overall impact of the proposed changes on the mortgage market depends upon the relative magnitudes of two opposing effects.

First, expanded asset powers for thrifts, in and of themselves, might reduce the supply of mortgage funds from those institutions. However, the reduction would be small.

Elimination of interest rate ceilings for commercial banks would increase competition for savings and loan associations and mutual savings banks and thus contribute to the negative effect.

On the other hand since thrift institutions will be able to provide a broad range of consumer services, they would be in a stronger position to attract savings deposits. Since a good portion of these deposits would go into mortgages, the mortgage market would benefit.

Finally, the rate of personal savings in the economy might well increase, providing more funds for all financial intermediaries.

It is believed that the *net* effect on mortgage flows of all these nontax factors is approximately neutral. With an appropriate tax credit, the effect will be positive.

Additionally, an element of cyclical stability will be introduced. The new powers to be granted to thrift institutions would improve their ability to compete for funds, strengthen their cash flows, and thereby alleviate tendencies toward disintermediation (loss of deposits) during periods of financial restraint.

Q. Ignoring for the moment the mortgage tax credit, if the recommendations reduce the supply of mortgage funds, won't there be a corresponding decline in the supply of housing?

A. Not necessarily. Mortgage credit and housing finance are not identical. The former is only one constituent of the latter. Other constituents include personal wealth (e.g. savings accounts; funds from sale of current house) for home buyers and equity markets for the development and construction of housing projects and apartment houses.

The popular view is, however, that the rate of housing production is a captive of the amount of mortgage funds in both the short and long run. Those who believe this point to the data which show mortgage funds and housing moving together in the short run. However, that relationship is open to another interpretation: both housing and mortgages are simultaneously influenced by other factors. According to this view, high interest rates reduce housing production by reducing demand for housing and high interest rates channel funds away from thrifts (because of interest ceilings) which are legally required to invest in mortgages. Choosing between the two explanations is not easy.

However, the most recent studies tend to support the second idea: credit conditions in general, not the availability of mortgage funds, influence housing over the long run. Over the short run the availability of credit is, however, a significant factor.

Under a contract to the Department of Housing and Urban Development, two Princeton University economists, Professors Ray C. Fair and Dwight M. Jaffee, prepared a report which attacks the problem directly. Using the Federal Reserve-MIT-Penn Model of the economy, the authors ran a number of tests simulating the impact of the Hunt Commission's recommendations during the 1960's. On the expanded powers, the President's recommendations are similar to those in the Hunt Report. The authors summarized the results of their tests as follows:

"Our results indicate that the housing market would probably, on net, gain under the Hunt Report, while the mortgage stock may gain or lose depending on the specific assumptions. In any case, the magnitudes involved are small relative to the current outstanding stocks of these assets." *

Q. What implications would the recommended changes have for the conduct and effect of monetary policy?

A. The expanded deposit and asset powers for thrift institutions and banks, the abolition of interest ceilings, and the tax credit should make mortgage and housing markets less sensitive to changes in credit conditions.

Removing restrictions on interest paid on deposits would greatly moderate the shifts between deposits and other assets as market rates fluctuate. This would reduce the disorder in financial markets which has accompanied restrictive fiscal and monetary policies.

Q. What are "points."

A. A point is one percentage point of the total value of a mortgage loan. One or more points may be added to the homebuyer's closing costs to compensate lenders when market rates on loans are above usury ceilings.

Q. What are Government National Mortgage Association tandem plans?

A. Tandem plans were employed by GNMA to add support to housing markets. Under those plans GNMA would buy mortgages typically at above market prices and sell them later at market prices to private buyers (often pension funds). GNMA would absorb any losses that might result.

Tandem plans were suspended June 28, 1973.

Q. What is the Federal National Mortgage Association's role in mortgage markets?

A. FNMA, a private corporation since 1968, has as its primary responsibility providing secondary market services by buying and selling FHA-insured, VA-guaranteed, and conventional mortgages. The great bulk of current holdings is composed of FHA-insured and VA-guaranteed mortgages.

FNMA was permitted to begin secondary market operations by the Emergency Home Finance Act of 1970. However, it did not begin actual operations until February 14, 1972. At the end of April 1973, FNMA held $133 million of conventional mortgages and its rate of activity has increased substantially in 1973 over 1972.

IX: UNIFORM RESERVES

Q. Is it true that the President's recommendations do not call for uniform reserves on all third-party or transaction accounts such as checking accounts or N.O.W. accounts?

A. Yes. Under the President's recommendations only members of the Federal Reserve and FHLBB systems will be subject to federally-set reserves on their transaction accounts. Membership in those two systems will remain optional for state chartered institutions. State non-member institutions will continue to have their reserves set by the individual states.

Q. Why do the President's recommendations exclude the request for uniform reserves?

A. The question of uniform reserves has been discussed at great length over the years, by formal commissions and congressional committees. Although not critical at this point, should the lack of uniform reserves impede the implementation of monetary policy, the question must rightfully be opened.

Q. What has been the practical effect of voluntary FR system membership for state chartered banks?

A. Voluntary Federal affiliation has been healthy for the system and spurred creative regulations. At the moment, about 40 percent of all commercial banks holding about 80 percent of all commercial bank demand deposits belong to the Federal Reserve system. Most newly chartered banks obtain state charters but few of them elect to become members of the Federal Reserve system. Of the 509 state chartered banks opened for business between end-1969 and end-1972, only 30 joined the Federal Reserve system. Small banks used the correspondent banking services of large banks and most large banks belong to the Federal Reserve system.

Q. Why is it important to have uniform reserves?

A. The FRB maintains that uniform reserves are essential for the efficient conduct of monetary policy.

The reasoning underlying that argument seems to fall into two parts. First, the fact that all banks are not subject to uniform reserves limits the effectiveness of changes in required reserves as an instrument of monetary management. Second, there is the fact that demand deposits in non-member banks do not respond directly to other techniques such as open market operations.

As a result of those two factors some contend that member banks bear a heavier burden during periods of credit restraint than do non-member banks.

Q. What has been the practical effect of the existence of non-member banks on the conduct of monetary policy?

A. There is no easy way to answer that question. However, as of June 1973 nonmember banks held about 22 percent of all commercial bank deposits and about the same amount of demand deposits of individuals, partnerships, and corporations (IPC deposits).

Some argue that under existing conditions non-member bank deposits need not affect the efficiency of monetary management. So long as the demand for deposit reserves by those banks is stable and predictable and so long as the FRB can control the supply of those reserves the efficiency of monetary management should not suffer.

However, over the longer run, changing circumstances may warrant a reexamination of this issue.

Q. Since the absence of uniform reserves has preserved the dual banking system, what advantages have accrued to the American public?

A. Generally, it has permitted an element of competition among supervisory authorities which has been conducive to innovation and experimentation by financial institutions. It has restrained supervisory authorities from over-zealously protecting existing firms by restricting entry.

Non-member bank deposits need not affect the type experiments on such issues as capital adequacy, capital debentures, and the extension of ancillary services such as data processing services, insurance services, messenger services and the like.

State law and federal law are not the same on those issues and thus some banks have more freedom on the issues than others. They have used that freedom to experiment. And supervisors have learned from those

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*Ray Fair and Dwight Jaffee, "An Empirical Study of the Implications of the Hunt Commission Report for the Mortgage and Housing Markets," HUD Contract H1781, April 1972, second page of Abstract.

experiments. In some cases the freedoms have been extended to those who had not previously enjoyed them.

If preserved, the dual banking system can continue to serve the public interest and keep the federal system alert.

EFFECTS ON HOUSING OF CHANGES IN FINANCIAL STRUCTURE

The effect on housing of the recommended changes in financial structure can usefully be examined in two parts. First, the overall effect of all the changes except the tax changes can be estimated. Then the tax recommendations can be evaluated. Since the mortgage interest tax credit can in principle be set at any level, it can be established in such a way as to ensure that the overall impact on housing is not adverse.

However, the overall impact of the nontax recommendations together is not likely to be adverse. For that reason, the mortgage tax credit can be established on the basis of subsidies lost when existing tax treatments are changed.

Important to the issue concerning the effects of the Administration recommendations on housing is what effect, if any, the specialized system of mortgage finance has had on housing in the United States. Yet, as the Interagency Task Force Study on Housing chaired by the Council of Economic Advisers makes clear, it is important to realize that this is not the only consideration. There are two important central issues here. The first is what effect, if any, the recommendations will have on the supply of mortgage credit. The second is what effect a change in mortgage credit will have on housing. Even if the recommendations would decrease the supply of mortgage credit, as seems unlikely, it does not follow that anything like a corresponding effect must be transmitted to housing. The last point is not widely understood and merits elaboration.

As a matter of definition, a mortgage is secured by an existing (or potentially existing) house, but the creation of a new mortgage does not imply that new construction will necessarily take place. Nor does the construction of a new house in all cases require a mortgage.

First of all, "mortgage money" is widely used to finance existing housing in addition to newly constructed housing. Indeed, a homeowner may mortgage his house in order to pay for his children's college expenses, or to finance the expansion of his business. A larger mortgage may be sought to enable the home buyer to purchase furniture.[1] A family may choose a larger or a smaller mortgage, depending on its savings and other sources of potential borrowing. In general, mortgage credit (like any other kind of credit) is "fungible." That is, it can be used for any purpose the borrower chooses.[2]

Moreover, a mortgage is only one among a variety of sources of funds available to the borrower, whether he seeks money to acquire a house or for any other purpose.[3] A family which owns its home outright may finance a new house simply by selling the old one. When outside financing is chosen, it can come either from a mortgage or from several other sources.

Furthermore, the financing of new housing involves not only homeowners but many other categories of investors. The following is a partial list of the types of financing which play a role in the production of housing:

(i) equity investment: the accumulated savings of homeowners; equity for the development and construction of large housing projects, and equity investments in apartment houses.

(ii) construction financing: short-term debt money for developers and builders during the development and construction phases of housing.

(iii) other debt financing: long-term mortgage funds for consumers; long-term mortgage funds for investors for the purpose of buying and renting housing units, and short-term loans for consumers and investors for repair and rehabilitation of housing.

These other sources of financing can (and sometimes do) act as substitutes for mortgage credit. In sum, mortgage credit and housing finance are not identical: the former is only one constituent of the latter.

Frequently, however, the distinction between them has been blurred. The popular view, which is held by many mortgage practitioners and home builders, as well as by some economists, regards the rate of housing production to be a captive of the *amount* of mortgage funds available—in both the short and long run. This view, which may be called the "bottleneck" hypothesis, is held so widely and firmly that few writers, at least until recently, have felt that it is open to question.[4]

Proponents of this view believe that specialized financial institutions provide additional funds for some borrowers to which they would not otherwise have access. They argue that savings and loan associations and mutual savings banks have produced higher mortgage flows and lower mortgage rates than would otherwise occur because they are forced to invest in mortgages. Thus, they contend that if the financial institutions which funnel funds to the mortgage markets are allowed to reduce their specialization because of the administration's recommendations, the flow of money for mortgages will be reduced and mortgage interest rates will rise.[5]

If this "long-run bottleneck" view is correct, then policy measures which subsidize or support the mortgage market (holding general credit conditions constant) will also increase the rate of housing production in the long run. Measures which support the mortgage as such will be effective without subsidizing housing directly.

Proponents of this view have supported their case by noting that mortgage flows and housing move together in the short run. Actually, several different interpretations of this numerical relationship are possible, including:

(a) the rate of housing construction is influenced by the supply of mortgage credit;

(b) the demand for mortgage credit is influenced by the rate of housing construction;

(c) mortgage credit flows and the rate of housing construction are influenced simultaneously by outside variables.

Although the first of these views is the popular one, it is the third which follows most naturally from received economic theory. According to this view, the mortgage and housing markets are stimulated or contracted simultaneously by outside influences—in the short run notably by fluctuations in general credit conditions.

The reasons are straightforward and combine two effects. First, when market interest rates rise, households defer long-term borrowing and purchases of long-lived assets, such as housing. Second, higher open market rates induce the public to move out of deposits at thrift institutions into marketable securities since these institutions cannot increase their interest rates on deposits by as much as the rise in open market rates. When the latter fall, funds shift back to institutions.

Thus, high interest rates (i) reduce housing production by decreasing the demand, and (ii) reduce mortgage flows by channeling savings away from the financial institutions that are legally required to invest heavily in mortgages. Such a mechanism would explain why the mortgage and housing markets have often moved closely together in the past. This view places little stress on the structure of financial institutions as a determinant of long-run mortgage flows, housing production and mortgage interest rates.

Credit can and does flow to ultimate users via a number of routes. A dollar flows to where it can earn the best return, given risk, term to maturity, tax status, and so on. Thus, no one type of borrowing group can enjoy special rates, independent of such attributes, that arise from institutions constraints. Similarly, specialized institutions do not provide increased access to capital for special purposes such as housing.

This view says that a savings and loan association, for example, must be able to compete with other investment opportunities if it is to attract savings from the consumer. If the operation of S&Ls increased the aggregate flow of mortgage funds and lowered mortgage rates below rates of return in the other sectors of the financial markets, S&Ls would be in a weak position to compete for deposits and capital. At the same time, there are other types of financial institutions which provide funds to mortgage borrowers. If S&Ls increased their investment in mortgages, mortgage yields would fall, inducing other suppliers of credit to reduce their mortgage investments.

This approach implies that changes in the supply of mortgage funds, holding general credit conditions constant, will not materially affect housing construction. In this case, indirect policy measures such as the government purchase of mortgages will not succeed in stimulating housing in the long run because government lending simply displaces other lenders. In the short run (up to a year), a stronger case can be made that government purchases of mortgages will have a positive impact on the mortgaging and housing markets, and this fact should not be lost sight of.

If is difficult to design and conduct a definitive empirical test of whether housing demand is more responsive to mortgage flows or interest rates. The best available work found by the housing study group supports the interest rate hypothesis. It is also very significant that a number of European countries have experienced the same type of behavior of mortgage flows, housing production and interest rates. This has occurred despite wide variety in the institutional structure by which housing is financed. Accordingly, the Task Force leaned toward the view that the financial effects on housing production operate primarily through general credit conditions and not through the specific characteristics of the mortgage market. Housing production is also presumably affected by economic variables specific to the housing industry itself. The Task Force accepted that credit rationing may occur in the very short run, but was persuaded that over any significant period of time it is the general level of interest rates, rather than the flow of mortgage credit, which acts as the rationing instrument for housing and other durable assets.

There remains the question of how the Administration's recommendations will affect the flow of funds into the mortgage market. This is still a relevant question for two reasons. First, nearly all economists agree that in the short run (about a year or less) changes in the availability and flows of mortgage credit importantly influence housing production. Second, it is of interest to note how the housing stock will be financed in the future. The impacts can be separated into cyclical and long-range.

It is hard to imagine how these recommendations could increase the cyclical variability of housing compared with recent years. The Task Force believes they will decrease it substantially by decreasing short-run disruptions of mortgage flows. This will result from two important sets of changes. First, traditional mortgage lenders

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Footnotes at end of article.

will have their cyclical viability strengthened by broadened powers to hold assets and issue liabilities. Second, mortgages themselves will be made more attractive to nontraditional lenders as a result of the mortgage interest tax credit and improvements in the secondary market for mortgages.

Asset restrictions on thrift institutions and the poor development of a secondary market have made it very difficult for thrifts to weather periods of credit restraint for these reasons:

1. The absence of a secondary market in mortgages means that the institutions may not be able to sell their mortgages even with the appropriate capital loss, in order to meet the outflow of deposits.

2. The long-term maturity of mortgages and the resulting low rate of repayment and turnover implies that considerable time may be required before savings institutions can adapt to higher or rising interest rates.

3. The legal prohibitions on investment alternatives and portfolio composition that are placed on savings institutions limit the pool of alternative assets that they could otherwise sell as an aid in their adjustment problem.

For all of those reasons, the ability of institutions to withstand loss of deposits is hampered by enforced specialization of investments. If their assets were diversified, savings institutions would be able to retain deposits more easily, and thus would not have to restrict new lending so severely. Consequently, the relaxation of portfolio restrictions is expected to help stabilize the short-run cycles in mortgage financing of residential building.

Liability restrictions have similarly made it hard for thrift institutions to maintain their mortgage lending when rates rise:

1. Interest rate ceilings limit their ability to compete with securities markets for funds.

2. Savings institutions are not entirely free to offer new types of deposits and other obligations that may increase their flow of funds.

3. They cannot issue demand deposits, which (a) May have the advantage of being less interest sensitive than savings deposits; and (b) Will allow them to provide to the customer services which he formerly had to obtain from a commercial bank.

Again, relaxation of these restrictions will help stabilize the capacity of institutions to provide housing finance in times of tight money. However, while deposit rate freedom should assist thrift institutions to maintain mortgage flows, it will not necessarily reduce the cyclical instability of housing construction. Given relatively elastic housing demand, a significant increase in the interest rates would still imply a significant contraction of residential construction.

Removal of state usury laws and Federal ceilings on insured mortgages should help mortgages attract funds. Use of variable rate mortgages may also do this and may help institutions raise their deposit rates to retain funds when market rates rise. The Task Force is not convinced that variable rate mortgages will be as beneficial as their proponents assert, but sees no reason to impede their use in the private market.

All these changes will stabilize the flow of funds into the mortgage market during periods of high interest rates. Accordingly, they will help eliminate pressures on the housing market caused in the past by the virtual withdrawal of thrift institutions from mortgage lending at these times due to their own precarious positions. Housing production will not be made constant over the cycle, nor should it be, since the demand of housing is highly sensitive to interest costs.

The long-run prospects for funds flowing into mortgages are harder to evaluate. The relevant changes recommended are: (1) relaxed restrictions in investment powers, (2) broadened powers to offer financial services, (3) relaxed restrictions on borrowing powers, (4) equal tax treatment, and (5) removal of obstacles to mortgage lending. Changes (2), (3), (4), and (5) should help mortgage and housing markets, while (1) tends to remove funds from the mortgage market.

RELAXED RESTRICTIONS ON INVESTMENT POWERS

The potential mortgage market impact of the proposals expanding lending powers is not simple to analyze.[6] At first blush, the ability of thrift institutions to invest in assets other than mortgages implies that mortgage flows would be lower. There are important qualifications to this view, however. By investing some of their money in nonmortgage assets, savings institutions will earn a higher rate of return and thus be able to offer higher deposit rates. As a consequence, savings flows could be higher. In addition, allowing savings institutions the opportunity to provide consumer loans will enable them to compete more effectively for consumer savings. When other factors are equal, convenience and familiarity lead people to borrow and to lend with the same institution. Thus, while competitive responses from commercial banks should not be excluded, one effect of allowing savings institutions to offer consumer loans could be larger savings flows to these institutions in the long run. To the extent that there is a greater flow of savings arising from both of these effects, the mortgage and housing markets will benefit.

BROADENED POWERS TO OFFER FINANCIAL SERVICES

It is proposed that savings institutions be allowed to extend their service functions to consumers. The most important function would be the third-party payment services (primarily the issue of demand deposits). If savings institutions could do so, their competitive position vis-a-vis other financial institutions, primarily banks, would be improved substantially. Savings institutions would be better able to compete for the funds of those savers who prefer one-stop banking. As a consequence of this recommendation, savings institutions will thus be in a better position to provide more funds to housing. At the same time, when commercial banks are faced with demand deposit competition, they will need to be more responsive in meeting consumer mortgage demands. In the past, a bank could send a consumer to a savings bank when a mortgage was needed and be relatively confident that the consumer's other business would remain with the bank.

RELAXED RESTRICTIONS ON BORROWING POWERS

Insofar as deposit rate ceilings faced by commercial banks are more severely constraining than those of savings institutions, their elimination would enable commercial banks to compete more vigorously for deposits. If deposits were drawn away from savings institutions, the net effect on aggregate mortgage flows would be negative. This effect could be blunted, however, by higher overall deposit flows to depository institutions induced by higher deposit rates. This would mean that funds were being bid away from other segments of the financial markets or that aggregate savings in the economy was increasing.

EQUAL TAX TREATMENT

The Task Force recommends two basic tax principles which, if jointly put into law, could have a positive impact on mortgage flows. First, Congress should enact a uniform tax formula for all depository institutions. Second, a mortgage interest tax credit should be allowed on mortgage investments. This credit would be based on gross interest income from residential mortgages. The credit would be allowed to all investors in such loans, and not solely financial institutions. Such a credit could completely replace the hidden tax subsidy implicit in the tax laws which allow savings and loan associations tax advantages. Of course, the impact of these tax proposals on the mortgage market will depend on how the tax laws are written and the size of the mortgage investment tax credit.

Mutual savings banks and savings and loan associations currently enjoy a tax advantage because their bad debt reserve deduction on qualifying real property loans exceed actual default experience. The deduction allowed is dependent on an organization having a stipulated percentage of its total assets invested in a prescribed list of assets, the most important of which is mortgages. Thus, current tax laws for these savings institutions provide an incentive for investments in mortgages and supposedly an incentive for investment in housing. The mortgage investment incentive is limited, however, since it is not available to other types of institutions.

One approach in implementing a uniform tax structure for all depository financial institutions would be to base the bad debt reserve on actual default experience. This is currently the direction in which commercial bank taxation is moving. If this route were followed, and there were no offsetting tax credit on mortgage investments, mortgage flows from these institutions could decline. However, any such decline could be offset by implementing the mortgage tax credit proposal, which would act as a subsidy to mortgage flows.

REMOVAL OF OBSTACLES TO MORTGAGE LENDING

The Hunt Commission also proposed a number of ways in which the mortgage market could be made a more flexible instrument for financing housing. Since some of these require state action, while others simply exhort existing institutions to continue and expand what they are already doing, these recommendations were not included in the Task Force's overall judgment about the impact of the recommendations on mortgage flows.

The question here is how all these effects add up. The answer to this question will come primarily from judgment, but there is some empirical evidence which can contribute to judgment. Under a contract to the Department of Housing and Urban Development, two Princeton University economists, Professors Ray C. Fair and Dwight M. Jaffee, have prepared a report which attacks the problem directly. Using the Federal Reserve-MIT-Penn Model of the economy, the authors ran a number of tests simulating the impact of the recommendations during the 1960s. The authors summarized the results of their tests as follows:

"Our results indicate that the housing market would probably, on net, gain under the Hunt Report, while the mortgage stock may gain or lose depending on the specific assumptions. In any case, the magnitudes involved are small relative to the current outstanding stocks of these assets." [7]

To date, the Jaffee-Fair study has been the only direct empirical analysis of the recommendations, although there is a large empirical literature on the mortgage and housing markets. Other studies, using different econometric techniques, would be desirable. The interagency study group finds that the impact of the Hunt Commission proposals on the long-range flow of mortgage credit cannot be determined with any degree of precision, but may well be approximately neutral.

FOOTNOTES

[1] In 1971, 35.1 percent of new S&L mortgage loans were classified as for purposes other than housing. Only 17.3 percent were classified as for the purpose of home construction.

[2] A typical household has a variety of outstanding liabilities (a mortgage, an auto loan,

unsecured borrowing, credit card debt, and so on) which have been used to finance its assets. Fundamentally, there is no way to tell which specific asset is financed by which specific liability even though (in certain cases) one can specify which asset is used as collateral to back a specific loan.

[3] The technical question is the size of the cross-elasticity of demand between mortgage borrowing and other forms of financing (such as the use of accumulated savings) for the purpose of residential construction. If this elasticity is very high, then, at the margin, funds from other sources are close substitutes for mortgage funds, and the demand for housing is determined independently of the supply of funds.

[4] A paper by Arcelus and Meltzer contains a critique of the "bottleneck" hypothesis and some empirical evidence against it. See Francisco Arcelus and Allan Meltzer, "The Markets for Housing and for Housing Services," forthcoming in *Journal of Money, Credit and Banking*. Criticisms of the popular view began to appear in the literature many years ago, but have been largely ignored by the dominant school of thought. Other critics include Brunner, Hester, Jacobs, Mayer, and more recently Geisel and Jaffee.

[5] This argument would, of course, apply to only one part of the recommendations, i.e., that part pertaining to the investment powers of savings institutions. As described subsequently other changes proposed for the savings institutions would provide them with the potential to attract more funds.

[6] See Dwight Jaffee, "The Entry of Savings Institutions into the Consumer Loan Market," Princeton University, February 1972.

[7] Ray Fair and Dwight Jaffee, "An Empirical Study of the Implications of the Hunt Commission Report for the Mortgage and Housing Markets," HUD contract H1781, April 1972, second page of Abstract.

By Mr. ERVIN (for himself, Mr. BAKER, Mr. TALMADGE, Mr. INOUYE, Mr. MONTOYA, Mr. GURNEY, and Mr. WEICKER):

S. 2641. A bill to confer jurisdiction upon the district courts of the United States over certain civil actions brought by the Congress, and for other purposes. Ordered to be placed on the calendar.

(The remarks Senator ERVIN made on the introduction of the bill are printed earlier in the RECORD.)

By Mr. TAFT:

S. 2642. A bill to establish an independent special prosecution office, and for other purposes. Referred to the Committee on the Judiciary.

Mr. TAFT. Mr. President, I appeared yesterday before the Senate Judiciary Committee to testify on the various proposals before that committee relating to the appointment of an independent special prosecutor in the Watergate matter.

At that time, I commented on the so-called Hart-Bayh proposal and the Percy proposal to that effect, and expressed serious reservations about the constitutionality of the approach taken with regard to the power of appointment and the power of removal of the special prosecutor as provided for in those measures.

I also testified at that time with respect to a proposal the substance of which I put in the RECORD at the last meeting of the Senate, which has now been put in the form of a bill which I anticipate submitting at the desk today.

In my appearance before the Senate Judiciary Committee, I submitted to that committee a lengthy statement indicating my reservations about some of the pending legislation, and explaining just exactly why we pursued and attempted, and will introduce today a measure embodying, the course we pursued. At an appropriate time I shall present to the Senate for inclusion in the RECORD a 35-page legal brief in support of that resolution.

At this time, I ask unanimous consent that my statement made before the Committee on the Judiciary be printed in the RECORD, and that the bill I am introducing be printed in the RECORD immediately following that statement.

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

STATEMENT OF SENATOR TAFT

Mr. Chairman, I congratulate this distinguished committee for holding hearings to review the issue of a Special Prosecutor in depth and I appreciate having this opportunity to present my views on the legislation under consideration.

The recent dismissal of the Special Watergate Prosecutor has aggravated the trauma experienced by our county as a result of the events and revelations arising out of the investigation of the Presidential Campaign and election of 1972. That trauma has manifested itself in the growing climate of doubt among the American people as to the credibility of their elected representatives, as well as the vital capactiy of our system to meet the continuous assaults upon its integrity. This distress of the people is heightened by the increasing distrust and political partianship and antagonism which have erupted this year between and within the branches of our government. This temper has filtered down to the people and they are, properly, alarmed.

A democratic government imperiled by loss of faith of its people cannot prosper or even safely survive. Disruptions in the delicate balance of power in our government could ultimately lead to citizen apathy and chaos. Those of us who have been elected by the people have a duty which requires us to put aside partisan politics and in a spirit of cooperation and adherence to truth, seek to establish an independent Special Prosecutor who will vigorously pursue the investigation and prosecution of Watergate-related offenses within the confines and structure provided by our Constitutional mandate form of government.

No branch of government should allow the hysteria of recent events to become the basis for an attempt to exercise supremacy over the other two branches. The framers of our Constitution intended that the tripartite pattern they created would restrain each branch through cooperation and interaction. It is upon this restraint that our people must finally place their hopes and faith in our system. We must deliberate upon the issue of a Special Prosecutor with this trust in mind and in common sense, be cautious that we do not, in the interest of immediate pressures, tamper with the delicate balance of a system that in its short history has proven to be most durable and stable.

I am concerned that certain of the legislative proposals now before the Senate apparently with broad support, are subject to serious Constitutional objection which may not only threaten the existence of the Office of Special Prosecutor sought to be established and raise new constitutional crises, but also might create the risk of dismissal of indictments and reversal of convictions which he may have achieved. This could further upset confidence in the adequacy of our institutions.

Moreover, we can, at the very least, anticipate an immediate Constitutional challenge upon the first calling of a witness or other attempt to seek additional evidence. Depending upon the ultimate determination of the courts, the effective functioning of the Special Prosecutor would at least be delayed several months and might be nullified altogether.

Before these proposals would reach the courts, we must also recognize the possibility of a Presidential veto based upon what I believe are sound legal arguments as to Constitutionality. Before entering his office, the President must swear that he will to the best of his ability, preserve, protect and defend the Constitution of the United States. Article II, Section 1. We in the Senate take a similar oath upon assuming our official duties here. Passage of one of the proposals now before this committee could precipitate one of the most severe Constitutional crises which the fabric of our system of government has ever had to withstand.

The Constitution provides that "the Executive power shall be vested in the President of the United States" and that the President's basic obligation is to "take care that the laws be faithfully executed." Article II, Sections 1 & 3. While the exact nature and extent of this power has been disputed, there can be little doubt that functions placed in the four original federal departments—conduct of foreign relations, command of the military, enforcement of the law and collection of taxes—are at the core of executive authority. Vesting the power of appointment and/or that of dismissal of a Special Prosecutor in the Judiciary or Congress as is proposed in the Hart-Bayh Bill and Percy Bill would seem to be in direct conflict with the Constitutional mandate to the Executive branch.

In *Springer* vs. *Philippine Islands*, 277 U.S. 189, 201–202 (1928) Justice Southerland wrote:

"Legislative power, as distinguished from Executive power, gives the authority to make laws, but not to enforce them or appoint the agents charged with the duty of such enforcement. The latter are Executive functions . . ."

In *Myers* vs. *United States*, 277 U.S. 52, 116, Chief Justice Taft wrote:

"If there is any point in which the separation of legislative and executive powers ought to be maintained with great caution, it is that which relates to officers and offices. . . . The vesting of executive power in the President was essentially a grant of the power to execute the laws . . . As he is charged specifically to take care that they be faithfully executed, the reasonable implication, even in the absence of express words, was that as part of his executive power he should select those who were to act for him under his direction in the execution of the laws. The further implication must be, in the absence of any express limitation respecting removals, that as his selection of Administrative officers is essential to the execution of the laws by him, so must be his power of removing those for whom he cannot continue to be responsible."

While the broad power of the President to remove expressed in the Myers Case has been somewhat curtailed in the *Humphrey* and *Weiner* Cases, both of those cases proceed on the premise that the President's obligation to see to the faithful execution of the laws is a basic executive function as to which the President may direct and supervise his subordinates and ultimately, if necessary, fulfill through the removal of certain officers. It is basic that the power of appointment and the power of removal of the Special Prosecutor remain in the Executive Branch. (See *Parsons* v. *U.S.*, 167 U.S. 324.)

It may be argued that the Special Prosecutor could come under the category of "inferior officers" who are an exception to the power of appointment by the President set forth in Article II, Section 2 of the Constitution. The Senate may by law invest the appointment of such "inferior officers" in the President alone, in the courts of law, or in the heads of Departments, Article II, Section 2. There is no doubt that such "inferior officers" such as court administrators, law clerks, and judicial secretaries may be appointed by the courts themselves. But these employees of the Judicial branch are not executive officers responsible for such fundamental executive functions as foreign relations, military commands, law enforcement, and fiscal matters. Those are the problems of the President, subject to legislative standards that may limit his discretion. Any effort to block his control of these functions would be unconstitutional.

Moreover, it is incredible to suggest that the proposed Special Prosecutor could fall within the category of "inferior officers" who could be appointed outside the Executive branch of government. He has broad investigative and prosecutory powers which involve executive and policy making decisions. He also has the power to appoint and set the compensation for the members of his special staff. His powers are clearly executive which are at least equal to that of a U.S. Attorney.

In *United States* vs. *Cox*, 342, F. 2d 167(5th Cir.) *Cert. Denied*, 85 S. Ct. 1967(1965), the court declared that the Attorney General is the hand of the President in taking care that the laws of the United States and the prosecution of offenses, be faithfully executed. *Id. at 171.* In describing the responsibility for the Executive functions of the U.S. Attorney the court stated:

"The U.S. Attorney is an executive official of the government and it is as an officer of the Executive department that he exercises a discretion as to whether or not there shall be a prosecution in a particular case. It follows, as an incident of the Constitutional separation of powers, that the courts are not to interfere with the free exercise of the discretionary powers of the Attorneys of the United States in their control over criminal prosecutions."

The court held that to transfer the power which is committed to the Executive to determine whether to prosecute to another body would be in derogation of Article II of our Constitution. Thus, the proposed Special Prosecutor is clearly an executive officer who must be appointed and function, within our legislative mandate, as part of the Executive branch of our government and probably as a special office in the Justice Department.

The appointment of the Special Prosecutor by the Judiciary would also raise serious due process questions because of the blending of judicial and prosecutorial functions. Under the Hart-Bayh bill the Chief Judge not only is directed to appoint a Special Prosecutor, but is also empowered to dismiss the Special Prosecutor if, in his discretion, he determines that the Special Prosecutor has violated the provisions of the Act or committed other extraordinary improprieties. It would seem improper and probably a violation of due process for the court on the one hand to assume responsibility for the supervision and conduct of the Prosecutor and on the other hand be responsible for the judicial determination of the case on its merits. In addition, the court would be in an especially difficult position when called upon to determine questions of jurisdiction as to whether the Special Prosecutor or the Department of Justice should be responsible for the prosecution of any specific matter. But under the Hart-Bayh bill, only the Chief Judge is empowered to determine whether the Special Prosecutor had exceeded the bounds of his statutory authority in any particular case. The court found in *Tumey* vs. *Ohio*, 273 U.S. 510, 532 (1926), that:

"The requirement of due process of law in judicial procedure is not satisfied by the argument that men of the highest honor and the greatest self-sacrifice could carry it on without danger of injustice. Every procedure which would offer a possible temptation to the average man as a judge to forget the burden of proof required to convict a defendant, or which might lead him not to hold the balance nice, clear and true between the state and the accused, denies the latter due process of law."

See also *Smith* vs. *Gallagher*, 408 Pa.551,185 A.2d 135,153 (1962).

It has been argued that the authority of the Chief Judge to appoint the Special Prosecutor is no different than the process by which the courts under Title 28 U.S.C. Section 506, appoint a temporary prosecuting officer to fill a vacancy. That statute, however, does not confer nor have the courts assumed, any authority over the United States Attorney appointed by the court. Like all other United States attorneys, he remains within the Executive branch, subject to direction by the Attorney General and removal by the President. In *United States* v. *Solomon*, 215 F. Supp.835,842 (1963), the court made a clear distinction between the limited appointive power of the Judiciary contemplated by Section 506 as opposed to the President's power of appointment under Article II, Section 2:

"The appointment itself contemplates only a temporary mode of having the duties of the office performed until the President acts . . . the exercise of the appointive power by the Judiciary in no way binds the Executive. The statute clearly contemplates that the Executive branch is free to choose another United States attorney at any time, the judicial appointment notwithstanding. It was not to enable a Circuit Justice to oust the power of the President to appoint, but to authorize him to fill the vacancy until the President should act, and no longer."

It is an invalid assertion, therefore, to use the analogy of appointment by the court under Section 506 as the legal threshold from which a shift of Executive power to the Judiciary can be accomplished. As to the removal power, clearly the statute and the *Solomon* case are authority that it must be kept in the Executive.

As I have previously indicated, and as former Special Prosecutor Cox has indicated, should the Congress pass legislation which is unconstitutional, it will be running the risk that the indictments or convictions achieved by the Special Prosecutor may be thrown out and justice would never be done. In the case of *In re Wyrick*, 301 Mich. 273,3 N.W. 2d 272 (1942), a conviction and sentence for contempt of court was overturned and the defendant was released from custody because a Special Prosecutor, appointed by the court was not legally authorized to participate in the proceeding which led to the conviction of the defendant in the lower court. The court stated:

"The state has wisely provided that this power should lie in the discretion of the Prosecuting Attorney or the Attorney General in certain cases . . . It is directly contrary to public policy to allow any general delegation of a prosecutor's powers, and the courts cannot recognize any such arrangement . . ."

In the case of *United States* v. *Heinze*, 177 F. 770 (1910), the court granted a motion to quash an indictment because of the presence in a Grand Jury room, during an investigation which resulted in the indictment of a person not authorized by law to be there. In that case, the Attorney General had illegally appointed a Special Assistant to help him in the investigation and prosecution of the case. In *State* vs. *Heaton*, 21 Wash. 59,56 p. 843 (1899), the court set aside an indictment because the unauthorized appointment of a Special Counsel who attended the Grand Jury sessions daily, advised them, and aided them in their deliberations, was a substantial irregularity in the proceedings resulting in the presentment of the indictment. See *Viers* v. *State*, 10 Okla. Crim. 28,134 p. 80, (1913); *State* v. *Maben*, 5 Okla. Crim. 581,114 p. 1122 (1911).

Given these dangers, it is clear we must not put stress on our Constitutional fabric by trying to create a Special Prosecutor subject to the control of the Congress or the Judiciary or otherwise taking law enforcement out of the Executive branch. I believe that the responsibility for the appointment and removal and supervision of the Special Prosecutor can be vested in the Justice Department and still establish the degree of independence necessary to the Special Prosecutor in order that he may carry out a vigorous and thorough investigation and prosecution of the Watergate-related offenses. Thus unnecessary Constitutional confrontations can be averted and the stability of indictments and convictions achieved by the Prosecutor can be sustained.

I will be introducing legislation on Friday which calls for the Attorney General appointing a Special Prosecutor and a Deputy Special Prosecutor, each with the advice and consent of the Senate. They will have the same general responsibilities and authority which the Hart-Bayh and the Percy bills provide. The legislative intent of my bill is clear with respect to the degree of independence and vigor with which we expect the Prosecutor to pursue his duties. This legislative mandate will serve as a check upon the other branches to assure the Special Prosecutor of no interference with his performing his duties.

However, he could be dismissed only by the Attorney General and only for neglect of duty, malfeasance, or violation of the Act and for no other cause except by impeachment by the Congress. If the Attorney General believes that one of these violations has occurred, he would be empowered immediately to suspend the Special Prosecutor or the Deputy Special Prosecutor, and prepare a notice of dismissal which would not take effect for 30 days thereafter. The Attorney General would be required to advise both Houses of Congress of the notice and any reasons for the dismissal. This approach seems clearly authorized by language in the *Myers* reading as follows at page 161:

"The power to remove inferior executive officers, like that to remove superior executive officers, is an incident of the power to appoint them, and is in its nature an executive power. The authority of Congress given by the exempting clause to vest the appointment of such inferior officers in the heads of departments carries with it authority incidentally to invest the heads of departments with power to remove. It has been the practice of Congress to do so and this Court has recognized that power."

It has the further merit of leaving untrammeled any residual constitutional power that may exist in the President to remove the Special Prosecutor or his Deputy. With the prescribed procedure for the Attorney General, the question can be avoided.

By this method, the appointment and removal power would remain in the Executive branch in accordance with our Constitution, and yet an immediate dismissal would be impossible, thereby giving the Congress, the people, and the President a 30-day period to consider or reconsider such action.

Since the appointment responsibility would be vested in the Attorney General, the Senate could refuse to confirm his nomination if he does not adequately assure it of the independency of the Special Prosecutor and of his full support for a thorough and nonpartisan investigation of all Watergate-related offenses. The same holds true for the

confirmation of the appointment of the Special Prosecutor and the Deputy Special Prosecutor. In this manner, the Senate will have a second check through which it can assure that the desire of the public and the Congress for an independent Prosecutor will be fulfilled.

The requirement that the Special Prosecutor be appointed only with the advice and consent of the Senate is important. In reviewing the qualifications for the new Special Prosecutor and Deputy Special Prosecutor, we must insist not only upon the nonpartisanship of these individuals but also demand assurance of nonpartisanship of the staff which they choose to assist them. To do otherwise would be to threaten the credibility and the impartiality of the investigation and prosecution carried out by their office. The temptations involved and the pressures which may be brought to bear, both in terms of partisan considerations as well as the interests of those persons being investigated, are a severe test of the capacity to carry out the mandate of this legislation. The gravity of the crimes alleged and the temper of our times demand that not only the legislation authorizing their existence but also the individuals assigned the task of Special Prosecutor and Deputy Special Prosecutor be capable of unerring fulfillment of their independent and impartial roles.

I believe that the bill which I am proposing will not only meet the requirements of our Constitution, but will also resolve the concern of the Congress and the public over the concept of a Special Prosecutor under the Executive Branch, having a conflict of interest in fulfilling his duties of investigating the President's role in the Watergate affair. Appointment of a Special Attorney or Assistant U.S. Attorneys in the Public interest has long been provided by statute, 28 U.S.C., Section 542 & 543. Appointment and removal by an Attorney General who has assured the Senate of the independence of the Special Prosecutor should insure that the President's and anyone else's role in the Watergate affair will be fully and vigorously investigated. As former Special Prosecutor Cox has testified, "These things don't happen twice in succession."

I urge you to give serious consideration to the legislation which I am proposing. It avoids the undue confrontation of the three branches of government over the Constitutional separation of powers and prevents the creation of a headless fourth branch which is impossible to fit into the tripartite scheme of our Constitution. Most importantly, it assures us of the establishment of an independent Special Prosecutor to which the public and the Congress are committed and whose indictments or convictions will be sustained.

S. 2642

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

SEC. 2. The Congress hereby finds and declares—

(a) Alleged crimes arising out of the Presidential campaign and election of 1972 have raised serious questions whether a full and complete investigation and prosecution of such charges will proceed without partisanship or favor.

(b) The Justice Department is composed of men and women of the highest integrity and ability capable of conducting a fair, full, and impartial investigation and prosecution of these alleged crimes, but circumstances already existing call for special independent investigation and prosecution.

(c) The appointment of a Special Prosecution Force in the Executive branch of government on May 24, 1973, began the process of restoring the faith of the American people in the integrity of this Administration and, in particular, in the belief that the ends of justice were to be served.

(d) The dismissal of the Special Prosecutor on the direct order of the President of the United States on October 20, 1973, has aroused public controversy and has the potential to place serious strains on the Doctrine of Separation of Powers inherent in our governmental system.

(e) In order to restore the public confidence, the investigation and prosecution of any offense arising out of the Presidential campaign and election of 1972 should be in an independent prosecutorial force.

SEC. 3. There is hereby established an Independent Special Prosecution Office (hereinafter referred to as the "Office"), responsible for investigating and initiating prosecution of all offenses and other matters arising out of the Presidential election of 1972 and relating to such election, including all matters which were properly under investigation by the Special Prosecution force prior to October 19, 1973, pursuant to the agreement made between the former Special Prosecutor and the Attorney General Designate on May 19, 1973.

SEC. 4. The Office shall be headed by a Special Prosecutor who shall be assisted by a Deputy Special Prosecutor, both of whom shall be appointed by the Attorney General, within thirty days after the date of enactment of this Act, by and with the advice and consent of the Senate.

SEC. 5. (a) The Special Prosecutor shall have exclusive jurisdiction, to investigate and prosecute on behalf of the United States—

(1) offenses arising out of the unauthorized entry into Democratic National Committee Headquarters at the Watergate;

(2) other offenses arising out of the 1972 Presidential election;

(3) offenses alleged to have been committed by the President, Presidential appointees, or members of the White House staff in relation to the 1972 Presidential campaign and election;

(4) all other matters heretofore referred to the former Special Prosecutor pursuant to regulations of the Attorney General (28 C.F.R. Section 0.37, rescinded October 24, 1973); and

(5) offenses relating to or arising out of any such matters.

(b) The Special Prosecutor shall have full power and authority in carrying out his duties and responsibilities under this Act—

(1) to conduct proceedings before grand juries and other investigations he deems necessary;

(2) to review all documentary evidence available from any source;

(3) to determine whether or not to contest the assertion and scope of "executive privilege" or any other testimonial privilege;

(4) to receive appropriate national security clearance and review all evidence sought to be withheld on grounds of national security not claimed to be under executive privilege or any other testimonial privilege, and if necessary contest in court, including where appropriate through participation in in camera proceedings, any claim of privilege or attempt to withhold evidence on grounds of national security;

(5) to make application to any Federal court for a grant of immunity to any witness, consistent with applicable statutory requirements, or for warrants, subpenas, or other court orders;

(6) to initiate and conduct prosecutions in any court of competent jurisdiction, frame and sign indictments, file information, and handle all aspects of any cases over which he has jurisdiction under this Act, in the name of the United States; and

(7) notwithstanding any other provision of law, to exercise all other powers as to the conduct of criminal investigations and prosecutions within his jurisdiction which would otherwise be vested in the Attorney General and the United States attorneys under the provisions of chapters 31 and 35 of title 28, United States Code, and the provisions of 26 C.F.R. 301.6103 (a)–1 (q), and act as the attorney for the Government in such investigations and prosecutions under the Federal Rules of Criminal Procedure.

SEC. 6. (a) All materials, tapes, documents, files, work in process, information, and all other property of whatever kind and description relevant to the duties and responsibilities of the Special Prosecutor under this Act, tangible or intangible, collected by, developed by, or in the possession of the former Special Prosecutor or his staff established pursuant to regulation of the Attorney General (28 C.F.R. Sec. 0.37, rescinded October 24, 1973), shall be delivered into the possession of the Special Prosecutor appointed under this Act.

(b) All investigations, prosecutions, cases, litigation, and Grand Jury or other proceedings initiated by the former Special Prosecutor pursuant to regulations of the Attorney General (28 C.F.R. Sec. 0.37, rescinded October 24, 1973), shall be continued, as the Special Prosecutor deems appropriate, by him, and he shall become successor counsel for the United States in all such proceedings, notwithstanding any substitution of counsel made after October 30, 1973.

SEC. 7. The Deputy Special Prosecutor shall assist the Special Prosecutor as the Special Prosecutor shall direct in the performance of his duties and, in the event of the disability or suspension of the Special Prosecutor or vacancy in the office of Special Prosecutor, shall act as Special Prosecutor until his successor is appointed in accordance with section 4 of this Act.

SEC. 8. (a) The Special Prosecutor and the Deputy Special Prosecutor shall each be entitled to receive an annual salary and reimbursement for expenses equal to the annual salary and expense allowance payable to a judge of the United States district court.

(b) The Special Prosecutor shall have power to appoint, fix the compensation, and assign the duties of such employees as he deems necessary, including but not limited to investigators, attorneys, and part-time consultants, without regard to the provisions of title 5, United States Code, governing appointments in the competitive civil service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of such title. The Special Prosecutor is authorized to request any officer of the Department of Justice, or any other employee of the Department of Justice, or any other department or agency of the Federal or District of Columbia government, to provide on a reimbursable basis such assistance as he deems necessary, and any such officer shall comply with such request. Assistance by the Department of Justice shall include but not be limited to affording to the Special Prosecutor full access to any records, files, or other materials relevant to matters within his jurisdiction and use by the Special Prosecutor of the investigative and other services on a priority basis, of the Federal Bureau of Investigation except that only the Special Prosecutor and the Deputy Special Prosecutor shall have access to confidential or classified documents, records, files, or other such materials unless otherwise waived by the Attorney General or any other head of an appropriate agency.

SEC. 9. The Administrator of General Services shall furnish the Special Prosecutor with such offices, equipment, supplies, and services as are authorized to be furnished to any other agency or instrumentality of the United States.

SEC. 10. Notwithstanding any other provisions of law the Special Prosecutor shall

submit to the Congress directly requests for such funds, facilities, and legislation as he shall consider necessary to carry out his responsibilities under this act, and such requests shall receive priority consideration by the Congress.

SEC. 11. The Special Prosecutor shall carry out his duties and responsibilities under this act within two years, except as necessary to complete trial or appellate action on indictments then pending.

SEC. 12. (a) The Special Prosecutor and the Deputy Special Prosecutor may be removed by the Attorney General for neglect of duty, malfeasance in office, or violation of this act, but for no other cause, or by the Congress pursuant to article II, section 4 of the Constitution.

(b) If the Attorney General believes grounds for removal under subsection (a) exist, he may suspend the Special Prosecutor or the Deputy Special Prosecutor immediately and prepare a notice of dismissal. Such notice of dismissal shall be effective 30 days thereafter and shall be transmitted to both Houses of Congress, stating the reasons for such dismissal.

(c) For the purposes of subsection (b) of this section—

(1) continuity of session is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the thirty days period.

SEC. 13. If any part of this Act is held invalid, the remainder of the act shall not be affected thereby. The provisions of any part of this act, or the application thereof to any person or circumstance if held invalid the provisions of other parts and their application to other persons or circumstances shall not be affected thereby.

SEC. 14. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

By Mr. KENNEDY:

S. 2643. A bill to revise the Immigration and Nationality Act. Referred to the Committee on the Judiciary.

IMMIGRATION AND NATIONALITY ACT AMENDMENTS

Mr. KENNEDY. Mr. President, I am introducing today a bill to amend the Immigration and Nationality Act.

The proposed legislation goes a long way in continuing the reform effort initiated in the Immigration Act of 1965, which repealed the national origins quota system. In addition to strengthening the traditional immigration objective of family unity, to facilitating the admission of mentally retarded family members, to removing needless barriers to naturalization, and to providing special immigrant visas to Ireland, Holland, Poland, Germany, and several other countries disadvantaged in the transition under the act of 1965, the proposed legislation accomplishes two long-sought objectives.

First, it refines and strengthens the new system established in 1965. It not only remedies the confused situation in the allocation of visas to applicants in Western Hemisphere countries—but also provides a more orderly, flexible, and humane method of allocating visas to applicants of all countries, on a first-come, first-served basis.

And second, the proposed legislation establishes a new humanitarian policy of asylum for refugees and victims of natural disaster and war.

I would like to elaborate briefly on these two major objections.

REFINEMENT OF THE NEW SYSTEM ESTABLISHED IN 1965

Section 3 establishes a worldwide ceiling of 300,000 immigrants annually, exclusive of immediate family members of U.S. citizens and other special immigrants.

The worldwide ceiling becomes effective on July 1, 1976. In the interim, the present ceiling of 170,000 immigrants from countries in the Eastern Hemisphere continues to operate. The present ceiling of 120,000 immigrants from countries in the Western Hemisphere is raised to 130,000—and, owing to the special nature of the Cuban refugee program, refugees who adjust their status to permanent resident alien under the act of November 2, 1966, will not be counted against the ceiling.

Section 4 of the bill extends the present 20,000 annual limitation on immigration from any one country in the Eastern Hemisphere to Western Hemisphere countries as well—except that Canada and Mexico are given a maximum of 35,000 each.

Section 5 amends the preference system established in 1965. In addition to introducing flexibility into the allocation of visas among the seven preferences, this section applies the preference system on a worldwide basis simultaneously with the effective date of the world ceiling.

In the interim, the preference system, which is currently operative only in the Eastern Hemisphere, is broadened to include the Western Hemisphere. But the preference system will operate separately in each hemisphere until July 1, 1976.

As suggested, section 5 of the bill introduces maximum flexibility into the allocation of visas within the preference system. This is accomplished, first of all, by making minor changes in percentage allocations from the pool of visas to each preference category, so as to better reflect the pattern of anticipated demands and, more importantly, by permitting the dropdown of unused visas in any category to meet excessive demand in the category that follows. Visas remaining after the dropdown through the seven preference categories will be issued to nonpreference immigrants.

ASYLUM FOR REFUGEES

Sections 5 and 7 of the bill establish a new humanitarian policy of asylum for refugees. First, the definition of a refugee is broadened from its present European and cold war framework, to include the homeless throughout the world. Second, the number of annual refugee admissions allocated within the preference system is raised from the current maximum of 10,200 to 36,000. Third, the Attorney General is authorized to parole into the country additional numbers of refugees in times of emergency, if he determines it to be in the public interest. This merely confirms what we have done over the last 15 years in admitting those who fled Hungary and Cuba and Czechoslovakia. And, fourth, the bill provides a permanent authority to adjust the status of refugee parolees to that of permanent residence, thus avoiding the need for special legislation of the kind enacted for Hungarians and Cubans.

In practice, our country has always been generous in providing resettlement opportunities to refugees, but our permanent immigration law has never included a comprehensive asylum policy. As chairman of the Judiciary Subcommittee on Refugees, I believe it is extremely important that our law fully recognize refugee problems and resettlement needs throughout the world. The bill accomplishes this objective.

Mr. President, the bill I introduce today meets some pressing needs in the immigration field, and I am extremely hopeful that the Judiciary Committee will be able to consider this bill and other pending proposals within the near future. And I am hopeful as well that the administration will join the Congress in this effort, and finally give its full support to enacting legislation which will continue the reform effort begun in 1965.

Mr. President, I ask unanimous consent that the bill I introduce today, and a summary of its provisions, be printed at this point in the RECORD.

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

S. 2643

A bill to revise the Immigration and Nationality Act

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

SEC. 2. Subsection (a)(27) of Section 101 of the Immigration and Nationality Act (8 U.S.C. 1101) is amended—

(1) by amending subparagraph (A) to read as follows:

"(A) an immigrant who is the spouse or child of a citizen of the United States or is the parent of a citizen of the United States at least twenty-one years of age: *Provided,* That in the case of a parent, the spouse and children of such a special immigrant shall be entitled to special immigrant status if accompanying or following to join him. The special immigrants in this subparagraph who are otherwise qualified for admission as immigrants shall be admitted as such, without regard to the numerical limitations in this Act."

(2) by striking out "carrying on the vocation of minister of a religious denomination" in subparagraph (D) and inserting in lieu thereof "performing duties which are related to the religious activities of a religious denomination"; and

(3) by amending subparagraph (E) to read as follows:

"(E) an immigrant who is an employee, or an honorably retired former employee, of the United States Government abroad, and who has performed faithful service for a total of fifteen years, or more, and his accompanying spouse and children: *Provided,* That the principal officer of a Foreign Service establishment, in his discretion, shall have recommended the granting of special immigrant status to such alien and the Secretary of State approves such recommendation and finds that it is in the National interest to grant such status."

SEC. 3. Section 201 of the Immigration and Nationality Act (8 U.S.C. 1151) is amended to read as follows:

"SEC. 201. Exclusive of special immigrants defined in section 101(a)(27), and of alien refugees who may apply for adjustment of status to that of aliens lawfully admitted to the United States for permanent residence under the Act of November 2, 1966 (80 Stat. 1161; 8 U.S.C. 1255 note), the num-

ber of aliens who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence, (a) shall not in any of the first three quarters of any fiscal year exceed a total of eighty thousand and (b) shall not in any fiscal year exceed a total of three hundred thousand: *Provided*, That during the period from the effective date of the Immigration and Nationality Act Amendments of 1973 through June 30, 1976, the number of aliens specified in this section shall not in any of the first three quarters of any fiscal year exceed a total of forty-five thousand and shall not in any fiscal year exceed a total of one hundred seventy thousand for aliens ascribed to independent foreign countries of the Eastern Hemisphere, and (B) shall not in any of the first three quarters of any fiscal year exceed a total of thirty-five thousand and shall not in any fiscal year exceed a total of one hundred thirty thousand for aliens ascribed to independent foreign countries of the Western Hemisphere."

SEC. 4. (a) Subsection (a) of section 202 of the Immigration and Nationality Act (8 U.S.C. 1152) is amended—

(1) by striking out "section 201(b),"—

(2) by striking out "and the number of conditional entries" in the first proviso—

(3) by amending the second proviso to read as follows:

"Provided further, That notwithstanding the preceding proviso, the total number of immigrant visas made available to natives of any country contiguous to the United States shall not exceed thirty-five thousand in any fiscal year."

(b) Subsection (c) of such section is amended—

(1) by striking out "or an immediate relative of a United States citizen as specified in section 201(b),"—

(2) by striking out "shall not exceed 1 per centum" and insert in lieu thereof "shall not exceed 3 per centum".

SEC. 5. (a) Subsection (a) of section 203 of the Immigration and Nationality Act (8 U.S.C. 1153) is amended—

(1) by striking out "201(a)" and insert in lieu thereof thereof "201", and by striking out "or their conditional entry authorized, as the case may be," in the portion which precedes paragraph (1);

(2) by striking out "201(a)(ii)" each place it appears in paragraphs (1) through (6) and insert in lieu thereof in each such place "201";

(3) in paragraph (1), by striking out "20" and insert in lieu thereof "10";

(4) in paragraph (2), by striking out "20" and insert in lieu thereof "24", by inserting a comma and "or parents" after "unmarried daughters", and by inserting after "permanent residence" the following: ": *Provided*, That in permanent residence must be at least twenty-one years of age";

(5) in paragraph (3), by striking out "10" and insert in lieu thereof "12", and insert after "201(a)(ii)," the following: "plus any visas not required for the classes specified in paragraphs (1) and (2),";

(6) in paragraph (5), by striking out "24" and insert in lieu hereof "20", and by striking out "brothers or sisters" in that paragraph and inserting in lieu thereof "unmarried brothers or unmarried sisters";

(7) in paragraph (6), by striking out "10" and insert in lieu thereof "12", and insert after "201(a)(ii)," the following: "plus any visas not required for the classes specified in paragraphs (1) through (5),"; and

(8) by amending paragraph (7) to read as follows:

"(7)(A) Visas shall next be made available, pursuant to such regulations as the Secretary of State may prescribe and in a number not to exceed 12 per centum of the number specified in section 201, to alien refugees described in subparagraph (B), who are not firmly resettled in any country and apply for admission to the United States.

"(B) The term 'alien refugee' means (i) any alien (I) who is outside the country of his nationality or who, not having a nationality, is outside the country of his habitual residence, and who is unable or unwilling to return to such country because of persecution or well-founded fear of persecution on account of race, religion, nationality, membership of a particular social group or political opinion, or (II) who has been uprooted by catastrophic natural calamity or military operations and who is unable to return to his usual place of abode, and (ii) the spouse and children of any such alien, if accompanying or following to join him.".

(9) in paragraph (8), by striking out "(6) and less the number of conditional entries and visas made available pursuant to paragraph".

(b) Subsection (d) of such section is amended to read as follows:

"(d) Every immigrant shall be presumed to be a nonpreference immigrant until he establishes to the satisfaction of the consular officer and the immigration officer that he is entitled to a preference status under paragraphs (1) through (7) of subsection (a), or to a special immigrant status under section 101(a)(27). In the case of any alien claiming in his application for an immigrant visa to be a special immigrant under section 101(a)(27)(a) or to be entitled to preference immigrant status under paragraphs (1) through (6) of subsection (a), the consular officer shall not grant such status until he has been authorized to do so as provided by section 204."

(c) Subsections (f), (g), and (h) of such section are appealed.

SEC. 6. Section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) is amended—

(a) in subsection (a), by striking "or to an immediate relative status under section 201(b)," and insert in lieu thereof "or to a special immigrant status under section 101(a)(27)(A),";

(b) in subsection (b), by striking "an immediate relative specified in section 201(b)" and insert in lieu thereof "a special immigrant specified in section 101(a)(27)(A)";

(c) in subsection (e), by striking "an immediate relative under section 201(b)" and insert in lieu thereof "a special immigrant under section 101(a)(27)(A)".

SEC. 7. (a) Paragraph (1) of subsection (a) of section 212 of the Immigration and Nationality Act (8 U.S.C. 1182) is amended to read as follows:

"(1) Aliens who are mentally retarded, except that any such alien may be granted a visa and admitted to the United States if otherwise admissible upon a showing that the parent or legal guardian of such alien will provide for the support of such alien;";

(b) Paragraph (4) of subsection (a) of section 212 of the Immigration and Nationality Act (8 U.S.C. 1182(a)) is amended by striking "or a mental defect";

(c) Paragraph (14) of subsection (a) of such section is amended to read as follows:

"(14) Aliens seeking to enter the United States, for the purpose of performing skilled or unskilled labor, unless the Secretary of Labor has determined and certified to the Secretary of State and to the Attorney General that (A) there are not sufficient workers who are able, willing, qualified, and available at the time of application for a visa and admission to the United States and at the place where the alien is to perform such skilled or unskilled labor, and (B) the employment of such aliens will not adversely affect the wages and working conditions of the workers in the United States similarly employed. The exclusion of aliens under this paragraph shall apply to preference immigrant aliens described in section 203(a)(3) and (6), and to nonpreference immigrant aliens described in section 203(a)(8). The Secretary of Labor shall submit quarterly to the Congress a report containing complete and detailed statements of facts pertinent to the labor certification procedures including, but not limited to, lists of occupations in short supply or over-supply, regionally projected manpower needs, as well as up-to-date statistics on the number of labor certications approved or denied;".

(d) Paragraph (24) of subsection (a) is repealed;

(e) Subsection (b) of such section is amended by striking out "paragraph (25) of subsection (a)" at the first place it appears, and inserting in lieu thereof "paragraph (1) or (25) of subsection (a)";

(f) Subsection (d) of such section is amended by adding at the end thereof a new paragraph as follows:

"(9)(A) If the Secretary of State shall find that it is in the national interest that all, or any portion, of the members of a group or class of persons who meet the qualifications set forth in section 203(a)(7) be paroled into the United States, he may recommend to the Attorney General that such aliens be so paroled.

"(B) Upon receipt of a recommendation pursuant to subparagraph (A) of this paragraph and after appropriate consultation with the Congress, the Attorney General may parole into the United States any alien who establishes to his satisfaction, in accordance with such regulations as he may prescribe, that he is a member of the group or class of persons with respect to whom the Secretary of State has made such recommendation and that he is not firmly resettled in any country. The conditions of such parole shall be the same as those which the Attorney General shall prescribe for the parole of aliens under paragraph (5) of this subsection.

"(C) Any alien paroled into the United States pursuant to this paragraph whose parole has not theretofore been terminated by the Attorney General and who has not otherwise acquired the status of an alien lawfully admitted for permanent residence shall, two years following the date of his parole into the United States, return or be returned to the custody of the Immigration and Naturalization Service and shall thereupon be inspected and examined for admission into the United States in accordance with the provisions of sections 235, 236, and 237 of this Act.

"(D) Notwithstanding the numerical limitations specified in this Act, any alien who, upon inspection and examination as provided in subparagraph (C) of this paragraph or after a hearing before a special inquiry officer, is found to be admissible as an immigrant as of the time of his inspection and examination except for the fact that he was not and is not in possession of the documents required by section 212(a)(20) shall be regarded as lawfully admitted to the United States for permanent residence as of the date of his arrival in the United States.".

(g) Subsection (g) of such section is amended by striking out "who is excludable from the United States under paragraph (1) of subsection (a) of this section, or any alien".

(h) Subsection (h) of this section is amended to read as follows:

"(h) Any alien, who is excludable from the United States under paragraph (9), (10), (12), or (19) of this section, who (A) is the spouse or the unmarried son or daughter, or the minor unmarried lawfully adopted child, of a United States citizen, or of an alien lawfully admitted for permanent residence, or of an alien who has been issued an immigrant visa, or (B) has a son or daughter who is a United States citizen, or an alien lawfully admitted for permanent residence, shall, if otherwise admissible, be issued a visa and admitted to the United States for permanent

residence (1) if it shall be established to the satisfaction of the Attorney General that (A) the alien's exclusion would result in hardship to such spouse, parent, or son or daughter of such alien, and (B) the admission to the United States of such alien would not be contrary to the national welfare, safety, or security of the United States; and (2) if the Attorney General, in his discretion, and pursuant to such terms, conditions, and procedures as he may by regulations prescribe, has consented to the alien's applying or reapplying for a visa and for admission to the United States."

(i) Such section is amended by adding at the end thereof a new subsection as follows:

"(j) Any alien lawfully admitted for permanent residence whose principal, actual dwelling place is in a foreign country contiguous to the United States and is returning from a temporary stay in such foreign country to seek or continue employment in the United States shall be admitted into the United States only if the Secretary of Labor has determined and certified to the Attorney General within six months prior to the date of admission that the employment of such alien will not adversely affect the wages and working conditions of workers in the United States similarly employed, and if such certification has not been revoked on any ground. The provisions of this subsection shall be applicable to any aliens lawfully admitted for permanent residence, whether or not such aliens were so admitted prior to or on or after the date of enactment of this subsection."

SEC. 8. Subsection (a) of section 222 of the Immigration and Nationality Act (8 U.S.C. 1202) is amended by striking "[a] an immediate relative within the meaning of section 201 (b) or".

SEC. 9. Section 223 (b) (8 U.S.C. 1203) is amended to read as follows:

"If the Attorney General finds (1) that the applicant under subsection (a) (1) has been lawfully admitted to the United States for permanent residence, or that the applicant under subsection (a) (2) has, since admission, maintained the status required of him at the time of his admission and such applicant desires to visit abroad and to return to the United States to resume the status existing at the time of his departure for such visit, (2) that the application is made in good faith, and (3) that the alien's proposed departure from the United States would not be contrary to the interests of the United States, the Attorney General may, in his discretion, issue the permit. The permit shall be valid for not more than three years from the date of issuance and shall be in such form as shall be by regulations prescribed for the complete identification of the alien.

SEC. 10. (a) Section 224 of the Immigration and Nationality Act (8 U.S.C. 1204) is amended by striking "immediate relative" each place it appears and inserting in lieu thereof "alien refugee".

(b) The section heading for such section is amended by striking "IMMEDIATE RELATIVE" and inserting in lieu thereof "ALIEN REFUGEE".

(c) The item relating to such section 224 in the table of contents of such Act is amended by striking "Immediate relative" and inserting in lieu thereof "Alien refugee".

SEC. 11. Section 241 (a) (10) of the Immigration and Nationality Act (8 U.S.C. 1251 (a) (10)) is amended by striking out the language within the parentheses and inserting in lieu thereof the following: "other than an alien who is a native-born citizen of any independent foreign country of the Western Hemisphere or of the Canal Zone".

SEC. 12. Section 244 (d) of the Immigration and Nationality Act (8 U.S.C. 1254 (d)) is amended by striking out "or is an immediate relative within the meaning of section 201 (b)".

SEC. 13. Section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) is amended to read as follows:

"Sec. 245. (a) The status of an alien, other than an alien crewman or any alien admitted in transit without visa under Section 238(d), who was inspected and admitted or paroled into the United States may be adjusted by the Attorney General, in his discretion and under such regulations as he may prescribe, to that of an alien lawfully admitted for permanent residence if (1) the alien makes an application for such adjustment, (2) the alien is eligible to receive an immigrant visa and is admissible to the United States for permanent residence, and (3) an immigrant visa is immediately available to him at the time his application is filed: *Provided*, That any alien who meets the qualifications of an alien refugee as set forth in section 203(a)(7) and determined by the Secretary of State, shall be eligible to make an application for adjustment regardless of such alien's means of entry into the United States.

"(b) Upon the approval of an application for adjustment made under subsection (a), the Attorney General shall record the alien's lawful admission for permanent residence as of the date the order for the Attorney General approving the application for the adjustment of status is made, and the Secretary of State shall reduce by one the number of the preference or nonpreference visas authorized to be issued under section 203(a) within the class to which the alien is chargeable, for the fiscal year then current."

SEC. 14. The first proviso contained in paragraph (1) of section 312 of the Immigration and Nationality Act (8 U.S.C. 1423) is amended by striking out "or to any person who, on the effective date of this Act, is over fifty years of age and has been living in the United States for periods totaling at least twenty years" and inserting in lieu thereof the following: "or to any person who, on the date of the filing of his petition for naturalization as provided in section 334, is over fifty years of age and has been living in the United States for periods totaling at least ten years".

SEC. 15. (a) Notwithstanding the provisions of section 245 of the Immigration and Nationality Act and without regard to the numerical limitations specified in that Act, any alien who, on or before the effective date of this Act (1) has been granted by the Secretary of Labor an indefinite certification for employment in the Virgin Islands of the United States which has not subsequently become invalid, (2) has been inspected and admitted to the Virgin Islands of the United States, and (3) has continuously resided in the Virgin Islands of the United States for a period of at least five years as of the date of enactment of this Act, and the spouse and minor unmarried children of any such alien, may have his status adjusted by the Attorney General, in his discretion and under such regulations as he may prescribe, to that of an alien lawfully admitted for permanent residence, or may be issued an immigrant visa, if the alien (i) is eligible to receive an immigrant visa, and (iii) is admissible to the United States.

(b) Upon approval of an application for adjustment of status under subsection (a) of this section, the Attorney General shall record the alien's lawful admission for permanent residence as of the date of the order of the Attorney General approving the application for adjustment of status.

(c) Applications for adjustment of status or for immigrant visas pursuant to the provisions of subsection (a) of this section may be initiated on or after the effective date of this Act, but not later than the last day of the third fiscal year beginning on or after the date of enactment of this Act. Applications for immigrant visas pursuant to the provisions of this section shall be considered in such order as the Secretary of State shall by regulations prescribe, except that not more than three thousand visas shall be issued in any one fiscal year.

(d) Except as otherwise provided herein, the definitions set forth in section 101 of the Immigration and Nationality Act shall be applicable.

SEC. 16. (a) Notwithstanding the numerical limitations in sections 201 (a), 202 (a), and 202 (c) of the Immigration and Nationality Act, if in any fiscal year after June 30, 1972 the total number of immigrants admitted, or aliens who were adjusted to permanent resident status in the United States under the Immigration and Nationality Act, from any foreign state under paragraphs (1) through (6) and paragraph (8) of section 203 (a) of such Act was less than three-fourths of the average annual number of such visas made available to immigrants from such foreign state under such Act during the ten-fiscal-year period beginning July 1, 1955, there shall be made available to immigrants from such foreign state an additional number of visas for the succeeding fiscal year equal to the difference between the number of visas made available to them under paragraphs (1) through (6) and paragraph (8) of section 203 (a) of such Act in the preceding fiscal year and three-fourths of such average number, except that the number of such additional visas made available in any fiscal year to immigrants from such foreign state shall not exceed seven thousand five hundred. The additional visas authorized by the preceding sentence for immigrants from such foreign state shall be made available as follows:

(1) Forty per centum of the additional visas shall be made available to immigrants entitled to a preference status under paragraph (1), (2), (3), (4), or (5) of section 203 (a) of the Immigration and Nationality Act, except that no more than 8 per centum of the additional visas may be made available to immigrants entitled to a preference status under any one of such paragraphs.

(2) Thirty per centum of the additional visas plus any visas not issued under paragraph (1) shall be made available to immigrants entitled to a preference under paragraph (6) of section 203 (a) of the Immigration and Nationality Act.

(3) Thirty per centum of the additional visas plus any visas not issued under paragraph (1) or (2) shall be made available to immigrants who are not entitled to a preference under section 203 (a) of the Immigration and Nationality Act.

In the case of immigrants entitled to a preference under paragraph (1), (2), (3), (4), (5), or (6) of section 203 (a) of the Immigration and Nationality Act, the additional visas authorized by this subsection shall be issued in the order in which a petition in behalf of each such immigrant is filed with the Attorney General as provided in section 204 of such Act. In the case of immigrants not entitled to a preference under section 203 (a) of the Immigration and Nationality Act, such visas shall be made available in the chronological order in which such immigrants qualify. The provisions of section 212 (a) (14) of the Immigration and Nationality Act shall not apply in the determination of an immigrant's eligibility to receive any visa authorized to be issued under this Act.

(b) No alien shall be issued a visa under the first section of this Act, nor have his status adjusted to that of a permanent resident alien under such first section, after the expiration of the four-fiscal-year period beginning with the first fiscal year commenc-

ing on or after the date of enactment of this Act.

(c) Except as otherwise specifically provided in this Act, the definitions contained in section 101 (a) and (b) of the Immigration and Nationality Act shall apply in the administration of this Act. Nothing contained in this Act shall be held to repeal, amend, alter, modify, affect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of the Immigration and Nationality Act or any other law relating to immigration, nationality, or naturalization.

SEC. 17. Section 21 of the Act of October 3, 1965 (79 Stat. 916, 920), is hereby repealed.

SEC. 18. (a) The amendments made by this Act shall not operate to affect the entitlement to immigrant status or the order of consideration for issuance of an immigrant visa of an alien entitled to a preference status, under section 203 (a) of the Immigration and Nationality Act, as in effect on the day before the effective date of this Act, on the basis of a petition filed with the Attorney General prior to such effective date.

(b) An alien chargeable to the numerical limitation contained in section 21(a) of the Act of October 3, 1965 (79 Stat. 921) who established a priority date at a consular office on the basis of entitlement to immigrant status under statutory or regulatory provisions in existence on the day before the effective date of this Act shall be deemed to be entitled to immigrant status under section 203 (a) (8) of the Immigration and Nationality Act, as amended by section 5 of this Act. The numerical limitation to which such an alien shall be chargeable shall be determined as provided in sections 201 and 202 of the Immigration and Nationality Act, as amended by this Act.

SEC. 19. The foregoing provisions of this Act, including the amendments made by such provisions, shall become effective on the first day of the first month which begins more than sixty days after the date of enactment of this Act.

SUMMARY OF IMMIGRATION BILL INTRODUCED BY SENATOR EDWARD M. KENNEDY

Section 1: designates the bill the "Immigration and Nationality Act Amendments of 1973."

Section 2: redesignates "immediate relatives" as special immigrants—provides special immigrant status to aliens "performing duties which are related to the religious activities of a religious denomination."

Section 3: provides for establishing a worldwide ceiling of 300,000 immigrants annually, exclusive of special immigrants, to become operative on July 1, 1976—in the interim the current ceiling of 120,000 for the Western Hemisphere is increased to 130,000—Cuban refugees who adjust their status to aliens lawfully admitted for permanent residence are removed from ceiling considerations.

Section 4: except for Canada and Mexico, extends to Western Hemisphere countries the 20,000 annual limitation on immigration from any one country which is currently applicable to countries in the Eastern Hemisphere—the annual limitation on Canada and Mexico is 35,000—raises from 200 to 600 the annual limitation on immigration from dependent areas—

Section 5: amends the preference system.

(a) The preference system, currently operative only in the Eastern Hemisphere, becomes operative on a worldwide basis simultaneously with the effective date of the world ceiling—in the interim the preference system operates separately in each hemisphere.

(b) The percentum of first preference (unmarried sons and daughters of U.S. citizens) is changed from 20 to 10.

(c) The second preference, currently the spouses and unmarried sons and daughters of aliens lawfully admitted for permanent residence, is expanded to include parents of permanent resident aliens—the percentum is changed from 20 to 24.

(d) The percentum of third preference (members of professions or persons of exceptional ability in the sciences and arts) is changed from 10 to 12.

(e) The fourth preference (married sons or daughters of U.S. citizens) and its percentum of 10 remains unchanged.

(f) The fifth preference, currently the brothers and sisters of U.S. citizens, eliminates those who are married—the percentum is changed from 24 to 20.

(g) The percentum of sixth preference (skilled and unskilled workers in short supply) is changed from 10 to 12.

(h) The percent of seventh preference is changed from 6 to 12—instead of being given "conditional entry" in accordance with regulations prescribed by the Attorney General, refugees are issued regular immigrant visas in accordance with regulations prescribed by the Secretary of State—the definition of a refugee establishes a worldwide asylum policy for the United States: "The term 'alien refugee' means any alien who is outside the country of his nationality or who, not having a nationality, is outside the country of his habitual residence, and who is unable or unwilling to return to such country because of persecution or well-founded fear of persecution on account of race, religion, nationality, membership of a particular social group or political opinion, or who has been uprooted by catastrophic natural calamity or military operations. . . ."

(i) To permit maximum flexibility in the use of visas, available visas not required in any one preference are to be used in meeting excessive demand in succeeding preference categories—except the seventh—or in the non-preference category—

Section 6: technical amendments.

Section 7: facilitates the admission of the mentally retarded and others—provides a permanent authority for the Attorney General to parole refugees into the country for emergency reasons and subsequently adjust their status to permanent residence—regulates the flow of employable "commuter aliens" from Canada and Mexico.

Section 8: technical amendment.

Section 9: removes the renewal provision for re-entry permits, but extends their validity from one to three years—re-entry permits are required for aliens in the United States who wish to maintain their immigration status while temporarily outside of the country.

Section 10: technical amendments.

Section 11: technical amendments.

Section 12: technical amendments.

Section 13: provides for adjustment of status of Western Hemisphere aliens on the same basis as aliens from the Eastern Hemisphere—

Section 14: facilitates the naturalization of persons over 50 years who have been living in the United States for at least 10 years.

Section 15: establishes a temporary program to facilitate the adjustment of status of certain nonimmigrant aliens in the Virgin Islands.

Section 16: establishes a temporary program making additional immigrant visas available to certain countries disadvantaged in the transition from the national origins system to the first-come, first-served system, established by the Immigration Act of October 3, 1965.

Section 17: technical amendments.

Section 18: technical amendments.

Section 19: technical amendments.

By Mr. STEVENS:

S. 2647. A bill to amend 5 U.S.C. 5343 (c) (1) to expand the data base for Federal wage surveys in certain areas of the United States wherein there is insufficient private industry to determine comparable wages or where State and local governments exert a major influence on wage rates. Referred to the Committee on Post Office and Civil Service.

Mr. STEVENS. Mr. President, in August 1972, Public Law 92–392 was enacted which made major changes in the method of fixing pay rates for governmental employees. One of these changes was an amendment to 5 U.S.C. 5343, which reversed a long-standing civil service practice of including nonprivate sector pay rates in Federal wage board surveys for certain areas.

Prior to the enactment of Public Law 92–392, the Federal Personnel Manual provided:

> Under certain circumstances, exceptions are made to the basic policy that surveys cover only private industries. A lead agency may include State and local governmental activities in a regular wage survey when the area involved has limited private industry employment and a high concentration of governmental employment exerts a major influence on the level of rates.

Public Law 92–392 amended 5 U.S.C. 5343(c) (1) to limit the subject of wage board surveys to include only wages "paid by private employers in the wage area for similar work performed by regular full-time employees."

This new statutory limitation has caused considerable concern to Federal employees in several areas of the country. Under the requirements of Public Law 92–392, the Civil Service Commission has understandably felt itself to be limited in its discretion and has ruled that wage board surveys may not include Government operated businesses such as utilities. However, because most of these operations in Alaska; Champaign-Urbana, Ill.; and a few other areas of the United States pay union scale and are an important factor in determining the wage rate for wage board employees, their exclusion has had serious consequences. Many employees in Alaska fear that failure to include these enterprises may force the Wage Board to survey Seattle, with a significantly lower wage scale. Many of these employees have contacted me and asked for my help.

In Alaska, for example, many State and local governmental employees receive good wages, in some cases, higher than the private sector. This is not generally the case in other parts of the country, with certain exceptions. The exclusion of governmental employees in Public Law 92–392 was based on the premise that most governmental employees are paid less than private employees. No account was taken of the few areas, such as Alaska and Champaign-Urbana, wherein Government employees form the only basis of comparison, particularly because they are paid comparable wages.

When the House Post Office and Civil Service Committee was considering the legislation later adopted as Public Law 92–392, John Griner, then President of the American Federation of Government Employees, testified concerning conditions in Alaska. I understand the same conditions are found in Champaign-

Urbana. At those hearings in April and May, 1971, Mr. Griner testified:

I should like to call your attention to an unusual condition. Just a few days ago, I returned from an extensive trip to Alaska during which I tried to isolate the special problems which affect all employees there, private enterprise, as well as Federal, State, and local government.

One fact is clear, there are so few large private enterprises employing 300 or more workers that the provision in H.R. 12481 and associated bills limiting wage surveys to private establishments with 300 or more employees cannot be effectively carried out in Alaska.

I, therefore, recommend that the State of Alaska be specifically exempted from the provisions of subparagraph (e)(4) of Section 5343 of the associated bills.

I might say, I have full concurrence from both Senators and at least one Congressman—or the one Congressman, I believe we have only one Congressman up there.

At my request, the Department of Defense has forwarded Federal wage system survey data obtained in the 1972 full scale survey for Alaska and Champaign-Urbana.

In the Alaska survey, approximately 58 percent of the survey samples came from governmental—public—jurisdictions. The remaining samples, exclusive of government, would not provide an adequate data base upon which statistical trend lines could be drawn under the Federal wage system procedures.

In Champaign-Urbana, although 46 percent of the sample survey came from the University of Illinois, a governmental activity, the data base from "private" enterprise establishments in the area remained adequate for the development of statistical trend lines under the Federal wage system procedures. The resultant trend lines, excluding the University of Illinois data, would have been significantly lower, however, than that produced if all data, private and public, are used in the computations.

Because of the importance of this bill, I urge Congress to act on it speedily and request that it be printed in the RECORD at this point.

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

S. 2647

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5343(c)(1) of title 5, United States Code, is amended by inserting the following before the semicolon: ", and except that, when there is insufficient private employment in a wage area to establish a wage schedule or a high concentration of state or local government employment exerts a major influence on the level of rates in the area, wages to be surveyed may include those paid by state and local governments (including political subdivisions thereof) in the area".

By Mr. McCLURE:

S. 2649. A bill to provide for the public disclosure by candidates for election to Federal office of their Federal income tax returns. Referred to the Committee on Finance.

Mr. McCLURE. Mr. President, I am introducing today legislation to provide for the public disclosure by candidates for Federal office of their Federal income tax returns.

The suggestion has been made that Vice-Presidential-nominee GERALD FORD should, over and above presenting all financial records, including income tax returns, to the Rules Committee, make his income tax returns part of the public record.

Now I personally do not think we should be required to disclose our personal income tax returns. Yet if we are to demand it of Congressman FORD, then we ought to demand it of ourselves as well. We have no right to say to Mr. FORD, "You have got to be cleaner than the rest of us."

It is not right to require of anyone the forced disclosure of personal, nonpolitical expenditures at the whim of a legislative body which has made no such ruling for its own Members. I am fully aware that some Senators and Congressmen have made such disclosure. This was an exercise of their right to handle their own finances in their own way, which in no way abrogates the rights of others to make a different choice.

Under nomal circumstances each man has the right to keep the small details of his personal life private. His relationship with his church, for example, is a very private one. A man who gives a small amount to a specific charity might be criticized, and a man who gives a great deal, besieged. Public disclosures would also make public the names of those who can afford to and do, give to many charities. Such contributions would then become political.

In requiring a nominee to make a disclosure not required by Members of the body itself, we of the Senate would be clearly implying that Vice Presidents ought to be more moral than Senators.

In these times of doubt and distrust in political officeholders we cannot afford any action which would advance the theory that some people should be more honest than others; that morality is a quantitive ideal. Consistency is essential in morality, and in these times even the appearance of morality must be more carefully guarded than ever.

For this reason I submit a bill which would require all candidates for Federal office to make their tax returns public. If disclosure is a moral issue, it must apply to every officeholder; if not, it should remain a voluntary option for all.

By Mr. CRANSTON (for himself, Mr. ABOUREZK, Mr. BROCK, Mr. FONG, Mr. GRAVEL, Mr. HATFIELD, Mr. HUMPHREY, Mr. KENNEDY, Mr. McGOVERN, Mr. McINTYRE, Mr. PACKWOOD, Mr. METCALF, Mr. PERCY, Mr. RIBICOFF, and Mr. SPARKMAN):

S. 2650. A bill to provide for the early commercial demonstration in residential housing and other buildings of technology for solar heating and combined solar heating and cooling by the Secretary of Housing and Urban Development, to establish a National Solar Energy Coordinating Council, and for other purposes. Referred, by unanimous consent, jointly to the Committees on Banking, Housing and Urban Affairs, and Commerce; and if and when one of these committees reports the bill, then the bill to be referred to the Committee on Labor and Public Welfare.

SOLAR HOME HEATING AND COOLING DEMONSTRATION ACT OF 1973

Mr. CRANSTON. Mr. President, I rise to introduce for appropriate reference a bill to stimulate the practical application of solar energy in a manner that can make a substantial contribution to our current energy deficiencies.

Mr. President, I also ask unanimous consent that the bill be referred jointly and simultaneously to the Committees on Banking, Housing and Urban Affairs, and Commerce, and provided further that when one committee reports the bill it shall then also be referred to the Committee on Labor and Public Welfare to consider functions imposed upon the National Science Foundation by such bill.

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

Mr. CRANSTON. Mr. President, this bill is the Solar Home Heating and Cooling Demonstration Act of 1973, and it would require the Secretary of Housing and Urban Development to undertake a major demonstration program to determine the economic and practical feasibility of solar heating and combined solar heating and cooling systems in residential and other buildings.

It has been estimated that up to 40 percent of the energy consumed annually in the United States is used for heating, air-conditioning, ventilation, lighting, and power systems in buildings. If we can perfect and demonstrate existing technology to tap the unlimited energy of the sun for these purposes and begin to apply such technology to a fair number of existing and new buildings, then we can substantially reduce the barrels of oil and cubic feet of gas consumed by this sector at a time of decreasing supplies and international tension.

The idea of tapping the vast energy of the sun is not new. Mr. E. S. Morse received a patent in 1881 on a technique of "warming and ventilating apartments by the Sun's rays" (U.S. Patent No. 246,626, September 6, 1881). The Heating and Ventilation Journal reported in July 1950 that an experimental solar house in Dover, Mass., had passed its second successful winter without a fuel bill. Other successful experiments took place, prior to 1960, in Denver, Colo., and Albuquerque, N. Mex. I am proud that one of the most recent and innovative steps in the continuing research and development of solar power is the Harold Hay house in Atascadero, Calif., developed in cooperation with the California Polytechnic Institute.

These experiments clearly demonstrate that the technology exists to build a solar-powered house. These houses work. It is primarily the high cost of these homes to date which has prevented solar energy from being more widely utilized.

Since there is as yet almost no mass production of solar energy equipment, the hardware for these homes must be

custom designed and custom built. Presently, for example, the price of the collector unit alone for an average single-family home is around $2,000. And inspired and built as they were by different individuals, some of the houses required extensive, frequent maintenance. Such maintenance is something which an inventor would willingly, perhaps lovingly, perform, but would be at best a tedious chore for the average homeowner.

My bill seeks to overcome these obstacles by directing the Secretary of Housing and Urban Development, after consultation with the National Solar Energy Coordinating Council established under this bill, to undertake a major demonstration program to determine the practical feasibility of solar heating and cooling in residential buildings. This would involve the development of appropriate standards and building codes, the awarding of an adequate number of designs to test fully existing technology and innovations, and the actual construction of solar-powered homes. The Secretary of Housing and Urban Development will have overall responsibility for this program, for implementing, monitoring, and evaluating it, after he has consulted with the National Solar Energy Coordinating Council. This Council will be composed of the following, or their designees: The Administrator of the National Aeronautics and Space Administration, the Director of the National Science Foundation, the Administrator of General Services, the Director of the National Bureau of Standards, the Administrator of the Environmental Protection Agency, the President of the National Academy of Sciences, three members representing the public, and any additional Federal department or agency heads which the President may name.

The bill provides for an immediate 3-year demonstration program for solar heating, and a 5-year development and demonstration program for combined solar heating and cooling systems. The reason for this staggered arrangement is that the technology for solar heating is available now, while the technology for combined heating and cooling needs to be further refined before it can be demonstrated. A maximum of $50 million is authorized to carry out the purposes of the proposed act.

Mr. President, I am confident that this $50 million is a wise investment for the Nation. With a continuing energy supply problem—one which will certainly get worse before it gets better—it is our obligation to seek promising alternative sources of power for a power-hungry economy.

And solar energy for heating and cooling buildings is among those alternatives now available with a high probability of success. In the December 1972 report of the NSF/NASA Solar Energy Panel, entitled "Solar Energy as a National Energy Resource," is the following statement:

> There is no doubt that among all the possible uses of solar energy, residential heating and cooling has the highest probability of success. There are the least uncertainties both in the technology and the economics of these domestic applications. There is, moreover, a very high benefit/cost ratio in that the total funds needed for the development of a viable enterprise will be only a small fraction of the annual value of fuel savings, or of equipment sales, or of some other measure of benefits to the economy. (p. 18)

Solar energy is available now. We do not have to invest untold millions into research and development. We are past that stage with solar heating and cooling. What we need now in order to boost the practical and widespread utilization of this technology is to undertake a demonstration program which is sufficiently large to assure an adequate data base and to determine the ultimate contribution such systems can make to our continuing energy crisis.

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

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

S. 2650

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Solar Home Heating and Cooling Demonstration Act of 1973."

FINDINGS AND POLICY

SEC. 2. (a) The Congress hereby finds and declares that—

(1) the current imbalance between supply and demand for fuels and energy is likely to persist for some time;

(2) the application of solar energy for the heating and cooling of buildings can help to relieve the demand upon present fuel and energy supplies;

(3) the technologies for solar heating are close to the point of commercial application in the United States;

(4) the technologies for combined solar heating and cooling still require research, development, testing, and demonstration, but no insoluble technical problem is now foreseen in achieving commercial use of such technologies;

(5) the early development and export of viable solar heating equipment and combined solar heating and cooling equipment can make a valuable contribution to our balance of trade;

(6) commercial application of solar heating and combined solar heating and cooling technologies can be expedited by early commercial demonstration under practical conditions; and

(7) the establishment of a Federal coordinating body will assure active participation in the development and implementation of this demonstration program by the Federal agencies knowledgeable or previously involved in solar energy programs. (b) It is therefore declared to be the policy of the United States and the purposes of this Act to provide for the demonstration within a three-year period of the practical use of solar heating technology, using current technology for this purpose, and to provide for research development, and demonstration within a five-year period of the practical use of combined heating and cooling technology, and to establish a National Solar Energy Coordinating Council.

SEC. 3. For the purposes of this Act—

(1) the term "solar heating", with respect to any building, means the use of solar energy to meet such portion of the total heating needs of such building (including hot water) as may be required under performance criteria prescribed by the Secretary of Housing and Urban Development;

(2) the term "combined solar heating and cooling", with respect to any building, means the use of solar energy to provide both such portion of the total heating needs of such building (including hot water), and such portion of the total cooling needs of such building (including cooling by means of nocturnal heat radiation or by other methods of meeting peak-load energy requirements at non-peak-load times) as may be required under performance criteria prescribed by the Secretary of Housing and Urban Development;

(3) the term "Secretary" means the Secretary of Housing and Urban Development;

(4) the term "residential dwellings" means single-family and multi-family dwellings, and mobile homes; and

(5) the term "United States" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

ESTABLISHMENT OF NATIONAL SOLAR ENERGY COORDINATING COUNCIL

SEC. 4. (a) There is hereby established within the Federal Government a National Solar Energy Coordinating Council (hereinafter referred to as the "Council") to advise the Secretary on the implementation of the purposes and provisions of this Act. The Council shall be composed of the following (or their designees whose positions are Executive Level IV or higher): the Administrator of the National Aeronautics and Space Administration, the Director of the National Science Foundation, the Director of the National Bureau of Standards, the Administrator of the Environmental Protection Agency, the President of the National Academy of Sciences, the Administrator of General Services, and such other Department or agency heads as the President may designate, and three public members who have expertise in the field of solar energy or related fields appointed for five year terms by the President. The Secretary shall serve as Chairman and shall call the meetings of the Council, which shall meet at least four times each year.

(b) (1) It shall be the responsibility of the Council (A) to advise and consult with the Secretary in carrying out the purposes and provisions of this Act; and (B) to cooperate with the Secretary in such other appropriate ways as he may request.

(2) The Council shall also have the responsibility for developing and implementing agreements, policies and practicees designed to maximize effort, promote efficiency, and eliminate conflict, competition, duplication and inconsistency among the operations, functions, and jurisdiction of the various departments, agencies and branches of the Federal government responsible for research, testing, development, and demonstration of solar energy technology.

(c) Appointed members of the Council shall receive for each day they are engaged in the performance of the functions of the Council compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS–18 of the General Schedule, including travel time; and all members, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703 of title 5, United States Code; for persons in the Government service employed intermittently.

(d) The Secretary shall make available to the Council such staff, information and other assistance as it may require to carry out its activities effectively.

DEMONSTRATION OF SOLAR HEATING SYSTEMS TO BE USED IN RESIDENTIAL DWELLINGS

SEC. 5. (a) The Secretary shall promptly initiate and carry out a program as provided in this section for the development and demonstration of solar heating systems for use in residential dwellings.

(b) (1) Within ninety days after the date of the enactment of this Act, the Secretary, after consultation with the Director of the National Bureau of Standards and the President of the National Academy of Science, or their designees, shall determine, prescribe, and publish in the Federal Register, after notice and hearing in accordance with all provisions regarding rulemaking prescribed by section 553 of title 5, United States Code—

(A) performance criteria for solar heating equipment and systems to be used in residential dwellings, and

(B) performance criteria (relating to suitability for solar heating) for such dwellings themselves,

taking into account in each instance climatic variations existing among different geographical areas.

(2) As soon as possible after the publication of the performance criteria finally prescribed under paragraph (1) of this subsection, the Secretary shall determine and approve, on the basis of open competition, an appropriate number (but not less than three) of designs for various types of residential dwellings suitable for and adapted to the installation of solar heating systems meeting the performance criteria finally prescribed under paragraph (1)(a) of this subsection. Each such design competition shall be announced a reasonable time in advance in the Federal Register and appropriate trade publications, and shall be open to all professionally recognized architects and engineers (or architectural or engineering firms) qualified, in accordance with regulations prescribed by the Secretary after consultation with the Council, to assist in the design of residential dwellings to demonstrate solar heating.

(c) The Secretary shall—

(1) (A) enter into such contracts as may be necessary or appropriate for the development (for commercial production and residential use) of solar heating systems meeting the performance criteria finally prescribed under subsection (b) (1) (A) of this section (including any further planning and design which may be required to conform to the specifications set forth in such criteria); and

(B) if he determines that it would expedite the program to be carried on under this section or otherwise accelerate the achievement of the purposes and provisions of this Act, provide by contract or otherwise for the manufacture or production of prototype solar heating systems (by the contractors for development under clause (A) of this paragraph), and for the installation of such prototype systems in residential dwellings meeting the performance criteria finally prescribed under subsection (b) (1) (B) of this section;

(2) enter into contracts with at least two different persons for the actual manufacture and production of solar heating systems as developed under contracts described in paragraph (1) (A) of this subsection (including adequate numbers of spare and replacement parts for such systems); and

(3) take such action as may be necessary or appropriate—

(A) in conjunction with the Administrator of General Services the head of the department or agency concerned, to secure the installation of such systems, manufactured on a mass-production basis, in substantial numbers of residential dwellings which are located on Federal or federally-administered property where the performance and operation of systems can be regularly and effectively observed and monitored by designated Federal personnel, and

(B) to secure the installation of such systems, manufactured on a mass-production basis, in substantial numbers of residential dwellings which are privately-owned and occupied and located in both rural and urban areas.

The residential dwellings referred to in clauses (A) and (B) of this paragraph shall be located in a sufficient number of different climatic regions (but not less than five) in the United States as are necessary to assure a realistic and effective demonstration of the solar heating systems involved, and of the dwellings themselves, under climatic conditions which vary as much as possible. The United States shall retain title to and ownership of solar heating systems which are installed in residential dwellings as provided in clause (B) of this paragraph; except that the Secretary may provide by contract, that if the owner and occupant of any such dwelling agrees at the time of the installation of the system or of the purchase of the property, on such terms and conditions as the Secretary may prescribe in regulations, to observe and monitor (or permit the Secretary or his agents to observe and monitor) the performance and operation of such system for a period of five years, and such owner and occupant (including any subsequent owner and occupant of the property who also makes such an agreement) regularly furnishes the Secretary with such reports thereon as the Secretary may require, title to and ownership of such system shall vest in the owner and occupant (including any such subsequent owner and occupant) at the close of such period, upon a determination by the Secretary that the terms and conditions of such contract have been substantially complied with. For the purposes of clauses (A) and (B) of paragraph (3) of this subsection, solar heating systems shall be considered to have been manufactured on a mass-production basis and installed in substantial numbers of residential dwellings if they are manufactured and installed in sufficient numbers (as determined by the Secretary in regulations) to assure a realistic and effective demonstration to carry out the purposes and provisions of this Act.

DEVELOPMENT AND DEMONSTRATION OF COMBINED SOLAR HEATING AND COOLING SYSTEMS TO BE USED IN RESIDENTIAL DWELLINGS

SEC. 6. (a) The Secretary shall promptly initiate and carry out a program as provided in this section for the development and demonstration of combined solar heating and cooling systems for use in residential dwellings.

(b) (1) As soon as possible after the date of enactment of this Act, the Secretary after consultation with the Director of the National Bureau of Standards and the President of the National Academy of Sciences or their designees, shall determine, prescribe, and publish in the Federal Register after notice and hearing in accordance with all provisions regarding rulemaking prescribed by section 553 of title 5, United States Code—

(A) performance criteria for combined solar heating and cooling equipment and systems to be used in residential dwellings, and

(B) performance criteria (relating to suitability for solar heating and cooling) for such dwellings themselves, taking into account in each instance climatic variations existing among different geographical areas.

(2) As soon as possible after the publication of the performance criteria finally prescribed under paragraph (1) of this subsection (and if possible before the completion of the research and development provided for in subsection (c) of this section), the Secretary shall determine and approve on the basis of open competitions, an appropriate number (but not less than three) of designs for various types of residential dwellings suitable for and adapted to the installation of combined solar heating and cooling systems meeting the performance criteria prescribed under paragraph (1) (A) of this subsection. Each such design competition shall be announced in the Federal Register and appropriate trade publications and shall be open to all professionally-recognized architects and engineers (or architectural or engineering firms) qualified, in accordance with regulations prescribed by the Secretary after consultation with the Council, to assist in the design of houses to demonstrate combined solar heating and cooling.

(c) During the period immediately following the publication of final performance criteria under subsection (b) (1) of this section, the Secretary, jointly with the Director of the National Science Foundation, shall undertake and conduct the research specified in Section 8 with respect to commercial application of combined solar heating and cooling systems as contemplated by the program to be carried out under this section.

(d) The Secretary, at the earliest possible time during or immediately after the period specified in subsection (c) of this section, shall—

(1) (A) enter into such contracts as may be necessary or appropriate for the development (for commercial production and residential use) of combined solar heating and cooling systems meeting the performance criteria prescribed under subsection (b) (1) (A) of this section (including any further planning and design which may be required to conform to the specifications set forth in such criteria or to reflect the results of the activities conducted under subsection (c)); and

(B) if the Secretary determines that it would expedite the program under this section or otherwise accelerate the achievement of the objectives of this Act, provide by contract or otherwise for the manufacture or production of prototype solar heating and cooling systems (by the contractors for the development under clause (A)), and for the installation of such prototype systems in residential dwellings meeting the performance criteria prescribed under subsection (b) (1) (B) of this section;

(2) enter into contracts with at least two different persons or firms for the actual manufacture and production of combined solar heating and cooling systems as developed under contracts described in paragraph (1) (A) of this subsection (including adequate numbers of spare and replacement parts for such systems); and

(3) take such action as may be necessary or appropriate—

(A) in conjunction with the Administrator of General Services and the head of the department or agency concerned, to secure the installation of such systems, manufactured on a mass-production basis, in substantial numbers of residential dwellings which are located on Federal or federally administered property where the performance and operation of systems can be regularly and effectively observed and monitored by designated Federal personnel, and

(B) to secure the installation of such systems, manufactured on a mass-production basis, in substantial numbers of residential dwellings which are privately owned and occupied and located in both rural and urban areas.

The residential dwellings referred to in clauses (A) and (B) of this paragraph shall

be located in a sufficient number of climatic regions (but not less than five) in the United States as are necessary to assure a realistic and effective demonstration of the combined solar heating and cooling systems involved, and of the dwellings themselves, under climatic conditions that vary as much as possible. The United States shall retain title to and ownership of the combined solar heating and cooling systems which are installed in residential dwellings as provided in clause (B) of this paragraph; except that the Secretary may provide by contract, that if the owner and occupant of any such dwelling agrees at the time of the installation of the system or of the puchase of the property, on such terms and conditions as the Secretary may prescribe in regulations, to observe and monitor (or permit the Secretary or his agents to observe and monitor) the performance and operation of such system for a period of five years, and such owner and occupant (including any subsequent owner and occupant who also makes such an agreement) regularly furnishes the Secretary with such reports thereon as the Secretary may require, title to and ownership of such system shall vest in the owner and occupant (including any subsequent owner and occupant) at the close of such period, upon a determination by the Secretary that the terms and conditions of such contract have been substantially complied with. For the purposes of clauses (A) and (B) of paragraph (3) of this subsection, solar heating and cooling systems shall be considered to have been manufactured on a mass-production basis and installed in substantial numbers of residential dwellings if they are manufactured and installed in sufficient numbers (as determined by the Secretary in regulations) to assure a realistic and effective demonstration to carry out the purposes and provisions of this Act.

DEVELOPMENT OF SOLAR HEATING AND COMBINED SOLAR HEATING AND COOLING SYSTEMS FOR PUBLIC BUILDINGS AND COMMERCIAL USE

SEC. 7. The Secretary in consultation with the Council, concurrently with the conduct of the programs under section 5 and 6, shall provide for such projects and activities (including demonstration projects)—

(1) with respect to apartment, condominium and cooperative buildings, office buildings, factories, agricultural structures (including crop-drying facilities), and other commercial and industrial buildings,

(2) in consultation with the Administrator of General Services and the head of the Federal department or agency concerned and making maximum utilization of funds available to such other Federal departments and agencies, with respect to non-residential dwelling Federal, federally-controlled or federally-assisted buildings (especially educational institutions, hospitals, courthouses, and other public function facilities), and

(3) with respect to non-Federal public facilities; taking into account the special needs of and individual differences in such buildings based upon size, function, and other relevant factors, as may be appropriate for the early development and demonstration of solar heating, and, concurrent with the support of projects pursuant to section 6(d), of combined solar heating and cooling systems suitable and effective for use in such buildings.

SOLAR ENERGY RESEARCH AND DEVELOPMENT

SEC. 8. (a) Notwithstanding any other provision of the law, the Director of the National Science Foundation, jointly with the Secretary in consultation with the Council, and upon recommendation of appropriate scientific peer review panels, is authorized and directed, out of funds otherwise available or transferred to him, to initiate, support, and fund basic and applied research activities related to solar energy, and research, development, testing, and demonstration designed to provide the necessary technological resources in support of the purposes and provisions of this Act. Such research activities shall, insofar as practicable, support the new solar heating and cooling technologies demonstrated or to be demonstrated pursuant to sections 5, 6, and 7 of this Act.

(b)(1) Whenever a patent is granted to an inventor for an invention developed in whole or in part under any contract, grant, or other arrangement funded under this Act, one-half of any amounts payable as royalties by persons licensed to use the invention or as damages by persons liable for infringement of the patent (including any amounts paid in settlement of any claim of infringement) shall be payable to the United States Government, and covered into the general fund of the Treasury as miscellaneous receipts.

(2) There is established on the books of the Treasury of the United States a trust fund to be known as the "Solar Energy Trust Fund" (hereinafter referred to as the "fund"). Amounts in the fund shall be available, without fiscal year limitation, for obligation and expenditure by the Secretary for purposes of carrying out the provisions of this Act, in addition to any amount appropriated under section 12. There is appropriated to the fund, out of any amounts in the general fund of the Treasury not otherwise appropriated, for each fiscal year an amount equal to the amount of royalty payments or damages covered into the general fund of the Treasury as miscellaneous receipts under this section during the preceding fiscal year.

(3) The provisions of paragraph (1) shall not apply with respect to any use of a patent occurring after June 30, 1979. Any amounts remaining in the fund on June 30, 1980, and not otherwise obligated or expended, shall be subject to fiscal year limitation.

DISSEMINATION OF INFORMATION AND OTHER ACTIONS TO PROMOTE PRACTICAL USE OF SOLAR AND COOLING TECHNOLOGIES

SEC. 9. (a) The Secretary shall take all possible steps to assure that full and complete information with respect to the demonstrations and other activities conducted under this Act is made available to Federal, State, and local authorities, the building industry and related segments of the economy, and the public at large, during and after the close of programs carried out under this Act, in order to promote and facilitate, to the maximum extent feasible, the early and widespread practical application of solar energy to heat and cool buildings throughout the United States. In accordance with regulations prescribed under section 11, such information shall be disseminated on a coordinated basis by the Secretary, utilizing the facilities of all Federal departments and agencies, especially those represented on the Council.

(b) The Secretary shall also, directly or by grant or contract—

(1) study and investigate the effect of existing building codes, zoning ordinances, and other laws, codes, ordinances, and practices upon the practical use of solar energy to heat and cool buildings; and

(2) determine the extent to which such laws, codes, ordinances, and practices should be changed to permit or facilitate such use, and the methods by which any such changes may best be brought about.

(c) Each Federal officer having functions under this Act shall include in the annual report regarding activities of his department or agency to the President and the Congress a full and complete description of his activities during the preceding fiscal year and those projected for the next such year under this Act, along with his recommendations for legislative, administrative, or other action to improve the programs carried out under this Act or to carry out the purposes and provisions of this Act more promptly and effectively.

(d) The Secretary shall submit annually to the President and the Congress a special report summarizing in appropriate detail the progress achieved in carrying out the purposes and provisions of the Act, and all of the activities during the preceding fiscal year and those projected for the next such year of the various Federal departments and agencies pursuant to this Act, in order to present a comprehensive view of such programs. Such special report shall include the results of monitoring and evaluation as required and carried out under section 10 (b) and (c).

ENCOURAGEMENT AND PROTECTION OF SMALL BUSINESS

SEC. 10. Functions under this Act shall be carried out so as to assure that small business concerns will have a realistic and adequate opportunity to participate in the programs under this Act to the maximum extent possible.

GENERAL PROVISIONS

SEC. 11. (a) Notwithstanding any other provision of law, (1) the Secretary may, after consultation with the Council, direct one or more of the Federal departments or agencies represented on the Council to carry out, on a reimbursable basis, any of the functions conferred upon him by sections 5, 6, 7 and 9 of this Act if he deems such directive to be necessary to carry out the purposes and provisions of this Act, and (2) The Secretary shall transfer to any such department or agency, and such department or agency shall so utilize, such funds available to him pursuant to section 12 of this Act as are necessary to carry out such transferred functions.

(b) The Secretary, or, as to systems installed pursuant to subsection (c)(3)(A) of this section, the Secretary and the head of the Federal department or agency concerned, shall have the function of monitoring the performance and operation of all systems installed in residential dwellings, buildings, or facilities under this section.

(c) For the purpose of providing information that will assist Congress in its oversight responsibilities and improve the accountability of agency expenditures and activities, the Secretary shall, in consultation with the Council, provide for independent evaluations of activities carried out pursuant to this Act, and present to the Congress an annual report of the results of such evaluations, as well as his own evaluation, presented in quantitative and qualitative terms and in summary and detailed form, of the progress in carrying out the programs authorized under this Act.

(d) The Secretary shall maintain continuing liaison with the building industry and related industries and interests, during and after the period of the programs carried out under this Act, with the objective of assuring that the projected benefits of such programs are and will continue to be effectively realized.

(e) The Secretary, after consultation with the Council, shall prescribe and publish in the Federal Register such regulations as may be necessary or appropriate to carry out this Act.

APPROPRIATIONS

SEC. 12. There are appropriated to the Solar Energy Trust Fund established under section

8 (b), out of any amounts in the general fund of the Treasury not otherwise appropriated, for the fiscal year ending June 30, 1974, $50,000,000, which shall remain available for obligation or expenditure by the Secretary for the purpose of carrying out the provisions of this Act without fiscal year limitation through June 30, 1980.

Mr. PACKWOOD. Mr. President, it is with great pleasure that I join with Senator CRANSTON in introducing the Solar Heating and Cooling Demonstration Act of 1973. An effort such as that undertaken in this bill is long overdue and I give my support without reservation to his proposal to conduct a major demonstration of the feasibility of solar heating and cooling in various climatic regions of the country.

Reading from time to time of small demonstrations whereby solar energy has been harnessed has engendered my own enthusiasm for the Sun as an alternative energy source. In this day of diminishing supplies, it is imperative that we explore all potential energy sources, and it is with great excitement that I look to our possibilities, not the least of which is energy from the Sun. The route pursued in the bill I am cosponsoring is, I feel, a desirable one, and I fully endorse a major research effort coordinated by the Department of Housing and Urban Development, the National Science Foundation, and the National Bureau of Standards. What is surprising in light of our finite energy sources and our infinite energy needs—which, by the way, gets into another subject of the necessity for a sound energy conservation policy—is that the Federal Government has never taken on a major research, development, and demonstration program of this magnitude where alternate energy sources are concerned. At the very least, one would expect that the feasibility of using solar energy would be inquired into in more depth than research to date indicates has been the case.

Gasoline shortages are proving to be a real attention-getter for the Nation's energy problems, and this is an almost sure indication that some corrective and innovative actions will and must be taken. Not the least among them is, finally, meaningful legislation such as this to demonstrate the feasibility of using solar energy. Recently, the National Science Foundation awarded three contracts for a research project designed to hasten the day when solar energy for heating, cooling, and supplying the hot water needs for buildings will become commercially available. I was glad to see this stepped-up interest and feel that legislation such as we are introducing today will speed the process and coordinate ongoing and new research and development programs. Recently, NSF officials have said that among the methods being researched, the use of solar energy for heating and cooling of buildings is the most advanced potential application and presents an excellent opportunity to make an early impact on national energy requirements. The legislation proposed today recognizes this in pursuing a research development and demonstration program to utilize solar energy to heat and cool our homes and businesses.

Expert testimony in hearings on the subject of solar energy indicates that success in utilizating solar energy could significantly reduce the impact of projected increased use on existing energy resources. The attraction of harnessing an inexhaustible power supply becomes apparent when, according to a recent article appearing in the Wall Street Journal, is is realized that "over the next 30 years the United States is expected to consume more energy than it has since the arrival of the Mayflower." Yet many of the United States present energy sources are either, like natural gas, in short supply or, like coal, a major cause of pollution. Even nuclear power no longer has the assured growth that was once predicted. Solar energy proponents, on the other hand, have pointed out that power from the Sun is not only environmentally safe but also will be shown to be economically competitive with other power sources.

Via a vehicle such as the Solar Heating and Cooling Demonstration Act, we will be able to obtain answers to many of our unanswered questions concerning the feasibility of solar energy. I am not saying that this alone will solve our energy problems, but I do feel that it is one of the steps which must be taken in conjunction with steps to pursue our geothermal and fusion energy potentials and whatever other alternate resources may be available to this Nation. In Peter E. Glaser's article entitled, "Solar Energy: An Alternative Source for Power Generation," he points out that—

The fundamental aspects of engineering science and technology for a programme of harnessing solar energy will require government and industry support. Both will be needed to advance our capability to enter a new era where fire is no longer a necessity in our lives. The use of solar energy can provide a base from which may spring many foreseen and unforeseen applications with long-term effects which may make our present concern with nuclear affairs seem simple by comparison.

For too long, we have sat idly back and consumed, consumed, consumed until, now, we find ourselves confronting an energy "crunch." I, for one, intend to do my part to alleviate this crunch and plan to pursue vigorously the various avenues open to us, to insure that the United States will indeed implement the necessary national energy policies, pursue energy conservation programs, and investigate our alternative energy sources. It is my sincere hope that this bill, as well as those others which have been introduced to help meet the so-called energy crisis will be considered and acted upon at the earliest date.

Mr. President, at this point in the RECORD, I ask unanimous consent to have printed an article recently appearing in Industry Week concerning the outlook for solar energy.

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

SOLAR POWER HAS BRIGHT FUTURE

(While "energy crisis" has been turning into an everyday term, a number of projects have been started in an attempt to harness our greatest potential source of energy.)

People have studied it, written songs and poems about it, feared it, and some even worshipped it as a god. Now, though, scientists around the world are trying to put the sun to a more practical use. They are trying to convert its rays into usable energy that could help allay the world's energy problems.

This summer, the switch was thrown on an experimental house in Delaware that can convert the sun's energy into both heat and electricity. Its planners at the Institute of Energy Conversion of the University of Delaware, Newark, claim it is the first house to perform this dual feat for domestic use.

Solar One, as the house is called, is the brainchild of Dr. K. W. Boer, director of the institute. Dr. Boer and his team of scientists, engineers, and technicians have built a house with a roof that is an array of solar cells. These act as collectors and converters of solar energy. Electricity is stored in lead-acid batteries. Heat is stored by a complex mixture of chemical salts that hold the heat until it is needed—at night or during cloudy periods.

Solar One is being operated to gather data for the widespread use of solar energy and to test specific techniques. The project is partially backed by the Delaware Light & Power Co.

As an associate of Dr. Boer says, "We don't expect solar energy to provide all the heat and power for homes. But if we can supply 50% to 80% of a home's power from the sun, a utility company would not have peak load problems."

There are indeed many reasons why scientists are looking at the sun as a potential source of energy for man. One major reason is that the potential is so large.

The total influx from solar, geothermal, and tidal energy into the earth's surface environment is estimated to be $173{,}000 \times 10^{12}$ watts. Solar radiation accounts for 99.98% of it. The sun's contribution to the energy budget of the earth is 5,000 times the energy input of all other sources combined.

Radiant energy from the sun is readily convertible to heat, with the only requirement a surface which can absorb the solar energy. If the surface is black, more than 95% of the radiant energy is absorbed and converted to heat. If a fluid, such as air or water, is then brought into contact with the heated surface, the energy can be transferred into the fluid and used for practical purposes.

Theoretically, the heated fluid produced in a solar collector can be used anywhere that conventional fuels are used. Glass-covered, flat-plate solar collectors can deliver heated air or water at temperatures of 100 to 200 F., useful in house heating, domestic water heating, crop drying, and many other areas.

The sun is already being put to such uses. In Japan, solar water heaters dot many a roof. In the U.S. many small businesses are springing up, making and selling swimming pool heaters, hot water heaters, solar collectors, and other devices. Now, big business has taken an interest.

MARKET STUDY LAUNCHED

In May, Arthur D. Little Inc., Cambridge, Mass., started a multiclient study to evaluate means of creating a new market for solar climate control.

Dr. Peter E. Glaser, vice president and head of engineering sciences at Arthur D. Little, is director of the project. Dr. Glaser is convinced the time for solar energy is now. "If you look at the total amount of energy we use in this country for household and commercial purposes, it is 21%. We use electric power for this purpose and natural gas and petroleum products. However, reducing this total by 1% would be equivalent to saving 100 million barrels of oil a year. And, we believe that over the next ten or 20 years, we can approach savings of 5% to 10%, eventually 30%, using solar energy."

The Arthur D. Little study is aimed at bringing these numbers closer to reality. The research firm anticipates that new markets for solar climate control systems (heating and cooling) will approach $1 billion worth of equipment over the next ten years. These systems will include solar collectors, heat storage systems, sources of auxiliary energy, heat-actuated air conditioners, auxiliary equipment such as piping, valves, pumps, motors, and on-site power generation, using solar cells to convert solar energy directly to electricity.

The study is aimed at helping industry to realize this goal. First, it will identify potentially successful businesses associated with solar climate control, the prerequisites for their success, and ways by which they can be integrated into the construction industry. Secondly, it will evaluate specific hardware and formulate more detailed business approaches. Finally, the study team will assist individual sponsors who decide to initiate business activities in solar climate control.

Dr. Glaser emphasizes that it is not a research program, "but a project to develop practical applications in heating and cooling which conserve conventional energy resources with no detrimental effects on the environment."

Dr. Glaser also points out that within three years he expects various products, associated with solar energy, to appear on the market. Then, depending on how the energy picture develops for all fuels, it is possible that in five years, some firm will be offering a total heating/cooling system for homes.

The major problem to overcome oddly enough, is not technical but a business problem. The construction industry is so vast and complex that no one is yet sure where and how solar heating/cooling will fit in.

There is another approach that some scientists think could make use of the vast amounts of solar energy that reach our planet. This is by setting up central power stations that would collect solar energy, convert it to electricity, and distribute it to users.

For about a year now, a joint study by the University of Minnesota and Honeywell Inc., Minneapolis has been working toward this goal. Roger N. Schmidt, manager of solar energy programs at Honeywell, says design of working model for such a system has been completed and construction should be done by February. One year from now, he says, we will know whether we can collect solar energy with this device and do it at an efficiency of 50% to 60%.

The device is a troughlike shape that is 15 ft long—actual devices would be 40 ft long. It is 4 ft wide (the full-size version would be 10 ft wide) and the inner surface is coated to reflect solar energy onto a heat pipe running down the center of the trough. The pipe conducts absorbed heat to one end where it is used to change water to steam to power an electric generator.

Dozens of the larger version of the collection troughs would be laid out in a remote area, possibly in the Southwest, where they would feed their collected energy to a central powerplant.

Such a solar farm, as Honeywell calls it, could also serve another use. The shade provided by the large trough would permit grass to grow. Thus cattle could be grazed on this land.

Among the recent proposals for generating electrical power by collecting solar energy in outer space and beaming it to earth via microwaves is one designed by J. T. Patha and G. R. Woodcock Boeing Co., Seattle.

They told participants at the Eighth Intersociety Energy Conversion Engineering Conference, Philadelphia, that while major engineering development strides will be required to make such a system feasible, the technology is a simple, plausible extrapolation of what we already know today. At least, it is no more or no less feasible than large-scale systems that would be earth-based, they note.

MAJOR TECHNICAL PROBLEM

Just about all the solar scientists claim that solar energy can be put to practical use today, with today's technology. All do admit, however, that there is one area where the technology can stand some improvement.

Jim Eibling, a solar scientist at Battelle Memorial Institute, Columbus, Ohio, explains this deficient area: "What we need are better ways to store heat energy." Without any equipment for storing heat, he points out, solar energy could provide 40% to 50% of a home's heating and cooling needs.

"However, if we could store this energy for just a few days, we could provide 75% of a home's heating and cooling needs. And, we could get up to 90% to 100% if we could store energy for a few weeks."

Some of the more primitive solar energy houses in the U.S. (there are only a dozen or so, usually built by individuals) use stones or gravel to store the heat of the sun. (With today's storage capabilities, these solar houses also use auxiliary heating systems for those periods of prolonged cloudiness.)

Salt mixtures are also being tried by several research teams. The importance of this area of research is indicated by Mr. Eibling: "With present day technology, the average house in the U.S. could get all its energy needs from the sun, if we had long-term storage techniques."

But no one is waiting for this breakthrough. Solar energy projects are moving ahead now. And, a recent National Science Foundation-National Aeronautics & Space Administration study projects that 10% of all buildings constructed by 1985 will have solar climate control systems. That means a $1 billion market over the next ten years.

By Mr. JACKSON (for himself and Mr. RANDOLPH):

S. 2652. A bill entitled the National Coal Conversion Act of 1973. Referred to the Committee on Interior and Insular Affairs.

NATIONAL COAL CONVERSION ACT OF 1973

Mr. JACKSON. Mr. President, in the last 2 weeks, we have had dramatic reminders that a growing dependence on imported oil cannot be tolerated. Increased reliance on Mideast and other foreign sources is not a viable approach for assuring that we can meet our future energy needs.

In the past, it has been "an easy way out" to import relatively inexpensive foreign oil. We have drifted into a dependence on oil imports. Now, when these imports are no longer readily accessible or dependable, we must accept the need for changes in our fuel consumption habits. In recent years, while domestic oil production has been declining, demand has soared.

Similarly, natural gas is currently in short supply. Natural gas is a premium fuel, prized for its cleanliness and for the convenience with which it can be extracted, transported, and burned. Yet, for the past several years new discoveries have not kept pace with consumption. Currently, supplies are very tight, with some consumers facing curtailment and new consumers shut out of the market almost entirely.

With such a tight supply situation, we have lost much of the flexibility in our energy distribution system. A perfect example of this problem is our current crisis: we face oil shortages this winter of up to 3 million barrels a day. Unwise use of our fuel resources and the lack of a rational energy policy has brought us to the brink of this emergency. But we need not be in this situation.

We must stop wasteful use of these increasingly scarce fuels. Petroleum and natural gas are fuels in limited supply. Both are valuable for other uses which cannot be served by coal. The transportation and agricultural sectors are areas in which coal cannot be substituted for oil and gas. National policy should, therefore, conserve these fuels for priority uses. Yet, we are currently burning both oil and gas as boiler fuel to produce electricity, process steam in industry, and so forth—uses which can be served by more abundant coal supplies.

This misuse of fuel is not inevitable and can be alleviated relatively easy. The Federal Power Commission's Bureau of Power has just issued a report entitled "The Potential for Conversion of Oil-Fired and Gas-Fired Electric Generating Units to Coal" showing that about 44 percent of our oil-fired electric plants are equipped to burn coal and could be converted within a year to the use of coal as a primary fuel. If this change were made, we could conserve nearly 500,000 barrels of oil a day. This is more than 40 percent of our 1972 consumption of residual fuel oil and nearly all of our projected import needs for this winter. In the longer run, many more plants can be converted to coal, and even more significant savings realized. These are savings which can scarcely be achieved by any but the most spartan conservation measures.

Had we instituted a coal conversion program a year ago, New England, which in 1972 generated about 74 percent of its electricity in plants using oil and natural gas, would by now have reduced this dependence to approximately 45 percent. In the process, 21 million barrels of oil would have been saved. In the Middle Atlantic States—Pennsylvania, New York, and New Jersey—a natural gas and oil dependence of 41 percent of electricity generation could be reduced to

around 20 percent, with a savings of over 84 million barrels. And in the south Atlantic region—Maryland through Florida, including West Virginia—a 35-percent dependence could be reduced to 23 percent, saving approximately 48 million barrels.

Mr. President, I believe that it is essential that the Nation adopt as a matter of national policy a strategy which will enable us to reduce the demand for both natural gas and imported petroleum by converting electric powerplants and other high-volume facilities now burning these fuels to domestic coal. Making this conversion may not be easy for some of these facilities. Implementing such a conversion policy nationally may present logistic problems involving coal supply and transportation systems to move the coal to the converted powerplants and industrial facilities. It will require arrangements for continuing electric service in those areas where plants may be temporarily shut down to convert. The bill is designed to facilitate these steps to energy self-sufficiency.

Perhaps the most difficult aspect of constraints which the Nation's air quality laws have necessarily imposed on the ability of electrical powerplants and other facilities to burn any but the lowest-sulfur fuels. For this reason, this bill provides for temporary and limited variances to be granted from Federal and State emissions standards to facilitate conversion to coal, provided that such variances will not result in violation of primary ambient air quality standards.

Mr. President, I urge the adoption of this legislation. It is entirely appropriate and essential to our long-run energy supply position that we reduce our reliance on foreign oil and increase the utilization of our abundant domestic coal resources. This measure represents the first in what will necessarily be a long series of national initiatives which we must undertake to improve the Nation's capability to be more nearly self-sufficient in basic energy supplies.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 1844

At the request of Mr. ABOUREZK, the Senator from Kansas (Mr. DOLE) was added as a cosponsor of S. 1844, the American Folklife Preservation Act.

S. 1929

At the request of Mr. KENNEDY, the Senator from Colorado (Mr. HASKELL) was added as a cosponsor of S. 1929, the Nantucket Sound islands trust bill.

S. 2532

At the request of Mr. MANSFIELD (for Mr. MAGNUSON), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Wyoming (Mr. MCGEE) were added as cosponsors of S. 2532, a bill to amend the Federal Power Act to promote conservation, reduce wastage, and attain greater efficiency in the generation of electrical energy, and for other purposes.

S. 2616

At the request of Mr. GRIFFIN (for Mr. PERCY), the Senator from Tennessee (Mr. BROCK) was added as a cosponsor of S. 2616, a bill to establish an independent special prosecution office as an independent agency of the United States and for other purposes.

ADDITIONAL COSPONSORS OF A RESOLUTION

SENATE RESOLUTION 189

At the request of Mr. HUMPHREY, the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Nebraska (Mr. HRUSKA) were added as cosponsors of Senate Resolution 189, to urge the continued transfer to Israel of Phantom aircraft and other equipment.

ADDITIONAL COSPONSORS OF AN AMENDMENT

AMENDMENT NO. 621

At the request of Mr. HUMPHREY, the Senator from Pennsylvania (Mr. SCHWEIKER) and the Senator from Iowa (Mr. CLARK) were added as cosponsors of amendment No. 621, intended to be proposed to S. 2188, a bill to provide for the identification of a restructured rail transportation system in the Midwest and Northeast regions of the Nation in order to meet the present and future needs of commerce, the national defense, and the environment; the service requirements of passengers, mail, shippers, States, communities, and the consuming public; and for other purposes.

NOTICE CONCERNING NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. ROBERT C. BYRD. Mr. President, the following nominations have been referred to and are now pending before the Committee on the Judiciary:

John L. Bowers, Jr., of Tennessee, to be U.S. attorney for the eastern district of Tennessee for the term of 4 years, reappointment.

Leigh B. Hanes, Jr., of Virginia, to be U.S. attorney for the western district of Virginia for the term of 4 years, reappointment.

James T. Lunsford, of Alabama, to be U.S. marshal for the middle district of Alabama for the term of 4 years, reappointment.

Jack V. Richardson, of Kansas, to be U.S. marshal for the district of Kansas for the term of 4 years, reappointment.

Rex Walters, of Idaho, to be U.S. marshal for the district of Idaho for the term of 4 years, reappointment.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Friday, November 9, 1973, any representations or objections they may wish to present concerning the above nominations, with a further statement whether it is their intention to appear at any hearing which may be scheduled.

NOTICE OF HEARINGS ON OIL AND GAS DEVELOPMENT IN SANTA BARBARA CHANNEL

Mr. METCALF. Mr. President, ever since the famous oil well blowout in the Santa Barbara Channel in January 1969, the future development of the oil and gas resouces under the channel has been a matter of great concern throughout the United States, particularly in California. The Committee on Interior and Insular Affairs has held hearings on legislation concerning the Santa Barbara situation in both the 91st and 92d Congresses. No law was enacted.

The senior Senator from California (Mr. CRANSTON) has introduced a bill designed to resolve the many unanswered questions—the Santa Barbara Channel Federal Energy Reserve Act (S. 2339). President Nixon also has proposed legislation dealing with the Santa Barbara situation—S. 1951.

I wish to inform all Senators and other interested persons that the Subcommittee on Minerals, Materials and Fuels will hold a hearing on S. 1951 and S. 2339 on November 12. At this hearing we will hear Government witnesses only. The hearing will begin at 10 a.m. in room 3110, Dirksen Senate Office Building.

OPEN HEARING ON S. 2589, NATIONAL EMERGENCY PETROLEUM ACT OF 1973

Mr. JACKSON. Mr. President, I wish to announce for the information of the Senate and the public that the Committee on Interior and Insular Affairs will hold an open hearing on Thursday, November 8, on S. 2589, the National Emergency Petroleum Act of 1973.

I need not remind my colleagues of the urgency for considering this measure. Since its introduction, the Interior Committee, together with members from the Committee on Commerce, Public Works, and the Joint Committee on Atomic Energy, have been meeting with administration officials in an effort to devise the best possible strategy to meet the current and prospective energy crisis facing the country. We are actively working on this legislation, and the hearing next Thursday will be for the purpose of receiving testimony from representatives of the administration, including Gov. John A. Love, Director, Energy Policy Office. The committee will invite statements for the record from industry and other witnesses. Time will not permit oral testimony. It is our hope to put together a full and complete hearing record which will be useful and instructive to the Members of Congress and the public as this legislation is considered.

The hearing will begin at 10 a.m. in room 3110 of the Dirksen Senate Office Building.

ADDITIONAL STATEMENTS

DEPARTMENT OF DEFENSE SEMIANNUAL REPORT ON CHEMICAL AND BIOLOGICAL WARFARE PROGRAMS

Mr. McINTYRE. Mr. President, under the provisions of section 409, Public Law 91–121, the Department of Defense is required to submit a semiannual report on funds obligated for chemical warfare and biological research programs. In the past this report has contained classified material, so that it could not be inserted in the CONGRESSIONAL RECORD or otherwise be made available for public information.

The Department of Defense for the first time has prepared the report so that it contains only unclassified information. Thereafter, the report covering the second half of fiscal year 1973 can be made public. I request unanimous consent to insert the full report in the RECORD.

I would also like to call to the attention of the Senate the comemnts made by the Armed Services Committee on the fiscal year 1974 chemical and biological warfare programs, which appear on pages 104 and 105 of Report No. 93–385 on the fiscal year 1974 military procurement bill.

There is a widespread interest in the chemical and biological warfare programs of the Department of Defense. Therefore, I will present this report in this same manner in the future to the extent that it is not classified for security purposes.

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

THE SECRETARY OF DEFENSE,
Washington, D.C., Aug. 14, 1973.

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

DEAR MR. PRESIDENT: In accordance with the requirements of Section 409, Public Law 91–121, the Department of Defense semiannual report on funds obligated in the chemical warfare and biological research programs during the second half of fiscal year 1973 is attached.

The report provides actual obligations through 31 May 1973 and estimated obligations for the month of June 1973. The report for the first half of fiscal year 1974 will include an adjustment summary which will permit the conversion of estimated obligations for the month of June 1973 to actual.

As a result of inquiries received from members of the House of Representatives relative to the declassification of the semiannual reports, the attached report has been prepared to present unclassified information. Wherever possible, future reports will also be submitted on an unclassified basis.

The attached report has also been sent to the Speaker of the House of Representatives.

Sincerely,

W. P. CLEMENTS, Jr.,
Deputy.

DEPARTMENT OF DEFENSE SEMIANNUAL REPORT ON CHEMICAL WARFARE AND BIOLOGICAL RESEARCH PROGRAM OBLIGATIONS FOR THE PERIOD JAN. 1 TO JUNE 30, 1973, RCS DD–D.R. & E. (SA) 1065

[Actual dollars]

	Army	Navy and Marine Corps	Air Force	Total
Chemical warfare program	$19,455,002	$291,000	$100,000	$19,846,002
R.D.T. & E.	8,124,000	0	100,000	8,224,000
Procurement	11,331,002	291,000	0	11,622,002
Biological research program	4,202,000	0	0	4,202,000
R.D.T. & E.	4,202,000	0	0	4,202,000
Procurement	0	0	0	0
Other ordnance program	$27,706,328	−$41,000	$290,000	$27,955,328
R.D.T. & E.	1,329,328	0	0	1,329,328
Procurement	26,377,000	−41,000	290,000	26,626,000
Total program	51,363,330	250,000	390,000	52,003,330
R.D.T. & E.	13,655,328	0	100,000	13,755,328
Procurement	37,708,002	250,000	290,000	38,248,002

DEPARTMENT OF THE ARMY, SEMIANNUAL REPORT ON CHEMICAL WARFARE AND BIOLOGICAL RESEARCH PROGRAMS (JAN. 1, TO JUNE 30, 1973) RCS DD–D.R. & E. (SA) 1065

[In conducting the research described in this report, the investigators adhered to the "Guide for Laboratory Animal Facilities and Care" as promulgated by the Committee on the Guide for Laboratory Animal Resources, National Academy of Sciences—National Research Council]

SEC. 1.—OBLIGATION REPORT ON CHEMICAL WARFARE PROGRAM

Description of effort	Funds obligated (millions of dollars) PY CFY	In-house Contract	Explanation of obligation
OBLIGATION REPORT OF RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FUNDS			
Chemical warfare program	−0.032	7.176	During the second half fiscal year 1973, the Department of the Army obligated $8,124,390 for general research investigations, development and test of chemical warfare agents, weapons systems, and defensive equipment. Program areas of effort concerned with these obligations were as follows:

Chemical research:	
Basic research in life sciences	0
Exploratory development	$398,332
Total, chemical research	398,332
Lethal chemical program:	
Exploratory development	0
Advanced development	1,540,572
Engineering development	0
Testing	2,270,000
Total, lethal chemical	3,810,572
Incapacitating chemical program:	
Exploratory development	0
Advanced development	660,000
Engineering development	0
Testing	25,000
Total, incapacitating chemical	685,000
Defensive equipment program:	
Exploratory development	1,597,395
Advanced development	773,927
Engineering development	−45,836
Testing	456,000
Total, defensive equipment	2,781,486
Simulant test support	449,000

DEPARTMENT OF THE ARMY, SEMIANNUAL REPORT ON CHEMICAL WARFARE AND BIOLOGICAL RESEARCH PROGRAMS (JAN. 1, TO JUNE 30, 1973) RCS DD-D.R. & E. (SA) 1065—Continued

"In conducting the research described in this report, the investigators adhered to the "Guide for Laboratory Animals Facilities and Care" as promulgated by the Committee on the Guide for Laboratory Animal Resources, National Academy of Sciences—National Research Council"

SEC. 1.—OBLIGATION REPORT ON CHEMICAL WARFARE PROGRAM—Continued

Description of effort	Funds obligated (millions of dollars) PY CFY	In-house Contract	Explanation of obligation
OBLIGATION REPORT OF RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FUNDS—Continued			
1. Chemical research	0.122	0.220	
	.276	.178	
(a) Basic research in life sciences.	(.000)	(.000)	1. No additional funds were obligated during the report period. Life sciences basic research in support of chemical materiel continued as follows with funds previously obligated:
	(.000)	(.000)	(a) Studies were conducted in attempts to induce soil bacteria with respect to thiodiglycol (hydrolysis product of H) and similar compounds for enzyme induction in microorganisms. Studies of solvent effects on solvolysis and chemical reduction were initiated. The reaction of tetraethylammonium fluoride with a phosphonate in acetonitrile showed a positive internal salt effect with an increasing bimolecular rate constant.
			(b) Effort was initiated to establish the design criteria for filters that will remove physiologically active aerosols from environmental air with maximum efficiency and minimum power consumption. Equations were developed to predict the aerosol flow rate corresponding to maximum penetration from limited data points. The study of an holographic laser camera technique for following aerosol formation from explosive dissemination was continued. Static calibration trials confirmed the system's particle size resolution limits. Trials with liquid-filled bomblets were made at a series of growth radii relative to the expanding cloud front and at varying times during cloud growth without evidence of a leading droplet spray (as expected).
			(c) A closed-system apparatus designed to monitor intermediate rate reactions has been constructed. The reaction product obtained from the interaction of binary intermediates QL and NM has been characterized by gas chromatography and mass spectrometry. The internal reaction pressure as a function of reactor void, and the time-temperature profile of this reaction have been determined. The reactor has been used to characterize and develop reaction simulants—having reaction times and pressures comparable to the QL/NM reaction. Additional effort will be expended to elucidate the rates of agent and simulant reactions; particular emphasis will be placed on the measurement or pressure/reactor void relationships. The technique of fast Fourier transform infrared spectroscopy will be evaluated (theoretically) for application to this problem.
			(d) A report is being prepared describing the behavior of free-falling droplets (less than 1 mm in diam). The experimental results were found to be in good agreement with results obtained when drag coefficients for falling water droplets were used; however, some deviation occurs at velocities greater than 325 meters/second. Preliminary plans have been formulated for a column which will permit studies to be made with large droplets (3–4 mm diam) of agents at speeds approaching terminal velocity. Careful consideration will be given to the specific technique, apparatus, and physical layout of this equipment for future work with toxic agents. Fabrication and assembly will be undertaken. As presently envisioned, photographic techniques will be employed to collect the experimental data.
			(e) Preliminary evaluation of the rate data obtained in a high pressure thermogravimetric apparatus indicates that atropine undergoes a first-order weight-loss (indicative of decomposition) during the initial one-third of the sample weight-loss. The kinetic data also show the material to be decomposing to form one or two volatile products and one nonvolatile product. A decomposition mechanism has been written. Under atmospheric conditions a simple half-order evaporation is obtained. A large amount of effort was devoted to the selection of computer plotting facilities to handle the large amount of data and numerous calculations involved. This study demonstrated the practical aspects of this approach. Future compounds for study will be selected to demonstrate the useful range and/or limitations of the technique. The mathematical equations, computer techniques, and automatic data plotting aspects of the data reduction will be improved.
			(f) The effects of morphine in relation to GD poisoning have been examined in the cat. Morphine abolishes all eclectrical activity in the phrenic nerve and reduces the sensitivity of the respiratory center to stimulation by CO_2. Both Nalline (a morphine antagonist) and GD will reverse these effects. The results suggest that the respiratory depressant effect of morphine comes from its ability to occupy receptor sites in the brain other than those occupied by ACh. GD (7–10 ug/kg, i.v.) restores respiration to the morphine-paralyzed system. Smaller doses are ineffective and larger doses merely cause CNS poisoning, reversible by atropine but not by Nalline. In a cat poisoned by GD at 15 ug/kg, morphine given in the early phase causes immediate respiratory arrest. Hemicholinium has been shown not to be satisfactory for treatment of GD poisoning. The supramedullary area has been selected as the next field of investigation. Efforts will be made to localize the sites of action by means of singlecell recording.
			(g) The isolation and characterization of the cholinergic receptor protein from eel AChE has been continued. After isolation of the membrane fraction of homogenized eel electroplax it was radiolabelled with either 125I or 3H labelled cobra neutrooxin. Acetylation of the toxin with 3H acetic anhydride in the presence of carbondiimide was finally successful. Recent results suggest that the receptor is a proteophospholipid (actually a phosphoinosotide). The receptor protein will be given a lipid-spin label and the EPR spectrum will be examined before and after reactions with ACh and other agonists. The effects of binding various drugs on the receptor conformation will be studied by Optical Rotatory Dispersion, Circular Dichroism, difference spectrophotometry as well as spin labelling.
			(h) Comparisions of performance ability in human subjects were made after giving paired drugs, with the Number Facility (NF) and the Variable Interval Time Analyzer (VITA) as criteria for performance. The subjects received alcohol: placebo, alcohol: diazepam, and alcohol: methylphenidate. The results to date indicate that performance is impaired more by the alcohol (ethanol): diazepam, and less by the alcohol: methylphenidate, compared to the alcohol: placebo. Studies will continue on the interaction of drugs in man and the combined effects on performance and physiological changes.
			(i) Using highly-purified eel AChE, attempts have been made to label the active site with appropriately sized spin-labels so that the structure and stability of the active site of the enzyme can be elucidated (provides information on the mechanism of action of G-agency poisoning). Several spin-labels have been designed, formulated and tested by electron paramagnetic resonance techniques. Studies of circular dichroism and optical rotatory dispersion have also been undertaken. So far no significant differences have been seen in fresh and partly inactivated enzyme. Further studies along the same lines are planned, particularly with intermediate size spin-labels. When satisfactory labels are found, agent effects on the enzyme will be scrutinized.
			(j) Using histochemical detection of succinic dehydrogenase (SDH) and lactic dehydrogenase (LDH) (quantitated by photodensitometry), it was established that at 3 percent oxygen, there is a quantifiable increase in the amounts of LDH and SDH present in specific cellular layers of the oxygen starved cornea. The elevated amounts of these enzymes indicates a shift for aerobic to anerobic metabolism in corneas exposed to decreased levels of O_2 for controlled periods. The morphological effects are being assessed. In future work epithelial structures, such as rabbit cornea will be exposed to irritating substances which are known or purported to alter corneal structural integrity or permeasibility. The morphobiochemical effects will be determined.
			2. During the report period basic research in chemistry continued as follows:
			(a) Considerable effort has been applied to multiple-detector gas chromatography. Attempts are being made to correlate, mathematically, the various "specific" versus "nonspecific" detector response ratios to ascertain gas chromatographic component identifications. Additionally, more sensitive methods of detecting one type of incapacitating agent is being pursued. Basic research will continue on fundamental studies on metabolites, hydrolyzates, and other degradation products of chemical agents (essential to the determination of the total quantity of agent initially present in a suspected contaminated area). All types of spectrometric analysis and elemental analysis will continue to be employed in the identification process.
			(b) The Nuclear Magnetic Resonance (NMR) spectral parameters have been determined for five compounds in the phenylphosphonic difluoride series. Studies were conducted on the kinetics of the reactions of the difluorides and 2-propanol, with and without accelerators present. The NMR spectral parameters of two additional phenylphosphonic difluorides will be determined and kinetic investigations will continue to elucidate further the mechanism(s) involved in these reactions. The effect of structure on reactivity and on the spectral parameters may then be evaluated.

Description of effort	Funds obligated (millions of dollars) PY CFY	In-house Contract	Explanation of obligation
OBLIGATION REPORT OF RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FUNDS—Continued			
			(c) The use of an infrared spectrophotometer as a detector was studied and the investigation of other detectors continued for the identification and quantitation of compounds of interest separated by high speed liquid chromatography. Studies were made of new separation schemes for the analysis of compounds by the same process. Studies will be performed on the separation, identification and quantitation of compounds of interest utilizing high speed liquid chromatography. Research will continue into the use of different detectors for the direct identification and quantitation of compounds of interest.
(b) General chemical investigations.	(0.122) (.276)	(0.220) (.178)	Exploratory development investigations continued in search for potential chemical agents, techniques of evaluating effects of chemicals, medical effects of chemical agents, dissemination and dispersion techniques, process technology, test and assessment technology, systems analysis, evaluation of foreign CW potential, simulation technology and chemical safety. 1. In search for potential agents: (a) The number of agent compounds submitted for toxicity screening has been reduced. However, the variety of special studies that demand attention has increased. Six reports that covered several years work were completed. Screening methodology will be updated, with particular emphasis on new methods to make systemic incapacitant screens, using small animals, more predictive as to the possible effect (both desirable and noxious) in man. An important new area to be developed will be the study of possible toxicological interaction (synergism or potentiation) of chemical agents with air pollutants. (b) In the physical chemical studies on new classes of compounds, two Edgewood Arsenal Technical Reports are in the final stages of publication. These reports cover mass spectra studies. Many compounds have been obtained and analyzed for Nuclear Magnetic Resonance (NMR) spectra and a large volume of spectra were required for the analyses of these compounds which were submitted for evaluation. In the analytical molecular structure determination, confirmation and quantitative/qualitative analyses of toxic chemical agents and related compounds, infrared spectra have been determined and band assignments made for a specific series of compounds, and an Edgewood Arsenal Technical Report has been published on these data. As new potential agents are uncovered, studies will be undertaken, using spectroscopic techniques, to elucidate molecular structures. Thermal analysis, involving molecular orbital calculations, will be initiated to determine the feasibility of applying this technique for correlating activities with structure. Other chemical and instrumental methodologies will be exploited to determine the chemistry of agents. 1. 2. In techniques of evaluating effects of chemicals: (a) Experiments designed to identify the effects of different drugs on the central nervous system have shown that antinicotinic compounds (e.g. mecamylamine) and antimuscarinic compounds (e.g., scopolam) affect separate pathways in the CNS. These results were obtained by fear-conditioned response studies in rats. Similar analyses have shown that anti-ChE compounds (G- and V- agents) affect pathways which are from those affected by anticholinergics (stropine, scopolamine, etc.). Other experiments in rats with operant-type experiments have been directed toward an examination of the extent to which physostigmine will reverse the effects of incapacitating agents such as EA 3834. The results in hand indicate that when separate behavioral responses of the rat are examined after treatment with EA 3834 and physostigmine, some but not all are restored to normal by the physostigmine. (b) Work has been resumed on a study of the effects of the protective ensemble (protective clothing, mask and hood on prolonged visual monitoring. The monitoring has been done with a model task system intended to represent a variety of real systems) (radar screens, tracking system instruments, etc.) Observations have also been made on the use of this task as a component of systems used to evaluate new mask designs. A facility using existing space and equipment has been developed to permit the evaluation of human movement and response rates under a variety of conditions. The objective of this effort is the evaluation of performance criteria and subsequent changes which result when a variety of defense material are used. Data has been used to provide a concrete basis for recommended design changes. These studies are continuing. (c) An automated system has been devised for measuring hemoglobin-methemoglobin levels in blood as a part of the study of cyanide poisoning. A similar automated method has been applied to measure cyanide in blood. As little as 1 ug/ml can be detected. Another application of the automated assay permits measurement of physostigmine in aqeuous solutions when used as an inhibitor of ChE. Efforts will continue to simplify analytical procedures with the goal of automation where applicable and to increase sensitivity of methods used to detect and quantify agents and drugs in various body organs, tissues, and liquids. 3. In medical effects of chemical agents: (a) Long term toxicity evaluations of vapors of difluoro (DF) have continued on dogs; guinea pigs, rats, mice and rabbits. Mutagenicity, teratology, cutaneous sensitivity, physiology, hematology, as well as general toxicity and pathology, have been evaluated. Studies with DF will continue, oriented toward the Binary GB Weapon System. Testing of the chronic toxicity of a mixture of IP and KZ will be initiated. Screening studies have been performed with wet-wet and dry-wet binary test samples of VX. Results indicate that VX production is less than 100 percent efficient. Spin rates of the samples produced appear to have little influence on toxicity of the material produced. (b) The uptake of radiolabeled EA 3580 has been studied in various tissues of rats. Brain, muscle, and heart seem to acquire lower levels than lung, liver, and kidney. The caudate nucleus appears to attain higher levels of glycolate than other regions of brain. Further improvements have been made to standardize the host-mediated assay and a new rapid in vitro screening method for mutagens has been devised. Several strains of E. coli, differing in DNA repair capacity, are exposed to a gradient of the chemical being tested in a Petri plate. The CNS mechanisms regulating water balance are being studied as indicators of the sites of action of various chemical agents and drugs. At 100–600 ug/kg doses, EA 3834 increases the thirst threshold of rats (inhibits drinking) significantly. Atropine SO4 at 20 ug/kg and Librium at 10 ug/kg were also effective. Compound 309,196 is much less potent in its effect on thirst control mechanisms. No change in threshold was found even at doses 100 x those of EA 3834. Studies in animals will continue on the evaluations and determination of site of action of compounds of interest. (c) Critical flicker fusion frequencies have been measured in volunteers who have received various doses (0.25, 0.125, and 0.06 percent) of pilocarpine to constrict the pupil. One eye was treated and one was used as a control. Pilocarpine caused a reduction in the critical frequency. Similar measurements have been made with scopolamine. This will be continued in order to show whether the effect is central or peripheral and whether glycolates have similar effects. Significant differences have been found to red and green visual fields of human subjects after exposure to 302,196. Color vision is also being examined after men have been exposed to EA 3834. To date no significant differences have been seen. Penetration of EA 3834 through skin can be demonstrated by reduction of local sweating. On neck skin of man this varies from 30 to 77 min, depending on dose. Skin penetration, sweating, and vision studies related to compounds of interest will continue in the next period. 4. In chemical dissemination and dispersion techniques: (a) Flight dynamics of inert submunitions which were base ejected from an 8" shell at Dugway Proving Ground were analyzed. Trajectories of the individual submunitions and the resulted ground patterns were examined. A variety of non-lethal projectile configurations were designed and tested in an effort to improve sealing and functioning of the projectiles containing simulants. Aerodynamic studies were conducted on conventional and advanced configurations which appeared to be feasible for achieving extended range for both hand-held weapons and artillery weapons systems. (b) Binary programs were supported by the following chamber/simulant test programs: (1) aerosol characteristics vs burster size for 8-inch projectile submunition, (2) diaphragm rupture characteristics and agent mixing for an air delivered munition, (3) dissemination at cold ambient temperatures; effect of a central void; and aerosol ingition by hot aluminum fragments for models of the XM687 projectile. Preliminary feasibility tests have shown that this system should provide superior "pre-masking" target coverage to the XM687 GB projectile or the XM723 incap projectile. Also a percutaneous capability will be established for Agent EA 3834 and the drop size control will be improved over the percutaneous effects 8-inch VX "expulsion" system. Target coverage vs time data will be obtained to enable system analysis studies to provide quantitative predictions of these capabilities.

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SEC. 1.—OBLIGATION REPORT ON CHEMICAL WARFARE PROGRAM—Continued

Description of effort	Funds obligated (millions of dollars) PY CFY	In-house Contract	Explanation of obligation
OBLIGATION REPORT OF RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FUNDS—Continued			(c) A preliminary mathematical model to describe the functioning of the two compartment generator based on spray equations has been made. The model shows that aerosol sized particles can be created under the conditions of the two compartment functioning. Vaporization-condensation parameters are being considered as a method of making the model more descriptive of the actual phenomena occuring. Electro-analytical procedures were initiated to determine whether electrical oxidation correlates to pyrotechnic oxidation in the pyrotechnic generator. Initial experiments with dye were promising in that similar products were generated from both processes. Potential differences between products were tabulated. 5. Chemical agent process technology studies continue. The current effort is primarily associated with binary G and V systems. NM, a reactant for a binary V agent system, was synthesized for evaluation in a binary reactor. The evaluation showed promise so laboratory studies were started on the process parameters of NM production. The first samples of NM were not stable during low temperature storage so the process must be improved to improve storage stability. Intermediates for other binary systems were also synthesized. Analytical support was supplied for pilot plant work on binary G-reactants. Analytical investigations were conducted to develop or improve methods for use in pilot plant studies and in specifications. An investigation on agent CR was started to determine specification requirements and to develop the required analytical techniques. Candidate agents were synthesized for evaluation in other research programs. Investigations on a laboratory scale and a prepilot plant engineering scale will be continued where data are lacking on reactants for binary G and V agent systems. The process study on NM will be completed in which the objective will be to produce a stable high sulfur content compound. Analytical assistance and development of analytical techniques will continue on specific problems. Candidate agents will be synthesized for evaluation in the research programs. Environmental pollution problems at Edgewood Arsenal connected with the mission operations will be studied. 6. Effort continued in chemical test and assessment technology. An experimental chamber test program was designed to determine the extent at which simulant properties affect the explosive dissemination process. A novel test device and sampling technique was devised to track the liquid cloud produced by a directional explosive projector. The analyzer portion of the particle transport and diffusion test system was refined by a factor of 2 and 5 micron detection and count capability was achieved. The chamber studies on similant properties will continue with the objective of determining the liquid variables which control explosive dissemination. Work will resume on methods of producing monodisperse particles as part of the particle transport and diffusion test system. 7. A comparative cost effectiveness analysis of several versions of the XM256 Detector Kit was performed. An optimization study was made for the 8-inch binary projectile and a ballistic similitude analysis was made for the XM687 and M483 projectiles. A comparative cost effectiveness analysis will be performed for the rocket and missile systems filled-GB, VX and IVA. A comparative cost effectiveness analysis and a risk assessment for the 8-inch VX system will be performed. The risk analysis for the XM687 will be updated. 8. In technical assessment of foreign CW potential: (a) A candidate warhead payload was selected and a test firing conducted at White Sands Missile Range. The warhead fell short of its intended target by approximately 1000 yards. Although the desired grid data was not obtained, valuable film data on the fluid breakup was obtained. An investigation was conducted on the cause of short range flight and tentative conclusions reached. It is intended to statically test three rocket motors to test the hypothesis for short range flight. Additionally, another warhead firing test with complete grid analysis is scheduled for October–November 1973. (b) Procedures were developed for analyzing the simulant used in field tests of experimental defensive warning and detection systems against offensive CW threats. Another field trial will be conducted to determine the threat by the means of delivery of the weapons system. Data thus generated will be used to guide the development program for defense equipment. 9. In simulant and training agent investigations: (a) The investigation of the irritant compound, EA 4923, as a training agent has continued since this agent would simulate a nonpersistent agent and formulations could be developed leading to diluted or thickened agents which could offer a range of properties for the simulation of the three types of chemical agents desired. Another agent under investigation for consideration as a training agent is the respiratory irritant, EA 3547. Decontamination techniques for EA 4923 and EA 3547 are currently being assessed. Future investigations will be guided by user requirements. Decontamination and defensive techniques will continue to be devised. (b) Toxicity and drug therapy studies were completed with MSF (methane sulfonyl fluoride) and DMPT (O,S diethyl methyl phosphonothiolate), GD, and VX simulants, respectively, for the M8 alarm. Though not devoid of toxicity, these simulants were much safer than the agents they replace. Atropine was clearly indicated for MSF poisoning. However, the oxime, 2-PAM Cl, should not be used adjunctively. For DMPT, both atropine and adjunctive 2-PAM Cl were suggested for victims of accidental poisoning. Request was also made to the Surgeon General for approval of the use of 1 percent CS in PG as a training agent in the field exercise METOXE III. The approval has been granted. Proposed simulants as training agents for small or large scale exercises introduced into the simulants program will be tested for their acute toxicity in small laboratory animals. (c) Test models of each of two concepts of a ground burst simulator for training agents were fabricated and subjected to functional testing. Future effort will include improving the dispersal characteristics of the ground burst simulator selected because of its safety and realism and exploratory development of an air burst simulator which fulfills the CONARC requirements 10. In chemical safety investigations: (a) A series of VX samples were analyzed to determine the reaction rate and the effectiveness of decontaminating VX using bleach or chlorine. An Edgewood Arsenal Technical Report was submitted which included mass spectrometric studies to characterize and catalog the fragmentation patterns of agents and potential agents so that identification of these and related compounds becomes more certain and rapid. A number of waste water samples, which were decalin solutions of vapor samplings, were analyzed for the identification of a possible irritant, also samples of air pollutants collected in decalin were analyzed for identification of a lachrymator-irritant present in some of the samples. Effort will continue and be extended to other classes of compounds in the same depth as described for lethal agents. The extent of this undertaking will depend on future requirements for the production, stockpiling, testing, and demilitarizing of such agents. (b) The ecological survey of Carroll Island has resulted in a large amount of data on animal and plant populations of the area. This information is being entered on punch cards. Rare and endangered species have been identified. Mammalian studies have been focused recently on squirrel densities and on bat populations. An inventory of woody plants has been completed. Effort is being put into study of the turtle population because they are slow to miltiply and normally live in restricted habitats. This makes them especially good indicators of any serious environmental event. Ecology teams are advising and assisting program managers who lacked the required biological background to prepare acceptable environmental assessment statements. These teams are identifying RDT&E programs for which environmental assessment statements are required and are providing assistance to program managers. The quality and acceptability of environmental statements being prepared has improved very much as a result of this assistance. Population counts of plants and animals will be added to accumulated data banks. Special studies will focus on the turtle population, which appears to be a key species for identifying past effects of agent dissemination.

Description of effort	Funds obligated (millions of dollars) PY CFY	In-house	Contract	Explanation of obligation
OBLIGATION REPORT OF RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FUNDS—Continued				(c) During this report period, tests were conducted to establish the maximum permissible quantity of agent to be disseminated in the Explosion Test Chamber and the Toxic Dissemination Chamber. It has been established that not more than 5 lbs. can be dispersed during any one test. The exhaust gas and particulate filters of the chambers were tested and found satisfactory. Decontaminating solution and procedures for toxics and incapacitating agents were established. Bleach solution will be used for toxics and an acetic acid wash, followed by neutralization with caustic solution, will be used for incapacitating agents. The holding tank disposal procedures were established. All chamber washings will be held for 24 hours in holding tanks, after which time an analysis for the presence of toxic or incapacitating agents is made to insure that complete destruction of agent had occurred. The pH of the solution is then adjusted to 6.5–7. The solution is then disposed of by further dilution with fresh water in a ratio of 100:1. During the next reporting period, plans to move the Controlled Velocity Test Chamber from Carroll Island to Gunpowder Neck area will be expanded to include a long-time surveillance and rough handling facility for toxic and incapacitating agent-filled munitions. Efforts to construct a permanent change house for the Explosion Test Chamber will be continued.
	0.000		3.582	
2. Lethal chemical program	3.811		.229	
(a) Agent investigations and weapons concepts	(.000)		(.000)	No additional funds were obligated under this effort during the report period. Exploratory development effort was expended as follows with funds previously obligated:
	(.000)		(.000)	1. Structure-activity relationship studies on carbamates have continued with significant attempts to synthesize several possible metabolites and gain more insight into the mode of physiological action. The studies on compounds as related to intelligence sources are continuing and emphasis is being directed toward binary studies. In studies relating to analytical support, a report has been prepared for publication detailing a thin layer chromatography method for the separation of various G agent acids. In order to streamline chemical investigations of lethal agents, physical studies with intermediate volatility agents will be combined with this plan and studies will be initiated on newer agents of interest as they are developed. Partition coefficients with selected systems will be continued. Chemical investigations of new binary systems, to be used in a retaliatory role, will continue with major emphasis on binary systems research concerning compounds of interest as furnished by intelligence sources. 2. The speed of action of VX, EA 1356, and EA 5365 was also evaluated through bare and clothed skin of rabbits at dose levels equivalent to 2, 5, 10, and 20 times their respective LD 50's. Toxicity of GD through bare and clothed skin was conducted. Studies will be initiated to evaluate the influence of changes in agent particle size and of windspeeds on munition expenditures for the eight inch binary projectile agent selection. 3. Technology for the practical generation of binary VX by liquid-liquid system was advanced. Progress was made in the development of a practical binary process for EA 5365 and its analogs, although much still remains to be accomplished. Additional information was generated on specifications for binary intermediates. Effort was continued in the investigation of simulants/simulation techniques for both VX and GB binary systems to permit full scale reaction and dissemination tests. Effort will continue in the development of binary procedures for new agents as well as exploitation and/or optimization of techniques for existing binary processes. Work will also be performed in the development of ingredients specifications and simulants for the binary reactions. 4. Exploratory development of a 155mm binary IVA projectile was continued. Preliminary designs completed for this system included explosive and expulsive munition concepts with agents EA 1356 and EA 5365. Critical trajectory tests were completed for the explosive round. Hardware based on preliminary designs for the 155mm IVA projectile will be fabricated and tested with optimization of the base-expulsion design as a primary objective. The effort will involve necessary analytical, aeroballistic and structural work; theoretical and experimental evaluation of in-flight mixing methods; and evaluation of simulant dissemination with this munition configuration. 5. Experimental hardware for the binary missile warhead and air-to-ground rocket warhead was fabricated and successfully tested. The suitability of equipment and techniques for introducing the second binary ingredient into partially-filled bomblets preassembled in the missile warhead was demonstrated. Design efforts on the rocket warhead were continued, with emphasis on the refinement of the bore-rider mechanism to achieve reliable rupturing of the bulkhead and proper mixing of the two binary ingredients at launch. A parametric study was initiated to provide estimates of the relative effectiveness of missile warheads with massive, segmented, and bomblet configurations. Studies will be continued to evaluate current and new lethal binary agents for use in missile warhead systems, and to determine the effects of flight environments on the binary reaction in warhead systems. Test hardware and instrumentation will be designed and fabricated for static and dynamic tests to be performed in support of these studies.
(b) Agent pilot plant investigations	(.000)		(.000)	No additional funds were obligated under this effort during this report period. Advanced development effort was expended as follows:
	(.000)		(.000)	1. Development of chemical treatment of waste materials anticipated from manufacture of methyl phosphonyl difluoride (DF) was conducted. The objective of chemical treatment is to transform DF waste, such as distillation residues, to a form or forms suitable for disposal or interim storage. Neutralization of DF residues with aqueous sodium hydroxide was shown to be a simple process. The applicability of spray drying to convert the neutralized material to a dry solid state was demonstrated. In addition, the applicability of centrifugal filtration to separate the precipitated sodium fluoride from the neutralized material was demonstrated. The sodium fluoride filter cake was found to be easily tray-dried, and the filtrate (an aqueous solution of the sodium salt of methyl phosphonic acid) was easily spray dried. Data were obtained applicable to the specification of industrial equipment for these operations. A follow-on process/unit operation development program will be applied to such G-binary intermediate product on routes from VX demilitarization residues as may be shown feasible in further laboratory studies. Process/unit operation subpilot studies will be conducted on laboratory improvements to the process for production of intermediate NM for the VX binary liquid/liquid system. Materials compatibility studies will be conducted with this and other later generation binary agent components. Munition tests will be supported by filling of test items. 2. Design and fabrication of a prototype machine for filling and closure of both canisters for the XM687 binary munition are being performed to meet development testing (DT II) requirements in 2d quarter fiscal year 1974. Filling and closure studies have been concurrently performed. Filling is being done by a commercially available pharmaceutical filler. Closure studies have evolved from heat seal closure of large tube diameter to spin welding of a small centrally located filling port. This approach will allow eventual fabrication of an all-up container, probably blow moulded. Developmental studies have been completed to determine closure integrity by tracer gas detection. Direct detection of the agent has been temporarily suspended in order to meet the DT II filling schedule. Preliminary studies have been initiated to determine the closure requirements for the 8-inch binary projectile. Closures with commercially available O-Ring-screwplugs and spin welding are being explored. The prototype filling machine will be made operational during 1st quarter fiscal year 1974. Debugging procedures will be completed during this period. The DT II XM687 canisters (XM20 and XM21) will be filled, sealed, leak tested, and prepared for subsequent LAP operations. Filling and closure studies will be extended to second generation binary systems involving solid and liquid chemical intermediates contained in bulk canisters and in submunitions. These studies will be aimed at developing automated processes for production of the 8-inch binary projectile, the binary air-to-ground rocket, and the binary missile warhead.

DEPARTMENT OF THE ARMY, SEMIANNUAL REPORT ON CHEMICAL WARFARE AND BIOLOGICAL RESEARCH PROGRAMS (JAN. 1, TO JUNE 30, 1973) RCS DD-D.R. & E. (SA) 1065—Continued

[In conducting the research described in this report, the investigators adhered to the "Guide for Laboratory Animals Facilities and Care" as promulgated by the Committee on the Guide for Laboratory Animal Resources, National Academy of Sciences—National Research Council]

SEC. 1.—OBLIGATION REPORT ON CHEMICAL WARFARE PROGRAM—Continued

Description of effort	Funds obligated (millions of dollars) PY CFY	In-house Contract	Explanation of obligation
OBLIGATION REPORT OF RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FUNDS—Continued			
(c) Tactical weapons systems: (1) Advanced development	(0.000) (1.541)	(1.324) (.217)	Advanced development of the 8-inch binary VX projectile was continued with competitive prototyping of the bulk expulsive and submunition concepts. Both liquid-liquid and solid-liquid binary ingredient systems were studied. Environmental and physical testing demonstrated the integrity of the projectiles. In-flight mixing and dissemination trials with simulants have provided data inputs for the system effectiveness study which will be the basis for selecting the design concept for further exploitation. These dynamic trials were supplemented by agent generation and explosive-dissemination tests in chambers for better prediction of actual munition performance. Advanced development testing of the 8-inch binary projectile will be completed, and a development plan and concept formulation package prepared and staffed for approval to enter engineering development in 2d quarter fiscal year 1974. Commencement of advanced development of the 155mm IVA projectile, which was expected in late fiscal year 1973, was deferred due to the lack of a suitable binary process for an effective IVA. It is now anticipated that this phase will begin in fiscal year 1974 with the initial effort directed toward the development of a test program and the initiation of test hardware procurement.
2. (c) (2) Engineering development.	(.000) (.000)	(—.012) (.012)	The formal engineer-design test program for the 155mm Binary GB Projectile was completed, and the prototype system technical review was held for approval to proceed to the DT II phase of development. Simultaneously, a production plan for the acquisition of DT II hardware was prepared and purchase of long-lead-time materials was initiated. Supplemental development efforts to ascertain storage life of canisters and to establish munition effectiveness parameters were continued. With respect to the latter, simulants and simulation techniques have been evolved. Future effort will be concerned with the in-house manufacture of projectiles and ancillary components required for DT II. The supplementary development effort will be continued, effort will be made to estimate munition effectiveness via simulants/ simulation techniques, and if approved, a limited number of open-air tests will be performed. Engineering development will be initiated on the 8-inch binary VX projectile during the next report period.
(d) Materiel tests in support of joint operational plans and/or service requirements.	(.000) (.928)	(.928) (.000)	During this report period obligations were incurred in the planning, conduct and/or reporting of joint operational test and operations research studies in response to CINC and Services requirements. The following tests and studies have been actively pursued during this report period: 1. DTC Test 69–14 Phase II: This test was designed to provide the U.S. Air Force with data on the effectiveness of the weapon system (MC–1 Bomb/F4 Aircraft) employing current delivery modes. During this period, 31 field efforts, utilizing the 105 projectile with 15 candidate simulants, were conducted to provide a basis for selection of the best simulant. Four MC–1 flashing trials were conducted with the simulant to verify the 105 projectile trials. Seven of nine MC–1/F4 aircraft trials were conducted for weapon effects data. Hazard analysis has been made and environmental assessment statement prepared for the simulant of choice. Data analysis has been initiated. Final Report is scheduled for second quarter fiscal year 1974. 2. DTC Test 69–14 Phase III: This test is designed to evaluate the hazards resulting from the disposal of damaged or leaking MC–1 Bombs when being handled under current explosive ordnance disposal (EOD) procedures cited in current Air Force Technical orders. During this period a test plan has been prepared, coordinated with the U.S. Air Force and published. Trials to be initiated second quarter fiscal year 1974. 3. DTC Test 73–11. This test is in response to U.S. Air Force and CINPAC requirements and is designed to evaluate and validate emergency destruct procedures for chemical weapons. During this report period a test plan outline has been coordinated and approved by the Air Force and published. Laboratory and munition investigations will be initiated in July 1973 to screen acceptable chemical compounds in order to obtain a test simulant and to obtain test procedures for bomb handling for the field trials scheduled for second quarter fiscal year 1974. 4. DTC Test 71–110 Phase II: This study effort provided CINCEUR with a determination of the effectiveness of V-agent artillery against troops in a temperate European environment. The operations research study was published and forwarded in January 1973. 5. DTC Study 73–111: The U.S. Army requested a computer assessment of the downwind travel and harassing hazards distances resulting from the functioning of nerve agent munitions and to compare these estimates with predictions based on current manuals. During this report period an exhaustive literature review was completed. Safe entering times or safe occupation times were being estimated utilizing a model developed by a DTC contractor. Model computes concentration as a function of downwind distance/time. The model is being modified to incorporate a dose response deviation. The study will be completed 1st quarter fiscal year 1974.
2. (e) Army materiel development (suitability) tests.	(.000) (1.342)	(1.342) (.000)	Obligations were incurred for the planning, conduct and reporting for approximately 16 tasks associated with binary weapon systems in response to the U.S. Army's development (suitability) program. The purpose of this testing was to: (1) evaluate the ballistic stability and accuracy of the candidate projectile under various projectile configurations; (2) evaluate rough handling and effects of short term and long term storage under a variety of environmental conditions; (3) identify simulant material that will duplicate the reaction kinetics and dispersion characteristics of V agent munitions; (4) prove that the candidate weapon will disperse its payload in a manner consonant with target effects criteria; and (5) determine the technical performance of the XM687 projectile 155mm and to ensure the item meets the military needs requirements. During this report period, approximately 16 projects were conducted and reported by DTC. Major efforts were on the projectile 155mm and various configurations of the projectile 8 inch. Simulant dissemination trials on prototype bulk filled 8 inch binary projectiles were completed, data analyzed and a model developed to predict target effects was completed. Testing indicated additional field efforts are required. Sixteen flashing trials utilizing two simulants were conducted with the XM687 projectile. Based on the dissemination characteristics, a simulant was selected. Target effects testing will be initiated in the 1st quarter fiscal year 1974. Hazard analyses were made and environmental assessment statements prepared for the simulant. Ballistic firings were conducted employing various configurations of the 8 inch projectile in order to obtain data on optimum design. Safety tests were conducted with 36 projectiles 155mm to ensure the item was inherently sound and safe to release for the engineering tests scheduled for 3d quarter fiscal year 1974. Informal coordination of the preliminary draft test plan for the Engineering test of the projectile 155mm XM687 was completed. Test matrix for the binary agent dissemination trials have been prepared. Hazard analysis and environmental assessment statements have been prepared and forwarded to higher headquarters for approval prior to open air toxic trials of the XM687 projectile in support of the U.S. Army's development program.
3. Incapacitating chemical program..	.000 .685	.655 .030	
(a) Agent investigations and weapons concepts.....	(.000) (.000)	(.000) (.000)	No additional funds were obligated under this effort during the report period. Exploratory development effort was expended as follows with funds previously obligated: 1. Investigations into the preparation of high purity precursors for the synthesis of analogues and homologues of thebaine and oripavine has continued with significant reduction procedures advancing the thebaine studies. Additional efforts are being made to prepare large quantities of phenothiazines for additional biological evaluation and some success has been attained toward this end. Work has been completed on writing the discussion and experimental sections of the chemical portion of the Edgewood Arsenal Technical Report being prepared in conjunction with toxicity screening studies on the phenothiazine work. A structure-activity-relationship study for this report is now being written. Future research to be conducted will be based and proceed along the same lines as previously described. It is expected that further work will emphasize (1) percutaneously active glycolates, (2) incapacitants with markedly reduced onset time and increased effectiveness. Attempts will be made to formulate binary systems for the production and application of incapacitants. 2. Two compartment studies were conducted using chemical agent EA 3834. Standard designs gave extremely low yields. Canted propellant chamber orifices gave yields of about 20 per cent. Additional experiments conducted showed that most of the rest or about 60 percent of the agent was found on the chamber floor. The conclusion was that most of the material was sprayed in larger particles and was not aerosolized. The propellant was fully characterized for the complete pressure range for burning rate vs pressure in one, three, and four orifice configuration.

Description of effort	Funds obligated (millions of dollars) PY CFY	In-house Contract	Explanation of obligation
OBLIGATION REPORT OF RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FUNDS—Continued			
			3. A surveillance program was completed on canisters filled with incap agent EA 3834A. Review of test data indicates there were no significant effects on the ignition or performance of the agent filled canister as a result of this conditioning. A candidate impact fuze was investigated for use in the submunition. Functioning trials of this fuze, FMU-65/B, modified to permit venting, were very promising. Investigation of other impact fuzes such as spin arm and dash pot will continue. Optimum venting requirements for submunitions to produce skittering but eliminate possibility of submunition becoming airborne will be investigated. Design studies were continued on proposed wide area coverage concepts utilizing a SUU-30B/B type dispenser and an air delivered munition. Several concepts of potentially acceptable designs for a non-explosive module were evaluated. One that showed promise is a three piece break away plastic module.
			Selection of materials and designs for soft tooling for prototype fabrication were completed. Initial units were constructed and limited tests conducted. A requirement for a tactical air delivered incapacitating munition system (TADICAMS) was approved by the Department of the Army. Optimum agent formulation for the submunition canister will be determined. Investigation into new techniques for module design and delivery systems will be continued.
3. (b) Agent pilot plant investigations.	(0.000)	(0.100)	Advanced development effort during this report period was expended as follows:
	(.100)	(.000)	1. Pilot plant studies on the final step in the synthesis of agent EA 3834 free base and acid were conducted in small reactions. The runs yielded data for an optimized process. Purchase descriptions including specifications for the chemical and physical requirements, analytical test methods, safety and packaging details were prepared for incapacitating agent EA 3834A and the two precursors, i.e., the amino alcohol and ester. A method for decontaminating the filtrate from the product separation step was developed and will be used in the production scale design if analytical results of completed confirmatory runs duplicate earlier data. Bench scale studies are being conducted to develop a safe, economical and nonpolluting method for disposal of the detoxified waste streams as applicable to future production scale operations.
			2. The overall developmental plan for the XM723 projectile has been revised for the filling of AD, ED, and EST rounds at Edgewood Arsenal. The modifications to the experimental loading facility at Edgewood Arsenal was completed 4th Quarter fiscal year 1973. Basic filling and loading equipment has been purchased for the filling of AD rounds. Limited prototype equipment developmental studies were conducted.
(c) Tactical weapons systems.	(.000)	(.530)	1. A stimulant mixture has been devised that duplicates the sensitivity of the incap mixture. This mixture has been used to test set back characteristics of the mix with no significant problem noted. Experiments have been scheduled to determine proper pressing force to mechanically withstand set back forces. A second stimulant mixture has been devised which matches gaseous evolution rate and temperature. This stimulant is to be used to provide experimental field coverage data. The agent mix has been characterized as to its burning time-loading force—yield relationship.
		(.030)	2. Significant progress was made in development and design of the 155mm XM723 Incap projectile. Additional metal parts and safety firings were accomplished. Firing (except with simulant in lieu of live agent) of six rounds is scheduled for early July 1973 at Dugway Proving Ground. Contingent upon funding for fiscal year 74, Advanced Development will continue. The assembly of 100 rounds (simulant loaded) is planned for the last half of calendar year 1973. Firing will be conducted at Dugway in early 1974 with the objective of evaluating total design and all functional aspects including ballistic adequacy. The program schedule objective is to accomplish sufficient development and testing during fiscal year 74 to facilitate entry into the ED phase early in fiscal year 75.
(d) Army materiel development (suitability) tests.	(.000)	(.025)	Obligations were incurred for a U.S. Army test designed to evaluate the ballistics stability and accuracy of a candidate projectile 155mm. During this report period 6 projectiles were fired by DTC. Report will be published July 1973.
	(.025)	(.000)	
4. Defense equipment program	—.154	2.270	
	2.935	.511	
(a) Physical protection investigations.	(—.002)	(.417)	Exploratory development effort during this report period was expended as follows:
	(.650)	(.231)	1. The general trend of the reactivity of CK with various nucleophiles in aqueous solution tends to follow the basicity of the nucleophile employed. Alpha nucleophiles tend to exhibit increased reactivity compared with those expected whereas nucleophiles with bulky structural groups around electron-rich sites tend to be less reactive. Neat mustard can be destroyed using a 5:1 volume ratio of monoethanolamine to H; half lives of 5.4 hours at room temperature and 16 minutes at 52°C were obtained. In studies on the effect of cations on the displacement of fluoride ion from GB in nonaqueous solvents it was found that GB can be decomposed or formed depending on the type of cation. In the future, studies will be conducted to find compounds which will facilitate the decomposition of H and VX in the presence of materials generally available in the field (i.e. water and oxygen of the air) for vehicle decontamination. Attempts will be made to find a replacement for DS2 which will overcome its shortcomings.
			2. Agent penetration rates into rabbit skin were determined which formed the basis of a mathematical model to correlate the percutaneous lethal dose to a covered lethal dose to an aerated dose. Studies on a new decontaminating paste were continued and it was found that a thixotropic paste appears to represent an optimum skin decontaminant. Modified formulations of DS-2 decontaminating solution were tested but no promising results were obtained to warrant replacing the current composition. Impermeable paint formulations were tested for agent resistance in conjunction with the Coatings and Chemical Lab. Polyurethane formulations were found to offer the most promise. Alternative methods to preclude contamination by simple film covering techniques were studied. Studies will continue on chemical agent insoluble paints (polyurethanes) and chemical agent resistant coatings (polyvinyl alcohol).
			3. Studies of gas adsorption kinetics showed that a fully predictive equation is possible for adsorption by a bed of activated carbon granules. Studies of dioctylphthalate aerosol filtration have shown the velocity dependent relationships existing for the diffusion, interception, and inertia filtration mechanisms. Theoretical and experimental gas adsorption and aerosol filtration studies will be continued in order to improve predictive equations for air purification processes.
			4. Feasibility studies were performed on removing chemical contamination from air streams at elevated temperatures. A photoionoization system for testing chemical protective devices was fabricated under contract. A technique was developed for testing full scale collective protection systems for entry/exit procedures. A technique of testing for cyanogen chloride was developed. Conceptual studies were performed on an impermeable liner for use in collective protection under pressurized techniques. Physical and chemical tests continued in an effort to increase the capacity of charcoal for agent absorption. Studies will continue on air purification using high heat sources. Work will continue on developing chemical simulant tests for full collective protection systems. Carbon sorbent modification will also be investigated to enhance protection from blood agents and storage stability.
			5. An intensive management program was initiated to develop a high performance mask by fiscal year 1976 to replace the M17A1 mask. Prototype models were fabricated utilizing several different canister filtering systems and designs for improved flexible lens for better vision and coupling with Army optical instruments. Maximum effort was placed on methods to enhance the performance characteristics of the adsorbent: The intensive management program was redirected by CDC to TC a mask by fiscal year 1981 rather than fiscal year 1976, making a reduction in the rate of expenditure of effort during the 4Q fiscal year 1973. During the next fiscal year: studies will continue on methods to increase the protective capacity of adsorbents to cyanogen chloride; extensive studies will be made on gas aerosol filter media to determine optimum methods for fabricating filtering elements; mechanical design studies will be conducted to investigate methods of attaching the filter to the protective mask in a rapid and reliable manner; design of temporary tooling and fabrication techniques will be performed and prototypes fabricated; materials engineering will be performed on new elastomers for the protective mask facepiece.
			6. Exploratory efforts were continued to determine the parameters which affect the transfer of vapors to the skin from droplet contamination on an outer fabric layer of clothing. Tentative conclusion reached from these studies show that agent vapors perpendicular to the wind direction are more toxic than those parallel to the wind direction, a highly permeable spaced layer increases protection by one order of magnitude and protection increases with increasing wind speed. Efforts continued on a search for a one-layer, carbon-impregnated protective fabric with non-sweat-poisoning charcoal. The search for a non-sweat-poisoning charcoal for use in a one layer charcoal impregnated protective clothing will be continued. Jointly with Natick Laboratories, it is planned to determine if the high air permeability fabric spaced away from the skin will markedly reduce the heat burden imposed by current protective clothing on the operational soldier.

DEPARTMENT OF THE ARMY, SEMIANNUAL REPORT ON CHEMICAL WARFARE AND BIOLOGICAL RESEARCH PROGRAMS (JAN. 1, TO JUNE 30, 1973) RCS DD-D.R. & E. (SA) 1065—Continued

[In conducting the research described in this report, the investigators adhered to the "Guide for Laboratory Animals Facilities and Care" as promulgated by the Committee on the Guide for Laboratory Animal Resources, National Academy of Sciences—National Research Council]

SEC. 1.—OBLIGATION REPORT ON CHEMICAL WARFARE PROGRAM—Continued

Description of effort	Funds obligated (millions of dollars) PY / CFY	In-house / Contract	Explanation of obligation
OBLIGATION REPORT OF RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FUNDS—Continued			7. Studies on the ionization detection technique were concentrated on techniques to reduce the flow rate without affecting sensitivity in an effort to reduce the power requirements. Efforts continued on the electrochemical enzyme concentrating on evaluation of the enzyme urethane pad, fabrication of six prototypes and redesign of the cell. Automatic liquid agent detector paint formulations were continued. A scavenger-type automatic liquid agent detector was fabricated. Studies on luminous biosensor systems were initiated. Plans call for studies on the ionization detection technique as a multi-agent detector to be emphasized. Also, the electro enzyme detectors will be subjected to intensive field interference testing and cell redesign studies will be continued. Automatic liquid agent detection will continue with emphasis on the scavenger-type design. Luminous biosensors will continue to be evaluated and the systems will be tested against field interferences. 8. A Passive LOPAIR system has been evaluated to determine the limits of performance, spectral discrimination and effect of potential interferences. A bread-board Isotopic CO_2 LASER LOPAIR device has been fabricated and delivered. Results indicate that reflectivities exceed minimum projected values required for field evaluations. A comprehensive test and measurement program for the Remote Raman technique was developed and implemented. During the next fiscal year: the ability of the Passive LOPAIR system to spectrally discriminate between agents and interferences will be resolved and limiting parameters of the overall system determined; the bread-board Isotopic CO_2 LASER LOPAIR will be evaluated to determine its theoretical advantages in remote sensing; an operations research study will be performed assessing the advantages and disadvantages of the LASER LOPAIR and Passive LOPAIR; the Remote Raman technique will be evaluated to assess potential for detecting the presence of contamination on terrain. 9. A real-time monitoring program for investigating highly sensitive detection systems for use in stack, working areas and perimeter monitors during C-Agent Demilitarization operations was initiated in 4Q fiscal year 1973. Investigative work has been initiated on candidate detectors and concentrators both in the laboratory and at pilot demil facilities. Three systems for monitoring incapacitating agents were tested for sensitivity: (1) an ionization detector; (2) an electrochemical enzyme alarm, and (3) a pyrolysis-gas chromatograph-electron capture device. During fiscal year 1974 feasibility studies on a real-time C-Agent monitor for application in agent demilitarization plants will be completed and recommendations made for a follow-on development effort. A characterization of demil plant interferences will be attempted so that laboratory interference generators can be built for in-house testing. Evaluation of the three candidate incapacitating alarms for plant use will continue. Sampling technique for dry aerosols will be evaluated. Following the selection of one of the detection techniques, design studies for a prototype plant alarm will be initiated. 10. A comprehensive survey of AMC pollution problems was completed. During fiscal year 1974 remote sensing instrumentation developed under task 1W662710AD27-02 will be evaluated for monitoring components of air pollution effluents. This will include on-site measurements of multiple components, cloud drift and diffusion, tracking contaminants to sources and contaminant cloud mapping. 11. Employing ion cluster mass spectrometry, better than 10 parts per billion of certain phosphonate esters have been detected. Mechanistic studies on the Ionization Detector System have resulted in increased understanding of the detection mechanism of the detector. The characteristic P=O stretching frequency of isopropyl methylphosphonate was detected using Fourier Transform spectroscopy with 10^{-12} g of compound. A direct fluorometric test for G-agents and acylating agents using 2-carboxyisonitrosoacetanilide was improved; sodium carbonate system with heat has specific potential for detection of H. The immobilization of a thermo-stable and highly reactive enzyme B. Stearothermophilus on "Enzite" was accomplished. Work will continue on fundamental chemistry of V, G, and H with a view toward finding direct detection and identification end item systems. High volume sampling techniques will be investigated for use in conjunction with promising detection and identification systems. Research will be carried out on new enzyme sources and immobilization techniques for use in biochemical approaches to detection and identification systems. 12. Two feasibility models of an incapacitating agent detector kit were fabricated under contract. Physical methods for detection using ionization and hydrogen flame emission were investigated. Methods to increase the wetability of enzyme detector tickets were studied. Detection of mustard agents by the DB-3 reaction were initiated. During fiscal year 1974, studies will continue on the hydrogen flame emission device for use in the kit mode. Wetability of enzyme detectors will continue as well as the evaluation of the DB-3 detection system for mustard agents. The incapacitating agent detector kit effort will be concluded by 2nd quarter fiscal year 1974. Special application detection techniques for leaking munitions for CB Surety will be initiated. Studies will continue on detector paints and new principles for detection.
(b) Advanced development of defensive systems.	(−0.006) (.780)	(0.748) (.026)	1. Chemical Agent Detector Kits prototype and simplified samplers were fabricated in-house and tested for storeability as well as challenge to the agents of choice. Problems encountered in testing for mustard agents were apparently resolved by modifying chemical reactants. This improved sampler is currently being evaluated by testing to the requirements. During the next report period testing of the sampler in the Advanced Development phase will be completed. A validation in-process review will be held and the item advanced into engineering development. 2. A contract was initiated to conduct development studies on the Liquid Agent Detector (LAD) relative to the utilization of high energy surfaces and human factors. Laboratory scale paper making equipment was procured and installed to study paper formulations and serve as a limited production facility. Visits were made to other countries to discuss detectors, paper production techniques. B-1 dye in a paper matrix continued to be the material of choice. Various paper pulp formulations will be studied to evaluate additives, calendering and dye particle size. Detectors will be evaluated under accelerated and aggravated storage conditions. Field tests will be performed to evaluate LAD as an indicator for overall body contamination and warning capabilities.
(c) Collective protection systems.	(.000) (.100)	(−.300) (.400)	1. During this report period $300,000 was reprogrammed from in-house to contract an and additional $100,000 contract obligations were incurred for Modular Collective Protection Equipment (MCPE). 2. Engineering development (ED) continued under contract with Donaldson. Contractor fabricated and tested ED hardware. Review was held in June to release design for fabrication of DT II hardware. The expedited program for collective protective equipment for TACFIRE and AN/TSQ-73 was terminated. A mounting bracket for the gas particulate filter unit (GPFU) was designed by Tobyhanna Depot for the TACFIRE and successfully passed the rough road haul. Collective protection compatibility tests on the AN/TSQ-73 shelter were deleted from the DT II requirements for AN/TSQ-73. These tests will be performed as part of the Initial Production Test (IPT). 3. During the next report period hardware will be fabricated and DT II initiated. A limited producibility, engineering and planning (PEP) program will be initiated. Hardware interfaces will be completed for TACFIRE and compatibility tests conducted. Hardware interfaces will be incorporated into production drawings for AN/TSQ-73. Hardware will be procured for use in compatibility tests of AN/TSQ-73 during IPT. Support will be rendered to improve HAWK shelters, if funded.
(d) Warning and detection equipment.	(−.146) (.000)	(.000) (−.146)	1. During this report period $146,000 prior year contract deobligations resulted from contract termination and withdrawal of funds. 2. Engineering development effort will be initiated on the Chemical Agent Detector Kit, XM256, during the next report period. Stability and sensitivity of components will be evaluated with emphasis on reliability, maintainability, human factors and production engineering aspects. The Technical Data Package will be updated and limited production tooling will be fabricated for initial production engineering of hardware. The Engineering Development Test Plan will be updated.
(e) Medical defense against chemical agents.	(.000) (.949)	(.949) (.000)	1. An extensive sutdy of the role of the liver in the excretion of therapeutic drugs has been initiated by baseline studies with pentobarbital, indocyanine green (ICG) and antipyrine (AP). The effects of stress (temperature, exercise, dehydration, etc.) on clearance rates are being determined. The physiological factors governing wearability of protective masks have been studied and ranked as follows: neuromuscular fatigue, respiratory impedance in heavy work, heat stress, metabolic limitation, mechanical trauma, psychological exhaustion. Guidelines have been established. The effectiveness of cooling by evaporation of water from clothing was determined on men clad in the standard protective outfit (cloth not impregnated in order to allow uptake of water). As the amount of water initially present in the clothing increased, the amount of body heat lost by evaporation decreased. The actual decrease was greater than predicted. Evaluation of protective material with respect to stress (temperature, physical, and chemical) will continue. Stability studies of therapeutic drugs in newly developed containers for storage, injection, etc. will be conducted as needed.

Description of effort	Funds obligated (millions of dollars) PY CFY	In-house Contract	Explanation of obligation
OBLIGATION REPORT OF RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FUNDS—Continued			2. Because the binding constant is a measure of effectiveness of a vaccine, new methods for increasing the sensitivity and reliability of measurement are in process. Emphasis has been directed to a vaccine against an analog of GD. The binding ability of erythrocyte antibody (Anti-E) has been correlated with the results from histochemical staining and electromicroscopy to permit counting of binding sites on leucocyte membranes. The visual identification of occupied binding sites when leucocytes are exposed to a vaccine indicates how many cells react (recognize) with a given antibody, the titer of amount of reacting antibody in the vaccine sample, and permits identification of blood donors (animals or men) who would receive no agent protection from a vaccine. To correlate physiological protection with levels of circulating antibody, several new methods have been developed. The level of antibodies against paraoxon is currently under investigation using a variation of specific immunoabsorbent column. This method has several inherent advantages. The method employs the natural ability of antibodies to bind antigens specifically and uses the peroxidase-antiperoxidase method to provide high sensitivity. The latter method (previously developed for use in histochemical staining in these laboratories) has many potential uses. Newly developed, sensitive, and accurate methods of measuring hemoglobin and methemoglobin in blood have been applied to assess the effectiveness of amyl nitrite as a means of treating cyanide poisoning. Attempts will be made to immunize species other than rabbits. 3. The spontaneous reactivation of AChE under various experimental conditions (aging pH) is under study. The effect of simultaneous injections of 2-PAM Cl (10 or 30 percent solutions) and atropine into rabbits was tested. The 10 percent solution produced higher blood levels of 2-PAM at 5, 15, 30, and 60 min than did the 30 percent solution whether the same site of injection or different ones were selected for 2-PAM and atropine. The synthesis of ACh in cat brain has been examined by simultaneously injecting and withdrawing fluid in a double cannula inserted into the brain. When tritium labelled choline is added to the perfusate, labelled ACh is formed. Movement from the site of formation appears to be slow. The complete amino acid sequence for the serine active site of eel ACh has been mapped out. A complete analysis of amino acids has also been performed with results in terms of numbers of residues per 60,000 sub-unit weight. A study of urinary excretion of 2-PAM Cl have shown that it is largely eliminated by a base-secreting mechanism rather than an acid-secreting process as previously thought. Thiamin decreases renal elimination of 2-PAM. The intramuscular injection of 2-PAM causes some tissue damage, which in turn causes release of creatine phosphokinase (CPK) proportional to 2-PAM injections. Measuring CPK in plasma will, therefore, give an indication of the extent of damage. It should be noted that exercise also causes CPK release and that i.v. 2-PAM does not increase CPK level. Recent experiments with dogs given 0.9–400 ug/kg atropine have shown that the maximum heart rate developed is not dose-related but the half-time for return to normal is. The plasma clearance of atropine exceeds clearance in liver and kidney combined. The analysis of physiological factors involved in cyanide poisoning and emergency treatment has suggested new concepts in the causes of death and methods of treatment. The release of large quantities of histamine and a pooling of venous blood in the hepato-splanchnic bed (which accompanies cardiovascular collapse in dogs given a lethal i.v. dose of NaCN) may be more harmful than the inibition of the cytochrome oxidase system (commonly thought to be the lethal process). Amyl nitrate and oxygen are effective in reversing cyanide poisoning probably by relieving circulatory distress. Studies similar to the foregoing will be continued in an effort to solve problems in prophylaxis and therapy as related to poisoning by lethal chemical agents. 4. The toxicity to mice of nine potential antagonists to glycolate agents has been measured. One of these compounds (843,884) has low toxicity and shows enough activity against EA 3834 to warrant further examination. A new cytotoxic mechanism has been discovered in cells exposed to H. This process involves depurination of mono-alkylated bases followed by formation of crosslinks in the two strands of DNA. Some crosslinking of this type occurs normally and has been considered a part, if not a cause, of aging. It has also been found that cellular resistance to H poisoning can be increased by inhibiting protein synthesis by removing an essential amino acid from the culture medium. This is thought to promote DNA synthesis and repair, essential processes in recovery from H injury. The preparation of military purchase descriptions for physostigmine is complete and is being submitted. Preliminary studies have been carried out to examine the binding of EA 3834 to the resin XAD2 and to cholestyramine; both resins are effective. The XAD2 resin has somewhat higher binding capacity and a wider pH range than the latter. Efforts to find prophylactic and therapeutic drugs to be used against poisoning by incapacitating agents will continue. 5. A recently acquired polymer solution, identified as MPD 3856, has given good results in protecting animals against percutaneous penetration by liquid VX. Efforts are being made to overcome the problem of bubble formation by using a more suitable solvent system. Formulations suitable for aerosol delivery and for application as creams or ointments are being investigated. Liquid and vapor penetration properties of promising films are being studied relative to water, lethal agents, and irritants. Wearability of promising films on animals is being evaluated. When warranted, similar studies on human volunteers will be carried out. Essential to the development of effective and improved skin decontaminants (and currently being investigated) is the nature or mechanisms of the reaction between VX, GD and other lethal agents and the decontaminants, such as aqueous hypochlorite, dichlorethylene carbonate, and S–330. Previous studies (in which the results of Contractor's investigations were exploited) have provided promising leads to new decontaminants. Their effectiveness for decontaminating skin of laboratory animals contaminated with VX, GD, EA 1356- and EA 5365 will be evaluated.
(f) Army materiel development (suitability) tests.	(0.000) (.456)	(0.456) (.000)	Obligations were incurred for the Suitability and Environmental surveillance testing of the U.S. Army's defensive equipment and materiel. Engineering tests were planned, conducted and/or reported for the following test items: 1. CB Protective Clothing for Explosive Ordnance Disposal Personnel: Test is designed to determine the ability to the suit to meet approved small development requirements. During this report period testing was completed. This included the following phases: (1) transportation, vibration and rough handling tests; (2) biological and chemical aerosol challenges of the suit; (3) environmental operations wearing trials; (4) Service tests at Redstone Arsenal. Minor deficiencies were noted and as a result the developer made corrections and submitted a new suit for testing Final report will be published July 31, 1973. 2. 200 CFM Modular Collective Protection Equipment (MCPE) for TACFIRE: This test is designed to determine the interface hardware system compatability and the overall capability of the MCPE as applied to TACFIRE to meet the protection requirement of system specifications. During this period the test plan was coordinated and published. Rough road haul test was completed at Aberdeen Proving Ground, data provided DTC. Further testing has been suspended at this time. 3. 200 CFM Modular Collective Protection Equipment (MCPE): This test is designed to perform an Engineering and Expanded Service Test and to determine the capability of the MCPE to meet the protection requirements as outlined in requirement documents. During this period the test directive was amended. Informal coordination on a draft test plan was completed. Final test plan will be submitted in July 1973 to TECOM for approval. Testing will be initiated March 1974. 4. Environmental Surveillance Items: The environmental surveillance program for the 3d and 4th quarters of fiscal year 1973 had a total of 19 items undergoing some phase of the long term surveillance and storage at one or more of the test sites. These items consisted of chemical detection and decontamination devices, incendiary weapons, protective masks, winterization kits, protective hoods, etc. One item completed the cycle of long term storage and was reported. Three new items were initiated into the test program during this period. 5. CB Protective Handwear: This test effort is designed to determine the physical durability and sizing characteristics of the CB protective handwear and to evaluate the safety aspects of the handwear. During this period, planning has been completed, test plan published and testing to be initiated 1st quarter fiscal year 1974.

DEPARTMENT OF THE ARMY, SEMIANNUAL REPORT ON CHEMICAL WARFARE AND BIOLOGICAL RESEARCH PROGRAMS (JAN. 1, TO JUNE 30, 1973) RCS DD-D.R. & E. (SA) 1065—Continued

[In conducting the research described in this report, the investigators adhered to the "Guide for Laboratory Animals Facilities and Care" as promulgated by the Committee on the Guide for Laboratory Animal Resources, National Academy of Sciences—National Research Council]

SEC. 1.—OBLIGATION REPORT ON CHEMICAL WARFARE PROGRAM—Continued

Description of effort	Funds obligated (millions of dollars) PY CFY	In-house Contract	Explanation of obligation
OBLIGATION REPORT OF RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FUNDS—Continued			
5. Simulant test support	0.000	0.449	
	.449	.000	
(a) Materiel tests in support of joint operational plans and/or service requirements.	(.000)	(.449)	Obligations were incurred in the planning, conduct and/or reporting of joint operational tests and operations research studies. During this period the following tests and studies were in progress: 1. DTC 70-11 Phase I: This test effort is in response to U.S. Army, U.S. Navy, and U.S. Air Force requirements and is concerned with the vulnerability of military installations and equipment to chemical attack and decontamination problems associated with such an attack. During this period testing is in progress, 5 of 8 large scale elevated line source releases of chemical simulants tagged with flourescent particles were completed using F4 aircraft and the TMU 28/B spray system. Data analysis is in progress. Project completion is scheduled for September 1973. 2. DTC 70-11 Phase II: This test effort is in response to U.S. Army, U.S. Navy, U.S. Marine, and CINCLANC requirements and is designed to establish the technical aspects of the threat from massive chemical attack including agent characteristics, delivery mode, decontanination capability, and associated test equipment and procedures for evaluation of such threat to military troops and equipment. During this period, the test plan for the laboratory and limited field tests has been coordinated and published. Testing has been initiated and is scheduled for completion August 1973. 3. DTC 71-152 Phase II: This study effort is in response to a CINCLANT requirement and is designed to determine the effectiveness of aerially disseminated chemical aerosols over jungle and forestal areas. Operations research study was published in January 1973.
	(.449)	(.000)	
OBLIGATION REPORT OF PROCUREMENT FUNDS			
Chemical warfare program	4.291	3.912	During the second half of fiscal year 1973, the Department of the Army obligated $11,331,002 for procurement activities associated with chemical warfare agents, weapons systems, defensive equipment, and production base projects. Program areas of effort concerned with these obligations were as follows: Lethal chemical program: Materiel procurement 0; Production base projects $2,400,000; Total, lethal chemical 2,400,000. Incapacitating chemical program: Materiel procurement 0; Production base projects 0; Total, incapacitating chemical 0. Defensive equipment program: Materiel procurement 8,931,002; Production base projects 0; Total, defensive equipment 8,931,002.
	7.040	7.419	
1. Lethal chemical program	2.000	2.400	
	.400	.000	
(a) Item procurements	(.000)	(.000)	No obligations were incurred for procurement of lethal chemicals.
	(.000)	(.000)	
(b) Production base projects:			
(1) (APE) Advanced production engineering for 155 mm Binary project XM687.	(.000)	(.000)	Obligations incurred to conduct advanced production engineering on the end item (155MM Binary production process.) Objectives and benefits of the project are: Objectives: 1. Investigate manufacturing and processing procedures in the filling, closing lack testing, and LAP of the 155MM projectile. 2. Review the form, fit and function of the projectile components their assembly and quantity manufacture with its related documentation. 3. Simplify, improve reliability, and reduce cost. 4. Improve and finalize production and processing techniques. Benefits: 1. Assured fielding of end items which are safer and more reliable. 2. A mass producible nontoxic end item suitable for quantity production.
	(.400)	(.000)	
(2) Chemical agents munitions disposal system (CAMDS).	(2.000)	(2.000)	Obligations incurred for continuing design and fabrication of a multipurpose disposal system for use in detoxifying and/or disposing of toxic agents and obsolete chemical munitions. Ultimate system will consist of a series of modules which can be transported to storage sites of toxic agents/munitions, assembled and operated to detoxify and dispose of material.
	(.000)	(.000)	
2. Incapacitating chemical program	.000	.000	No obligations were incurred for procurement of chemical incapacitating agents or weapon systems.
	.000	.000	
3. Defensive equipment program	2.291	1.512	
(a) Item procurements:	6.640	7.419	
(1) Mask, tank, M25A1.	(.020)	(.598)	Obligations incurred for procurement/production and in-house engineering support of protective mask used to provide CBR respiratory protection to the wearer in a combat vehicle.
(2) Shelter systems, M51.	(.951)	(.373)	
	(.026)	(.000)	Obligations incurred for procurement of transportable collective protection equipment used to provide protection from toxic CB agents in the field.
(3) Decontaminating apparatus, M12A1.	(2.952)	(2.978)	
	(.000)	(.110)	Obligations incurred for procurement and in-home engineering support of decontaminating apparatus.
(4) Filter unit, M13A1.	(.756)	(.646)	
	(.000)	(.079)	Obligations incurred for procurement and in-house engineering support of filter units which are installed in armored vehicles to provide purified air to crew members.
	(.511)	(.432)	
(5) Alarm, M8	(2.245)	(.725)	Obligations incurred for procurement and in-house engineering support of chemical agent alarms.
	(1.470)	(2.990)	

DEPARTMENT OF THE ARMY, SEMIANNUAL REPORT ON CHEMICAL WARFARE AND BIOLOGICAL RESEARCH PROGRAMS (JAN. 1, TO JUNE 30, 1973) RCS DD-D.R. & E. (SA) 1065—Continued

[In conducting the research described in this report, the investigators adhered to the "Guide for Laboratory Animals Facilities and Care" as promulgated by the Committee on the Guide for Laboratory Animal Resources, National Academy of Sciences—National Research Council]

SEC. 2.—OBLIGATION REPORT ON BIOLOGICAL RESEARCH PROGRAM

Description of effort	Funds obligated (millions of dollars) PY CFY	In-house Contract	Explanation of obligation
OBLIGATION REPORT OF RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FUNDS—Continued			
Biological research program	0.100 4.102	3.787 .415	During the second half fiscal year 1973, the Department of the Army obligated $4,202,000 for general biological research investigations and the development and test of physical and medical defensive systems. Program areas of effort were as follows: Biological research: Basic research in life sciences 0 Exploratory development 0 Total, biological research 0 Defensive systems: Exploratory development $3,087,000 Advanced development 270,000 Engineering development 0 Testing 423,000 Total defensive systems 3,780,000 Simulant test support 422,000
1. Biological research	.000 .000	.000 .000	Funds for this effort were obligated in the 1st half of fiscal year 1973.
(a) Basic research in life sciences.	(.000) (.000)	(.000) (.000)	Mass spectrometry analysis of hydrolysis products from microbial nucleic acids is undergoing research as a new biological identification approach. Initial findings are favorable for the feasibility of this approach. Contract and in house research will continue on evaluating the mass spectrometry approach for identification of microorganisms from samples of biological aerosols in the presence of atmospheric ambient background.
(b) General biological investigations.	(.000) (.000)	(.000) (.000)	A cost effectiveness study for the chemiluninescence Biological Detector system was reviewed in May 1973. This study was limited to a field army in a defensive posture. A theoretical study of detector deployment logic for large scale line source attacks is being finalized and will aid in the recommended optimum array for protecting large target areas. The report on potential threat of foreign biological attack is being finalized for review and comment. Data are being collated on disease outbreaks throughout the world with the aim of advancing the state-of-the-art in differentiating artificially caused outbreaks as opposed to naturally occurring ones. Cost effectiveness studies will continue to examine the additional protection provided and the additional costs incurred by placing alarms with dedicated personnel. Detector deployment arrays will be developed for multiple point source attacks using probability theory and measuring the number of casualties prevented. A data base of population densities, meteorological data and geographical features will be developed to determine the probability of a successful attack on a specific target. Data will continue to be collected and collated on disease outbreaks. A potential biological agent will be selected and a compendium compiled on instructions for prophylactic countermeasures, therapy and treatment, and practices to assist in termination of the disease.
2. Defensive equipment program	.100 3.680	3.365 .415	
(a) Physical defense against biological agents.	(.100) (.000)	(.100) (.000)	Exploratory development effort during this report period was expended follows: 1. The contract to develop a formaldehyde generator-neutralized was completed and two prototype units delivered. Hydrogen peroxide was selected as the neutralizer. Approximately 1,000 compounds were screened for potential biological decontamination capability with none having sufficient promise to warrant further investigation. Paraformaldehyde was recommended as a replacement for BPL as a biological decontaminant in supply system. The prototype generator-neutralizer units will be evaluated for determination of minimum concentrations of hydrogen peroxide, optimum methods, times of application and effectiveness. Available compounds will continue to be screened for effectiveness. 2. The contract to study the elimination of background through characterization and identification on interferants has resulted in the identification of substances which give positive response to the XM19. Most of these are large particles capable of being removed by particle separation methods. Investigations into the preparation group specific bacterial anti sera have resulted in the preparation of individual antigens to serve as base lines for evaluation on antigens for four bacterial pathogens prepared in a single animal. Moderate titers have been obtained. The remote detection of biological aerosols has resulted in the establishment of optimum conditions for excitation and measurement of peak fluorescence emission. The emissions and decay times will probably be suitable for remote laser detection of concentrated biological aerosols. The mobile alarm study has indicated that there are advantages to a mobile detector, potential methods of employment and evidence of feasibility. An analysis of the data resulting from the exploratory studies will be made and continuation of efforts deemed feasible will be supported.
(b) Biological defense material concepts.	(.000) (.270)	(.430) (−.160)	During this report period $160,000 was reprogrammed from contract to in-house, and an additional $270,000 of in-house funds were obligated to continue in-house effort on detector and system/component development. Advanced development effort was expended as follows: 1. The XM19 (Alarm, Biological Agent Automatic: Chemiluminescence) contract effort furnished Phase I prototype models and components incorporating background elimination devices/techniques, improved alarm logic and many mechanical features to improve maintainability, reliability and efficiency. They have been tested and evaluated with simulant agents and the results have led to further improvements. The contract effort on the Sampler, Biological Agent: XM2, has resulted in the large volume concentrator-wet being selected for incorporation into the XM19. Physiological saline has been selected as the best collecting fluid/media. Phase II XM19 devices, incorporating the best features of the Phase I models, will be tested and evaluated at various locations for background determinations and against various pathogens in controlled chambers. Incorporation into this testing will be the XM2 Sampler for evaluation. 2. A comprehensive computer program and methodology has been developed and evaluated considering large scale, high casualty line source attacks, alarm logics, various agents and size zone defended. A cost-effectiveness study has been started utilizing an Army size target considering various deployments and numbers of devices required, all with associated costs. The systems computer model will continue to be exercised with various network variables to assess, define and formulate reasonable, effective and economical networks.
(c) Medical defense against biological agents.	(.000) (2.987)	(2.412) (.575)	1. The experimental program of the Insitute is targeted toward: (a) infectious illnesses which pose special problems to our military forces; (b) medical defense against biological warfare; and (c) the safe study of infectious, highly dangerous microorganisms in the unique and special containment facilities of the Institute. A variety of experimental approaches is used to solve these problems as illustrated by: (a) infectious disease models are developed in laboratory animals and the resulting information is extrapolated and applied to man; (b) the defense mechanisms of the body are studied and stimulated in an effort either to prevent an infectious disease or to reduce its harmful effects among military personnel; (c) rapid accurate laboratory methods are developed for identifying causative microorganisms before,or soon after, illness begins thus permitting therapy to be instituted early in the disease process; (d) techniques are developed to measure subtle changes that occur at the molecular level in cells of the infected host. An understanding of these mechanisms is basic to establishing effective measures to combat disease. 2. Efforts will continue during fiscal year 1974 to exploit the information obtained previously. All aspects of the program will continue to emphasize infectious illnesses of military importance. None of these or future studies is directed toward offensive biological research and development.

DEPARTMENT OF THE ARMY, SEMIANNUAL REPORT ON CHEMICAL WARFARE AND BIOLOGICAL RESEARCH PROGRAMS (JAN. 1, TO JUNE 30, 1973) RCS DD-D.R. & E. (SA) 1065—Continued

[In conducting the research described in this report, the investigators adhered to the "Guide for Laboratory Animals Facilities and Care" as promulgated by the Committee on the Guide for Laboratory Animal Resources, National Academy of Sciences—National Research Council]

SEC. 2.—OBLIGATION REPORT ON BIOLOGICAL RESEARCH PROGRAM—Continued

Description of effort	Funds obligated (millions of dollars) PY / CFY	In-house / Contract	Explanation of obligation
OBLIGATION REPORT OF RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FUNDS—Continued			
(d). Materiel tests in support of joint operational plans and/or service requirements.	(0.000) / (.139)	(0.139) / (.000)	Obligations were incurred in support of a test effort designed to investigate the naturally occurring particulate materiel presen in the marine atmosphere and at the land-sea interface. Data will be utilized in design criteria for biological detection and warning devices. During this period the sampling and analyzing equipment used in the October 1972 sea trials was refurberated, recalibrated and shipped to the Navy Undersea Center at San Diego, California. A second sea trial was conducted aboard the oceanographic vessel USNS Silas Bent (T-AGS 26) during February and March 1973. Samples were taken daily while the ship traveled a route covering 7,000 nautical miles. Trial was successful and preliminary analyses of the data indicate similar results as those obtained during the October 1972 at sea trial. Final Report will be published 1st quarter fiscal year 1974.
(e) Army materiel development (suitability) tests.	(.000) / (.284)	(.284) / (.000)	Obligations incurred were for the advanced development testing of the biological detectors (chemiluminescence and partichrome). The testing is designed to evaluate the technical performance of two candidate biological detectors under various environmental conditions and to ensure the detectors meet the requirements of system specifications. During this period test plans were prepared, coordinated and published covering the pathogen/nonpathogen chamber exposures test and the open air field challenges utilizing nonpathogen in order to determine detector performance. Chambers testing has been completed. Eight nonpathogen field challenge trials were conducted. Data analysis has been initiated. A background particulate study in a desert environment was completed at Dugway Proving Ground. Testing is expected to proceed for a period of approximately 18-24 months.
3. Simulant test support	.000 / .422	.322 / .000	Obligations were incurred in the planning, conduct and/or reporting of Joint Operational Tests and/or Operations Research Studies in response to CINC and Service requirements. Testing is in consonance with the current national policy for CB. The following tests and studies have been pursued during the period 1 January 1973 through 30 June 1973.
a. Materiel tests in support of joint operational plans and/or service requirements.	(.000) / (.422)	(.422) / (.000)	1. DTC Test 70-74 Phase II: This test effort, in response to an Army requirement, is designed to develop the mobile van/microthread technique into a useful tool for field experimentation in order to obtain essential data in the effects of atmospheric pollutants on biological aerosols. Data will be applicable to studies determining U.S. vulnerability to biological attack. During this period field trials to demonstrate the validity of the microthread technique in the mobile van were completed. Data analysis and final report is in progress. Report will be published 1st quarter fiscal year 1974. Design, fabrication and installation of a dual microthread system in the mobile van is scheduled for fiscal year 1974. Additional stimulant work is required prior to finalization of the van/microthread concept for acceptable field experimentation. This effort will continue in fiscal year 1974. 2. DTC Test 73-30: This test effort, in response to a U.S. Army requirement, is designed to obtain data on the effect of sunlight on biological material. Data will be applicable to studies determining U.S. vulnerability to biological attack. During this period a test plan was published. Four field trials were conducted under two test methods: (1) microthread technique and (2) conventional field aerosol release. Preliminary evaluation indicates a good correlation of biological decay can be obtained by use of the microthread technique. Final report is scheduled for publication 1st quarter fiscal year 1974. 3. DTC Study 71-160 Phase IV: This study is to evaluate the CB protective posture of severa. key/critical facilities in CINCLANT's area of responsibility and to make recommendations for minimizing the vulnerability of the facilities. During this period a site survey of the selected facilities was completed. Initial theoretical CB challenges by the use of current models have been completed. Final Report is scheduled for publication October 1973. 4. DTC Study 73-115: This study effort in response to a U.S. Army and a CINCLANT requirement is designed to develop a rationale for establishing decontamination requirements for specific targets as they may vary with climate, area usage and agents. During this period the literature search has been completed. All data compiled and analyzed. Draft report has been initiated. Final report is scheduled for publication August 1973.
OBLIGATION REPORT OF PROCUREMENT FUNDS			
Biological research program	.000 / .000	.000 / .000	During the second half fiscal year 1973, the Department of the Army obligated $-0- for procurement activities associated with biological defensive equipment and production base projects.

SEC. 3.—OBLIGATION REPORT ON ORDNANCE PROGRAM

OBLIGATION REPORT OF RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FUNDS			
Ordnance program	0.009 / 1.320	0.856 / .473	During the second half Fiscal Year 1973, the Department of the Army obligated $1,329,328 for general research investigations, development and test of smoke, flame, incendiary, herbicide, riot control agents and weapons systems, and other support equipment. Program areas of effort concerned with these obligations were as follows: Smoke, flame and incendiary program ..... $32,000 Herbicide program ..... 272,458 Riot control program ..... 91,870 Other support equipment program ..... −55,000 Test support 998,000
OBLIGATION REPORT OF PROCUREMENT FUNDS			
Ordnance program	4.293 / 22.084	3.815 / 22.562	During the second half of fiscal year 1973, the Department of the Army obligated $26,377,000 for procurement activities associated with smoke, flame, incendiary, herbicide, riot control agents, and weapons systems and other support equipment. Program areas of effort concerned with these obligations were as follows: Smoke, flame, and incendiary program ..... $25,428,000 Herbicide program ..... 0 Riot control program ..... 525,000 Other support equipment 424,000

DEPARTMENT OF THE NAVY, SEMIANNUAL REPORT ON CHEMICAL WARFARE AND BIOLOGICAL RESEARCH PROGRAMS (JAN. 1, TO JUNE 30, 1973) RCS DD-D.R. & E.(SA) 1065

[No funds were obligated during the second half fiscal year 1973 for RDT & E activities in the chemical warfare program, the biological research program, or the ordnance program. No funds were obligated during the second half fiscal year 1973 for procurement activities in the biological research program.]

[In thousands]

Description of procurement effort	Funds obligated: PY Fiscal year 1973	Funds obligated: In-House Contracts	Explanation of obligation
1. Chemical warfare program	0	291	For the procurement of clothing outfit, chemical protective.
	291	0	
2. Ordnance program	−61	−41	For the procurement of smoke and incendiary devices.
	20	0	
			Smoke:
			Grenade Hd, Smk Yellow:
			Prior year 0
			Fiscal year 1973 20,000
			Incendiary:
			Ctg 81MM Smk, WP, M375/C276:
			Prior year −61,000
			Fiscal year 1973 0
			Prior year funding decreased from $1,323,000 to $1,262,000 as a result of unit price decreases.

DEPARTMENT OF THE AIR FORCE, SEMIANNUAL REPORT ON CHEMICAL WARFARE AND BIOLOGICAL RESEARCH PROGRAMS (JAN. 1, TO JUNE 30, 1973) RCS: DD-DR&E(SA) 1065

SEC. 1.—CHEMICAL WARFARE LETHAL AND INCAPACITATING AND DEFENSIVE EQUIPMENT PROGRAMS

[In thousands of dollars]

Description of R.D.T. & E. effort	Prior year / Current year	In-house / Contract	Explanation of obligations
OBLIGATION REPORT OF RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FUNDS			
Defense equipment program:			
Explanatory development	0	0	
	0	0	
Engineering development	0	0	Survey of existing Air Force Collection structures and development of Modification Kits for collection structures.
	100.0	100.0	
Total defensive	0	0	
	100.0	100.0	
Total R.D.T. & E. obligations	0	0	
	100.0	100.0	

SEC. 2.—BIOLOGICAL RESEARCH PROGRAM—NEGATIVE

SEC. 3.—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FUNDS AND PROCUREMENT FUNDS, FOR FLAME, SMOKE, INCENDIARY, RIOT CONTROL AGENT AND HERBICIDE MUNITIONS AND AGENT/MUNITION SYSTEMS AND OTHER SUPPORT EQUIPMENT

[In thousands of dollars]

Description of procurement effort	Prior year / Current year	In-house / Contract	Explanation of obligation
OBLIGATION REPORT OF PROCUREMENT FUNDS			
Procurement			In support of Southeast Asia operations and Air Force training requirements.
Anti-PAM 510 .b BLU-32	[1]−2.0	0	
	220.0	220.0	
Anti-PAM 750 lb BLU-27	0	0	
	–	–	
	0	0	
Incendiary cluster 750 lb M-36	0	0	
	–	–	
	0	0	
Smoke bomb 100 lb PWP M47-A-4	0	70.0	
	70.0	0	
Total procurement obligations	[1]−2.0	70.0	
	292.0	220.0	

[1] Negative (−) figures represent a deobligation of funds due to price decreases.

NOMINATION OF THE HONORABLE GERALD FORD

Mr. HUGH SCOTT. Mr. President, an editorial in Tuesday's Philadelphia Inquirer states eloquently the need for the Congress to proceed to consider the nomination of the Honorable GERALD FORD to be the next Vice President of the United States. I ask unanimous consent that this editorial be printed in the RECORD.

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

[From the Philadelphia Inquirer, Oct. 30, 1973]

ON WITH THE FORD HEARING

Amid all the other uncertainties which inevitably and indefinitely will be hanging over Washington, one which can and should be removed without further delay is the selection of a new Vice President.

In accordance with the 25 Amendment to the Constitution, President Nixon has sent his nomination of Rep. Gerald Ford to the Congress.

It is not only appropriate but essential, given the crisis of confidence now afflicting our national leadership, that Mr. Ford be thoroughly investigated and carefully questioned before his nomination is acted upon. He himself has said he would want it no other way.

But it would exacerbate, rather than ease, the situation to hold Mr. Ford hostage—as some Democrats want to do—to extract concessions from Mr. Nixon. That would not only leave a dangerous vacuum in the order of succession but would feed the suspicions that some extreme partisans are seizing upon the current chaos to try to overturn the results of the 1973 election.

Mr. Ford's nomination deserves consideration on its merits. If he measures up, he should be confirmed—without regard to other questions—as quickly as deliberate consideration will permit. If he does not, then the nomination should be rejected so that another may be submitted and the nation's second highest office may be filled.

NATIONAL HEALTH INSURANCE

Mr. KENNEDY. Mr. President, I ask unanimous consent that the following statement concerning national health insurance be reprinted in the RECORD. The statement was written by Mr. Alfred Baker Lewis, national treasurer emeritus of the National Association for the Advancement of Colored People.

The statement summarizes the health care crisis in our country in its various aspects and supports passage of the health security program, a national health insurance bill which I have introduced in the Senate.

Mr. Lewis' statement deserves careful attention.

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

LET US GET GOVERNMENT HEALTH INSURANCE

A bill has been introduced in Congress by Senator Kennedy, S. 3 to provide a system of government health insurance to cover practically all medical, hospital, and dental bills for everyone, except those injured in industrial accidents which are already covered by workmen's compensation liability insurance.

The bill should be passed.

It is absurd that a person hurt while at work gets his hospital and medcal bills taken care of regardless of fault, while a person injured in some other accident, such as an auto crash, has no such coverage.

We should, but do not, have the best medical care. Those who have opposed government health insurance, mainly the American Medical Association argue that we already have the best medical care. We don't.

We are the richest country in the world. We have potentially the best medical care in the world bcause we can afford it. We can and do spend more on medical research than any other country. But we break down in delivering good medical care to those who need it. The reason is that we rely mainly on an ineffective fee-for-service system.

The best test of good medical care is infant mortality. If we had the best medical care we would have the lowest infant mortality. We don't. We are 15th from the lowest. The facts are as follows: The infant mortality rate for the United States is 22.1 per 1000 live births. The rates for other countries having lower infant mortality rates than ours are:

Japan	20.2
Taiwan	13.3
Denmark	16.9
Finland	15.0
France	17.1
E. Germany	21.2
Iceland	13.7
Luxembourg	20.4
Netherlands	14.7
Norway	16.8
Sweden	12.6
United Kingdom (England)	18.8
Australia	18.2
New Zealand	17.7

In addition, Canada, which also has government health insurance, has a lower death rate than ours, namely 7.3. Ours is 9.4. Canada's infant mortality rate is slightly higher than yours, namely 23.1.

(The figures are from the 1970 Encyclopedia Britannica. They get them from the United Nations Monthly Bureau of Statistics for October 1968; Population and Vital Statistics Report July 1, 1968, and Demographic Year Book 1967.)

Every country, including two Asiatic countries and one Communist Country, that has lower infant mortality than ours has some form or other of government health insurance or actual state medicine. Furthermore, our position has worsened. A dozen years ago we were 5th not 15th from the lowest.

This is a fact which cannot be argued away. We can ignore it, as the opponents of government health insurance do. But they do so at the expense of the nation's health.

It is undeniable and inexcusable that we don't deliver medical care to those who need it.

It has been argued that the reason for our too high infant mortality rate is the high rate among Negroes. It is true that the general life expectancy for Negroes is between 10% and 11% lower than that for whites and their infant mortality rates are higher by that much or more. But this is added proof of our lack of proper and reasonable delivery of medical care. For Negroes are basically as healthy and hardy as whites if not more so. If you doubt that, you have only to look at the figures for the Olympic games.

In the 1964 Olympics, one college, Tennessee A&M in Nashville, with 15,000 Negro students, had 7 gold medalists. No other college had more than one gold medalist except the University of California, which has some 90,000 students, over 90% of them whites; and it had two gold medalists. When 15,000 Negro students turned out 7 gold medalists and nearly 90,000 white students won 2 gold medals, no one can say that Negroes are not healthy and hardy. They are. If they don't live quite so long—and they don't—and have a higher infant mortality rate than whites—which they do—it is because of the harder economic conditions under which on an average—they have to live, and part of these harsher economic conditions is poorer medical care.

The 1968 Olympics told the same story. The proportion of Negro to white gold medal winners on the American team was higher than their proportion to the general population.

GOVERNMENT HEALTH INSURANCE MAY REDUCE THE SOCIAL COST OF MEDICAL CARE

There is nothing in government health insurance that will increase the cost of medical care, though it will add to the Federal budget. That is why the statement by Mr. Veneman of HEW that the cost would be far too high is absurd. The cost of ill health is already borne by the members of the community. If a man becomes ill or injured in a non-industrial accident, the cost is borne by him if he can afford it. His family pays part of the cost. His employer suffers the loss of his work, and in a sense the whole community loses from the loss of his productive labor. Some of the financial cost may be borne by an insurance company, which means in the long run by the premiums of the policy holders. If he is indigent, or the illness forces him to become so, the state and local taxpayers, who pay for public welfare relief, carry the load. The cost is there. Someone in the community pays it. All that health insurance does is to distribute the cost around in a more just and equitable manner.

Part of the trouble with health care is that the availability of it is very unevenly distributed. If you live in a poor community the chances are that there is not good medical care readily available even if you can afford it. Most physicians, like others, want to live and practice where the money is. So poor communities have far fewer doctors or dentists in proportion to the population than richer ones.

We recognized this fact by trying to stimulate the building of hospital and health centers in places which lack them through the Hill-Burton Act. This has reduced somewhat but not eliminated the present maldistribution of medical care.

If you are unfortunate enough to be on relief the situation is worse. Most relief costs are paid for by local taxes, mainly real estate taxes, with some subsidies from the state governments. This means, if relief is to be adequate, that the poor would have to be taxed heavily to support the destitute living among the poor, of whom there are many; while wealthier persons living in richer communities are taxed only lightly to support the destitute living among the rich, of whom there are few. This is clearly unjust. Also, it intensifies the maldistribution of medical care because the poorer localities simply cannot pay the taxes to provide adequate relief including medical care for those who need it and cannot pay for it.

Here, too, we have recognized this to some extent by medicare, by substantial Federal contributions to specialized forms of relief like aid to dependent children and aid to the blind and disabled. Also it is the idea behind President Nixon's proposal to establish through Federal funds a guaranteed minimum income. The suggestion is a good beginning, although the amount of the guaranteed minimum income is less than half of what the Labor Department says is needed for an existence minimum.

There are additional reasons why the social cost of medical care would almost certainly be less under a system of government health insurance than it is now.

Too many people, when they begin to get sick, put off going to the doctor because of the expense. Inevitably, when they finally do have to go, the disease is apt to have a stronger hold and the cure is likely to take longer than would have been the case had

he or she sought medical care earlier. If they could get medical care by government health insurance without personally paying for it through the fee-for-service system, they would be less likely to put off going to the doctor until too late.

PRESENT ACCIDENT AND HEALTH INSURANCE COSTS ARE TOO HIGH

A good deal of accident and health insurance costs are now carried by private insurance companies. Most of the policies are not sufficiently comprehensive. Some are only for disaster insurance, paying the cost of hospitalization if it goes above a certain fairly high level. Nearly all the group insurance policies that I know exclude mental illness and dental care. Nearly all individual policies exclude the cost of care for illness growing out of a pre-existing physical condition. The cost of maternity coverage is very high for those in the marital and age bracket that need it most.

Above all, all the policies are unnecessarily expensive because of the high acquisition costs. These acquisition costs are mainly broker's fees and advertising expense. They are totally unnecessary from a social point of view, and would be eliminated entirely by government health insurance.

Just what these acquisition costs are, for the industry as a whole, no one can tell precisely. The companies do not publish such costs as a separate item of expense, and do not even tell the insurance departments of the states where they operate. They lump all their costs together. The company I was connected with and which specialized in accident and health insurance, originally the Trade Union Accident and Health Assoc., now the Mt. Vernon Life Insurance Co., had very low acquisition costs compared with other companies, because we dealt mainly in group accident and health insurance for unions, and when we get a policy there were frequently thousands of persons insured. Nonetheless, our acquisition costs were on an average 10% of the premium. At a guess, I believe for the industry as a whole, the acquisition costs would run somewhat over 15% and perhaps 20%. But whatever the proportion of such costs, they would all be cut out by a government health insurance system.

We can get some idea of the acquisition costs from the difference in the proportion of benefits paid out to premiums taken in in those states which have an exclusive state fund for workmen's compensation liability insurance compared with those states where private companies write the policies and compete with each other for doing so.

In Ohio and West Virginia which have an exclusive state fund for workmen's compensation, about 90% of the premium collected is paid out in benefits. In Connecticut and New York where private companies, either mutual companies or stock, write such insurance, the amount paid out in benefits is only about ⅔ of the premium. Not all the difference of course is acquisition costs, but a good deal of it is.

Also, the cost of correction would be negligible, which is not the case now. For those who have jobs and their families it would simply be added to what employer and employee now pay for old age benefits. For those on relief the cost would be paid out of general Federal taxes relieving the local taxpayers of the burden.

So the conclusion is clear that government health insurance would be a good deal less expensive than private insurance. And it could and would in the proposed bill cover practically all health needs, which private insurance does not now do.

CURRENT U.S. POPULATION

Mr. PACKWOOD. Mr. President, I would like to report that, according to U.S. Census Bureau approximations, the total population of the United States as of November 1, 1973, is 211,420,423. In spite of widely publicized reductions in our fertility levels, this represents an increase of 155,541 people since October 1—that is, in just 1 month. It also represents an increase of 1,445,272 since November 1, 1972.

Over the year, therefore, we have added enough additional people to fill three cities the size of Atlanta, Ga. And in just 1 short month, we have added twice as many people as now reside in Wilmington, Del.

BALTIMORE-WASHINGTON INTERNATIONAL AIRPORT

Mr. BEALL. Mr. President, on November 16, the State of Maryland will change the name of its Friendship Airport to "Baltimore-Washington International Airport". This is no cosmetic change, but represents the substantial increase in passenger loads which has come from throughout the Middle Atlantic region. In recent years, this facility has become a major regional airport, serving not only the entire State of Maryland, but the District of Columbia, and portions of Virginia and Pennsylvania as well. Therefore, the change in names signifies a real change in the area of service for this great facility.

Along with the change in nomenclature, should, I believe, come a change in the designator, or three letter code which identifies the airport. This designator is used on airline schedules, tickets and baggage claim checks and on aeronautical charts and other navigational publictions. Certainly it is an important part of an airports operation. Since 1950, the designator for Friendship International Airport has been "BAL". Certainly this designator gives the impression that the airport serves primarily the Baltimore City area only, and I think that at its time of assignment it very accurately reflected the role of Friendship Airport. However, in recent years, as many of my colleagues who use the facilities of Friendship know, this airport has become a major center of travel for the Washington metropolitan region as well. For that reason, I call upon the Federal Aviation Administration to change the airport designator to "BWI" in order to more accurately portray the important place that Friendship plays in the whole region.

The State of Maryland has petitioned the FAA to take this action, which to me sounds very reasonable. However, I regret to report that the FAA has to date denied the request. In a letter to Mr. Robert J. Aaron, Administrator of the Maryland State Aviation Administration, the agency outlined some rather unconvincing arguments in reply to Maryland's request. For instance, they cite a high cost to domstic airlines if the code of a major airport were to be changed. However, I think that any reasonable person can see that a new designator, properly phased in over a period of months, will result in no significant expense to anyone.

Second, the letter seems to imply that if the Baltimore-Washington International Airport's designator would change then others might have to be changed to accommodate it. I am not aware of any other airport in this country which has the initials "BWI" as their designator, thus I cannot see the objection in this case. Finally, they state that several hundred airport names were changed each year without changing the designator. However, this fact should not in any way have any bearing upon the decision to change the designator of the Maryland facility.

I think it is necessary to point out that the agency which denied this request, the FAA, also owns and operates the Washington National and Dulles International Airports, both of which actively compete with Maryland's Friendship International Airport for the share of the Baltimore-Washington travel market. I would certainly hope that the agency's refusal to consider the request that Maryland can change the designator had anything to do with the fact that these airports in fact operate sometimes in competition with Friendship. Such competitive factors should be forgotten in a decision of this nature.

Mr. President, I can only say that it seems very much justified to me that in light of the change of Friendship's name to Baltimore-Washington International, a similar change in the appropriate designator must take place. I call upon the Federal Aviation Administration to give this application by my State prompt, serious, and favorable consideration.

SUPPORT FOR SCHOOL NURSING EDUCATION

Mr. KENNEDY. Mr. President, I ask unanimous consent that the following resolution by the Department of School Nurses of the National Education Association be printed in the RECORD. As indicated in this statement, our Nation's shortage of qualified nursing personnel is further complicated in our school system by the need for school nurses to obtain additional training in the area of education. The attached resolution requests Federal support for such training in order that a sufficient number of qualified personnel exists to fill the need in our Nation's schools.

The resolution deserves the Congress careful attention.

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

STATEMENT FOR CONGRESSIONAL RECORD

In most states, financing of education has depended primarily on real estate taxes, burdening the home and land owner with unequivalent taxes.

Because of the economic plight of the boards of education, supportive services, such as school nursing, are being curtailed or diminished to the detriment of the physical, mental, emotional, and social health of the the school child.

The effect of malnutrition, drug addiction, sickle cell anemia, and sensory perceptual deviations on the child's education is evidenced in the learning disabilities, drop-out rate, low reading level of military inductees, and dissent toward school authority.

The NEA-DSN and ANA have collaborated on the drafting of the following resolution:

Resolution to Gain Support of School Nurs-

ing Services under Boards of Education by Certified Personnel.

Whereas the school nurse is the health specialist in the school concerned with the health and welfare of the whole child;

Whereas her nursing skills combined with her academic background in both health and education give her the ability to function in this unique capacity in the schools;

Whereas the school nurse must meet the same requirements as teachers for certification and on-going education to keep current with changing needs in the school;

Whereas school nurses provide primary health care through screening procedures, assessment of the health status, and early identification of health problems;

Whereas the role of the school nurse in health education is that of a consultant and resource person in planning, implementing, and evaluating the health education curriculum;

Whereas the school nurse, through health counseling of individuals and groups, effectively permits students to work through their problems;

Whereas the school nurse assists teachers to adapt the school program to the individual's needs;

Whereas the school nurse is a liaison between the school and the home;

Whereas the school nurse counsels parents to secure needed medical, dental, or other treatment; therefore

Be it Resolved, that federal legislators, education and health committeemen support and finance legislation to provide education which will enable persons to become certified in the profession of school nursing; continue in their pursuit of knowledge to continue to perform their specialty of public health in school health programs administered by Boards of Education.

WATERGATE SPECIAL PROSECUTOR X—NADER VERSUS BORK

Mr. ROBERT C. BYRD. Mr. President, at the request of the distinguished Senator from Utah (Mr. Moss), I ask unanimous consent to have printed in the RECORD a statement by him and certain documents in the case of Nader against Bork.

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

STATEMENT BY SENATOR MOSS

WATERGATE SPECIAL PROSECUTOR

The events of the last ten days concerning the Special Prosecutor's Office and the discharge of Archibald Cox as the Special Prosecutor are of great concern to me. I firmly believe that we need an independent Special Prosecutor to ferret out, expose, and prosecute all who have violated the public trust and engaged in criminal wrong-doing. The question we are faced with is, "Who will be the Special Prosecutor?"

On May 23, 1973, I voted for the confirmation of Elliot Richardson as Attorney General. I did so in large part because of my satisfaction that he would establish an independent special prosecutor's office to investigate Watergate-related matters, would appoint Archibald Cox to direct that office, and would seek to ensure that the office was operated in accordance with the guidelines agreed upon by him, Professor Cox, and the members of the Senate Committee on the Judiciary. It was my understanding when voting for the Richardson confirmation that the Special Prosecutor could be removed from office only if he committed extraordinary improprieties.

The recent firing of the Special Prosecutor and the abolishing of his office have resulted in my receiving an unprecedented number of telegrams, letters, and telephone calls from my constituents, who are incensed by the blatant disregard of the agreement upon the basis of which the appointment of former Attorney General Richardson was approved by the Senate. These communications from the citizens of Utah evidence a widespread lack of confidence in the nation's government, and in my opinion, this public distrust will continue, and perhaps increase, unless the wrong which has been done is righted.

There are bills presently pending before the Senate which would create a new special prosecutor's office, which would result in the appointment of a new special prosecutor, and which must be acted on in the very near future. Even though I support this legislation, I am in something of a quandary. For while I strongly favor some sort of independent prosecutor, I believe that Archibald Cox was illegally discharged, that his office was illegally dismantled, and that both should be restored to their former status.

Thus, we are in the unfortunate position of having the existing Special Prosecutor illegally discharged, of having the President and the Acting Attorney General proposing to appoint a purportedly independent Special Prosecutor, and lastly having the Senate and House considering bills to have the District Court appoint a Special Prosecutor.

If we are to preserve the rule of law in this nation, then we must consider in a step by step manner the ramifications of the various special prosecutors which may be appointed or have already been illegally discharged. With that in mind, I have joined as a plaintiff in a law suit against the Acting Attorney General charging that his firing of the Special Prosecutor was an illegal act.

Upon the disposition of the suit, Mr. Cox will either be restored or we will be in a better position to determine the merits of other Special Prosecutor proposals which may be forthcoming.

Mr. President: I include here certain documents pertaining to the suit against Robert H. Bork.

U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA, CIVIL ACTION 1954–73

(Ralph Nader, Plaintiff, v. Robert H. Bork, Acting Attorney General of the United States, Defendant)

PLAINTIFF'S MOTION FOR LEAVE TO FILE AN AMENDED COMPLAINT AND ADD ADDITIONAL PLAINTIFFS

Pursuant to Rules 15(a) and 21 of the Federal Rules of Civil Procedure, plaintiff Ralph Nader hereby moves for leave to file an amended complaint in the form filed herewith which (1) adds additional plaintiffs and makes necessary conforming changes with respect to said plaintiffs; (2) adds allegations to reflect events which have occurred since the original complaint was filed; (3) deletes subparagraph 20(d) of the original complaint; and (4) makes other minor changes.

ALAN B. MORRISON,
W. THOMAS JACKS,
RAYMOND T. BONNER,
Attorneys for the Plaintiffs.

U.S. DISTRICT COURT, DISTRICT OF COLUMBIA, CIVIL ACTION No. 1954–73

(Ralph Nader, Washington, D.C., Senator Frank E. Moss, U.S. Senate, and Representative Bella S. Abzug and Jerome R. Waldie, U.S. House of Representatives, Plaintiffs, v. Robert H. Bork, Acting Attorney General of the United States, Defendant)

AMENDED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

1. This is an action (a) to declare that the attempts by the defendant to discharge Archibald Cox as Special Watergate Prosecutor and to disband the Office of the Watergate Special Prosecutor are of no force and effect, and (b) to enjoin the defendant, preliminarily and permanently, from taking any further action to accomplish such objectives.

2. Each of the plaintiffs is a citizen, taxpayer, and lawyer. As lawyers they are officers of the court who have the highest obligation to maintain the integrity of the courts and the administration of justice.

3. Plaintiff Frank E. Moss is a United States Senator who voted for the confirmation of Elliot Richardson as Attorney General. Plaintiff Jerome R. Waldie is a member of the Committee on the Judiciary, United States House of Representatives, which exercises legislative jurisdiction over the Department of Justice and the Federal courts and will consider matters relating to the impeachment of the President and the appointment of a Special Prosecutor. Plaintiff Bella S. Abzug is also a member of the United States House of Representatives, and both she and plaintiff Waldie have introduced resolutions calling for the impeachment of the President which include among the allegations a charge that the President's direction to discharge Archibald Cox and to disband the office of the Watergate Special Prosecutor were unlawful.

4. Defendant is the duly confirmed Solicitor General of the United States who has since the evening of October 20, 1973, been the Acting Attorney General of the United States.

5. The value of the matter in controversy exceeds the sum of $10,000.

6. This Court has jurisdiction over the subject matter in this action pursuant to 28 U.S.C. §§ 1331 and 1361 and Section 10 of the Administrative Procedure Act, 5 U.S.C. §§ 701–706.

7. On April 30, 1973, Richard G. Kleindienst resigned as Attorney General of the United States, and on May 1, 1973, Elliot Richardson was nominated to be Attorney General.

8. During the course of the confirmation hearings on Mr. Richardson before the Senate Judiciary Committee, several Senators expressed their views that there was a need for an independent prosecutor to conduct the Watergate investigation. In response to this expressed desire on the part of most members of the Committee, as well as many members of the public at large, Mr. Richardson stated to the Committee his intention, which was understood by the Committee to be with the consent of the President, to appoint Archibald Cox as Special Prosecutor and to grant to Mr. Cox full independence to conduct the investigation and prosecution of the Watergate crimes.

9. As a result of the assurances given by Mr. Richardson concerning the appointment and independence of Mr. Cox as Special Prosecutor, the Judiciary Committee recommended that Mr. Richardson be confirmed, and the Senate voted to confirm him as Attorney General of the United States. Plaintiff Moss voted to confirm Mr. Richardson in large part because of such assurances. In addition, the Congress foreswore from other legislative activities, such as the statutory creation of an independent prosecutor's office, which were being considered prior to the time that assurances were given that Mr. Cox would be appointed as an independent Special Prosecutor.

10. On May 28, 1973, Mr. Richardson was sworn in as Attorney General, and on May 31, 1973, he issued Order 517–73, effective May 25, 1973, 38 Fed. Reg. 14688 (June 4, 1973), 28 C.F.R. §§ 0.1, 0.37 (1973), which created the Office of the Watergate Special Prosecutor as he assured the Senate that he would. On May 25, 1973, Mr. Richardson designated Mr. Cox as Special Prosecutor and confirmed the appointment by letter dated May 31, 1973.

11. In connection with his duties as Special Prosecutor, Mr. Cox caused a subpoena to be issued to President Richard M. Nixon for the production of certain tapes and other documents under his control. When President Nixon refused and invoked the doctrine of executive privilege in defense of his refusal to comply with the subpoena,

the Special Prosecutor moved for an order in this Court requiring compliance with the subpoena.

12. On August 29, 1973, this Court, the Honorable John J. Sirica, entered an order directing compliance with the subpoena by producing the requested documents for an in camera inspection by the Court.

13. On October 12, 1973, the United States Court of Appeals for the District of Columbia Circuit affirmed the decision of August 29th of this Court with modifications not relevant to this action. That Court delayed the effectiveness of its order for five days to permit President Nixon to seek further review in the Supreme Court.

14. On the evening of October 19, 1973, President Nixon announced that he was not seeking further judicial review of this Court's order of August 29th, but that he had agreed to make available summaries of portions of the tapes sought by the Special Prosecutor. He also announced that he had directed the Special Prosecutor not to proceed further with his efforts to obtain the tapes or other documents which he sought through the judicial process.

15. On October 20, 1973, the Special Prosecutor announced that he would not comply with any direction not to proceed with efforts to obtain such documents through the judicial process since they were essential to the matters that he was directed to investigate and prosecute.

16. Although having elected not to appeal the decision of the Courts of Appeals, the President nonetheless declined at that time to produce the documents for in camera inspection by the Court. In order to prevent the Special Prosecutor from seeking judicial assistance in obtaining the subpoenaed documents, the President requested Attorney General Elliot Richardson to discharge Mr. Cox as Special Prosecutor. Mr. Richardson refused to comply and instead resigned as Attorney General on October 20, 1973.

17. Upon the resignation of Mr. Richardson, Deputy Attorney General William D. Ruckelshaus succeeded him, pursuant to 28 U.S.C. § 508(a). He, too, was requested by President Nixon to discharge Mr. Cox, but like Mr. Richardson, Mr. Ruckelshaus refused to do so and also resigned in lieu of being discharged.

18. Upon Mr. Ruckelshaus's resignation, the Defendant Robert H. Bork, became the Acting Attorney General, pursuant to 28 U.S.C. § 508(b) and 28 C.F.R. § 0.132(a). When he was asked to discharge Mr. Cox, he agreed to do so, and on October 20, 1973, he advised Mr. Cox that effective immediately he was discharged as Special Prosecutor. On October 22, 1973, defendant designated Assistant Attorney General Henry E. Petersen to be in charge of the Watergate investigation and prosecution.

19. The action of the defendant in attempting to discharge Archibald Cox as Special Prosecutor was ineffective because:

(a) Pursuant to 28 C.F.R. § 0.37, which was then and is still today in full force and effect, the Special Prosecutor can be discharged only for "extraordinary improprieties on his part," which does not include a refusal to obey an order to cease litigation with respect to claims of executive privilege since that regulation specifically authorizes him to determine whether or not "to contest the assertion of 'Executive privilege' . . ."; and,

(b) The defendant, as Acting Attorney General, is limited in the powers that he may exercise under 28 U.S.C. § 508(b), and such limited powers do not include the power to remove the Special Prosecutor who was specifically approved by the Senate in the course of confirming the prior Attorney General Elliot Richardson.

20. President Nixon also directed the defendant to abolish the Office of Special Prosecutor, and on the evening of October 20, 1973, the President acted to effect that abolition by directing agents of the Federal Bureau of Investigation to take control of the files of the Office, which they did. The following day defendant replaced the agents of the Federal Bureau of Investigation with United States Marshals. Furthermore, on October 22, 1973, defendant designated Henry E. Petersen, the Assistant Attorney General in Charge of the Criminal Division, to take charge of the Watergate investigation and prosecution. On October 23, 1973, defendant formalized his attempted abolition of the Office of Special Prosecutor by issuing Order No. 546–73, which appears at 38 Fed. Reg. 29466 (October 25, 1973), and which purports to transfer all of the functions of the Special Prosecutor to the Criminal Division of the Justice Department.

21. The attempt by defendant to abolish the Office of the Special Prosecutor is void and of no force or effect because:

(a) The regulation creating the Office provides that the Special Prosecutor shall carry out the responsibilities of the Office "until such time as, in his judgment, he has completed them or until a date mutually agreed upon between the Attorney General and himself." Since neither of such conditions has taken place, the Office cannot be abolished;

(b) Even if the Office could be abolished under certain extraordinary circumstances by an Attorney General who has been confirmed by the Senate, the defendant, who is merely Acting Attorney General, lacks the power under 28 U.S.C. § 508(b) to abolish the office which a duly confirmed Attorney General has created; and,

(c) Even if defendant might under certain circumstances abolish the Office of Special Prosecutor, his attempt to do so here is ineffective because (1) he was directed to do so by President Nixon, who is one of the persons being investigated by the Special Prosecutor, and hence was ordered to abolish the Office for improper purposes, and (2) he knew that, unless he agreed to order the abolition of the Office of the Special Prosecutor, he would be discharged, and therefore, his attempted abolition of the Office was ineffective and without basis in law as a result of the undue influence and coercion placed upon him to order such abolition.

22. On October 26, 1973, President Nixon announced that at some time during the week of October 28th the defendant will appoint a new prosecutor to take charge of the Watergate investigation within the Criminal Division of the Department of Justice.

23. The actions of the defendant in attempting to discharge the Special Prosecutor and to abolish the Office of the Special Prosecutor constitute attempts to impede the administration of justice which would, if successful, cause grave and irreparable harm to the administration of justice in the United States, to all the plaintiffs as citizens, taxpayers, and lawyers who have sought to insure the independence of the investigation of the Watergate matters undertaken by the Special Prosecutor, and to plaintiffs Moss, Waldie, and Abzug in their capacities as members of Congress.

24. Unless enjoined by this Court, defendant will continue to exercise control over the Office of the Special Prosecutor, will continue to permit Henry E. Petersen to remain in charge of the Watergate investigation on a temporary basis, will appoint a new prosecutor in lieu of Archibald Cox to be in charge of the Watergate investigation, and will continue to conduct the Watergate investigation within the Criminal Division of the Department of Justice instead of as an independent Office.

Wherefore, plaintiffs pray for an order

(1) Declaring that Archibald Cox still validly holds the Office of Special Prosecutor, and preliminarily and permanently enjoining the defendant from taking any action which in any way interferes with the functioning of Mr. Cox in that Office;

(2) Declaring that defendant's attempts to abolish the Office of the Special Prosecutor have been of no force or effect and that he lacks the power to abolish such Office, and preliminarily and permanently enjoining him from taking any action which in any way interferes with the operation of the Office of Special Prosecutor as set forth in 28 C.F.R. § 0.37 (1973); and,

(3) Granting plaintiffs such other and further relief as may be just and proper, including their costs and disbursements herein.

ALAN B. MORRISON,
W. THOMAS JACKS,
RAYMOND T. BONNER,
Attorneys for the Plaintiffs.

U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA, CIVIL ACTION 1954–73

(Ralph Nader, Plaintiff, v. Robert H. Bork, Attorney General of the United States, Defendant)

MEMORANDUM IN SUPPORT OF PLAINTIFF'S MOTION FOR LEAVE TO FILE AN AMENDED COMPLAINT

Most of the events which precipitated this action occurred on October 20, 1973, the date the defendant purported to fire Archibald Cox as the Watergate Special Prosecutor and agreed to abolish the Office of Watergate Special Prosecution Force. Because of his belief that the defendant's actions were illegal and created a crisis of confidence throughout the country which needed to be rectified as soon as possible, Mr. Nader filed this action on October 23, 1973, the first day that this Court was open after the events of October 20th. During the days following the dismissal of Mr. Cox, Senator Frank E. Moss, Congresswoman Bella Abzug and Congressman Jerome R. Waldie decided to join Mr. Nader in this action.

Plaintiffs' amended complaint is not materially different from the original complaint. The amended complaint makes only the following minor changes:

(1) The addition of Senator Moss, Congresswoman Abzug and Congressman Waldie as plantiffs and the modification of certain paragraphs to reflect the harm they have suffered. (Amended Complaint, paragraphs 2, 3, 5, 9 and 23.)

(2) The amendment of paragraph 19 of the original complaint (paragraph 20 of the amended complaint) and the addition of paragraphs 22 and 24 of the amended complaint to reflect the events which have occurred subsequent to the filing of the original complaint.

(3) The deletion of the allegation of subparagraph (d) of paragraph 20 of the original complaint (paragraph 21 of the amended complaint).

These amendments are clearly authorized under Rules 15(a) and 21, and no harm to defendant will result from granting this motion.

Respectfully submitted,

ALAN B. MORRISON,
W. THOMAS JACKS,
RAYMOND T. BONNER,
Attorneys for the Plaintiffs.

U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA, CIVIL ACTION 1954–73

(Ralph Nader, Plaintiff, v. Robert H. Bork, Acting Attorney General of the United States, Defendant)

ORDER

It is hereby ordered that plaintiff's Motion for Leave To File an Amended Complaint to (1) add additional plaintiffs; (2) delete the allegation in subparagraph (d), paragraph 20, of the original complaint; and (3) add paragraphs 22 and 24 reflecting events which have occurred subsequent to the filing of the original complaint is hereby granted.

Plaintiff shall serve by hand and file within 48 hours of the time this Order is signed an Amended Complaint in the form filed with his motion.

U.S. District Judge.

[U.S. District Court for the District of Columbia, Civil Action 1954–73]

(Ralph Nader, Plaintiff, v. Robert H. Bork, Acting Attorney General of the United States, Defendant)

PLAINTIFF'S MEMORANDUM IN SUPPORT OF MOTION FOR PRELIMINARY INJUNCTION

INTRODUCTION

This action challenges the legality of the attempts by the defendant to discharge Archibald Cox as the Special Watergate Prosecutor and to disband the Office of the Watergate Special Prosecution Force. Plaintiffs[1] are all citizens, taxpayers, and attorneys; in addition, plaintiff Moss is a United States Senator, and plaintiffs Waldie and Abzug are Members of the House of Representatives. The complaint prays for declaratory and injunctive relief against the defendant, and this memorandum is submitted in support of plaintiffs' motion under Rule 65(a)(1) of the Federal Rules of Civil Procedure for a preliminary injunction. Because of the extraordinary public interest in having this matter resolved at the earliest possible time, plaintiffs ask this Court to consolidate the hearing on the motion for the preliminary injunction with a final hearing, as authorized by Rule 65(a)(2).

In a nutshell, the facts of this case are as follows:

In May 1973, Elliot Richardson was confirmed by the Senate to be Attorney General after he had, with the authorization of the President, worked out a detailed agreement with the Judiciary Committee concerning the appointment of a special prosecutor to conduct the so-called "Watergate" investigation and prosecutions;

Immediately after his confirmation, Attorney General Richardson formally appointed Archibald Cox to be Special Prosecutor and promulgated departmental regulations establishing the Office of Watergate Special Prosecution Force and embodying explicit rules governing its conduct which were identical to the terms agreed upon during his confirmation hearings;

These detailed regulations authorized the Special Prosecutor to challenge claims of executive privilege in court actions, declared that he could only be dismissed for committing "extraordinary improprieties", and provided that the office would continue to perform its functions until its job was completed or until another time agreed upon by the Special Prosecutor and the Attorney General;

Despite these binding regulations, defendant, who became Acting Attorney General after the forced resignations of the Attorney General and the Deputy Attorney General, purportedly fired Special Prosecutor Cox and abolished his office when Cox declined to accede to a Presidentially proposed "compromise" of a court action concerning access to tapes and other memoranda of Presidential conversations, or to comply with a Presidential directive not to make any attempts through future judicial proceedings to obtain similar materials.

The complaint alleges that two separate actions of the defendant were unlawful. The first of these, the defendant's discharging of Archibald Cox, is alleged to be unlawful because there was then in existence a validly promulgated regulation of the Department of Justice which permitted the firing of Mr. Cox only for "extraordinary improprieties on his part", and there are conceded to be none in this case. Moreover, because of defendant's limited authority as an Acting Attorney General, he lacked the power to discharge the Special Prosecutor.

The second action of the defendant claimed to have been illegal is the abolition of the Office of the Special Prosecutor. Plaintiffs contend that this order is unlawful since the regulation which created the Office specifically provides for its continuation until the Special Prosecutor determines that his work is concluded or until a date mutually agreed upon between the Attorney General and himself. Moreover, the attempted abolition was invalid because the defendant, as a Solicitor General who has become Acting Attorney General, has no authority to effect wholesale changes in the organizational structure of the Department of Justice. Further, plaintiffs argue that the special circumstances surrounding the appointment of Mr. Cox and the creation of his office, also act to preclude a Solicitor General who becomes Acting Attorney General from making a drastic change of this kind. Finally, in this connection, defendant's decision to abolish the Office was unlawful because it was made without any independent rational basis and was undertaken solely because of the direction by the President. Since the defendant would have been fired from his job unless he agreed to both fire Mr. Cox and abolish the Office, his decision to do so was unlawfully coerced and cannot be sustained.

Coercion is of particular importance in this case where the President who directed the abolition of the office is—along with many of his former cabinet officers and closest associates—one of the persons under investigation. Plaintiffs contend that the totality of these circumstances deprives the Solicitor General of the authority to abolish the Office.

In our final point we demonstrate that there is a need for immediate action in this case, primarily because the public interest requires that the legality of defendant's action be determined at the earliest possible date. It is apparent that so long as a cloud exists over the special prosecutor's office, it cannot be run in an effective manner, whether it is within the Criminal Division of the Justice Department or exists as an independent office. Plaintiffs also contend that their own activities are hampered by the uncertainty that persists with respect to the legality of the firing of the Special Prosecutor and the abolition of his office, and that these interests will continue to be severely hindered unless preliminary relief is afforded.

STATEMENT OF FACTS

(1) Events leading to the creation of the Office of the Special Prosecutor and the appointment of Archibald Cox as special prosecutor

On April 30, 1973, Richard G. Kleindienst resigned from the office of Attorney General of the United States, citing as the ground for his resignation his close personal and professional relationship with several individuals then being investigated by the Department of Justice. On the following day, the President submitted to the Senate the nomination for Attorney General of Elliot L. Richardson, who was then serving as Secretary of Defense,[2] and on May 9, the Senate Judiciary Committee commenced hearings on Richardson's nomination.[3]

The principal concern of the Senate Judiciary Committee in passing on Richardson's nomination was that an independent special prosecutor be appointed to manage the investigation and prosecution of certain crimes committed during the 1972 presidential election campaign, which had come to be referred to collectively as "Watergate offenses".[4] It was apparent from the first day's hearings that the appointment of a special prosecutor by the new Attorney General was of such vital importance to the Committee that Richardson's confirmation by the Senate was wholly dependent upon his willingness to create such an office, to grant to the office a high degree of independence, and to place it under the direction of a capable attorney of unimpeachable integrity.[5] Accordingly, at the very outset of the hearings, Secretary Richardson stated that he had concluded that he should appoint a special prosecutor; he added that he thought it desirable to have his designee for the position appear before the Committee and be questioned so that the Senate could be satisfied as to the special prosecutor's qualifications.[6]

During the course of the confirmation hearings, several issues were raised which bear on the subject matter of this litigation. These are discussed more fully in Point I of the Argument, but they are deserving of brief mention here. First, the Committee evidenced a strong conviction that the activities of the special prosecutor should be independent of the Department of Justice and of the White House, subject only to the power of the Attorney General to discharge the special prosecutor in extreme circumstances.[7] Second, the Committee insisted that the special prosecutor be subject to removal by the Attorney General only in the most unusual circumstances.[8] Third, the Committee demanded assurance that the special prosecutor would have the authority to seek access to White House files and to contest in court any Presidential claims of executive privilege.[9]

One of the chief aims of both Secretary Richardson and Committee members during the course of the hearings was to agree upon definite guidelines which would govern the conduct of the special prosecutor's office and which would set forth in writing their formal understanding regarding, among other things, the three issues discussed above. On May 21, 1973, Secretary Richardosn presented to the Committee a set of guidelines which he had formulated after an exchange of correspondence with Senator Stevenson.[10] The guidelines provided generally that a special prosecutor would be appointed to serve within the Department of Justice and to investigate Watergate-related matters. They specified that the special prosecutor would have the authority, inter alia, to determine whether to contest any assertion of executive privilege and whether application should be made to any federal court for subpoenas or other court orders. The guidelines stated that "[i]n exercising this authority, the Special Prosecutor will have the greatest degree of independence that is consistent with the Attorney General's statutory accountability for all matters falling within the jurisdiction of the Department of Justice. The Attorney General will not countermand or interfere with the special prosecutor's decisions or actions." The guidelines went on to state, with respect to dismissal, that "[t]he special prosecutor will not be removed from his duties except for extraordinary improprieties on his part". Under the heading "Duration of Assignment" the guidelines provided: "The special prosecutor will carry out these responsibilities, with the full support of the Department of Justice, until such time as in his judgment, he has completed them or until a date mutually agreeable between the Attorney General and himself."

On that same date, Secretary Richardson presented to the Committee his designee for the office of special prosecutor, Professor Archibald Cox of the Harvard Law School. Professor Cox was questioned closely by members of the Committee with respect to his understanding of and satisfaction with the guidelines proposed by Secretary Richardson. Both Professor Cox and Secretary Richardson were specifically questioned with respect to the Attorney General's power to govern the conduct of the office of special prosecutor. Both stated that it was their understanding that the Attorney General would have no control over the special prosecutor, except his power to dismiss the special pros-

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ecutor if he committed extraordinary improprieties.[11]

Both Secretary Richardson and Professor Cox were also questioned with respect to the special prosecutor's authority to challenge claims of executive privilege with respect to the documents or testimony of executive officials, and especially of the President. Their understanding with respect to the challenging of claims of executive privilege was embodied in Secretary Richardson's statement that:

"For purposes of the Watergate investigation and all the other related matters, if such an issue should arise, the President will be represented by counsel on one side of that issue and * * * the special prosecutor should assert his claim to obtain the information or the evidence on the other, and that if that cannot be resolved otherwise, then in my judgment, the issue would have to be resolved by a court." [12]

Having hammered out what it considered to be a workable set of guidelines for the conduct of the office of special prosecutor, the Committee finally sought and obtained the assurance of Secretary Richardson that upon his confirmation as Attorney General these guidelines would be made legally binding on the Department of Justice through their publication in the Federal Register.[13]

The hearings were concluded on May 22 and Secretary Richardson's nomination was favorably reported to the floor of the Senate on May 23. In recommending the confirmation of Secretary Richardson, Senator Robert Byrd, the floor manager of the nomination, discussed the qualifications of Professor Cox as much as he did those of Secretary Richardson, and he made it clear that his recommendation that Richardson be confirmed was based primarily on the agreement that had been worked out between the nominee and the Judiciary Committee.[14] With this agreement having been presented to the Senate, Secretary Richardson was confirmed as Attorney General on May 23 by a margin of 82–3. He was sworn in as Attorney General on May 28, 1973.

Pursuant to his agreement with the Senate, Attorney General Richardson on May 31, 1973 promulgated and published Order 517–73, effective May 25, 1973, amending Justice Department regulations to create the Office of Watergate Special Prosecution Force.[15] The regulations incorporated an appendix listing the duties and responsibilities of the Special Prosecutor, which was identical in all material respects to the guidelines presented by Richardson to the Senate Judiciary Committee on May 21, 1973.[16]

(2) Events leading to the firing of Special Prosecutor Cox and the abolition of the Office of the Special Prosecutor

On July 16, 1973 it became known publicly for the first time that for approximately the past three years every conversation in the Oval Office of the President, the Executive Office Building office of the President, and the White House Cabinet Room had been tape recorded by secret equipment with the knowledge of only a few persons.[17] On July 23, Special Prosecutor Cox, acting on behalf of a grand jury empaneled by this Court, caused to be issued a subpoena to President Nixon requiring the production for the grand jury of certain tape recordings and documents pertaining to conversations alleged to have been recorded. In a letter to the Court dated July 25, the President advised that the materials sought would not be provided. Upon application of the Special Prosecutor, Judge Sirica issued a show-cause order, in response to which counsel for the President filed a special appearance contesting the Court's jurisdiction and raising primarily the defense of executive privilege. On August 29, Judge Sirica entered an opinion and order requiring the production of the subpoenaed materials for his *in camera* examination so that he could determine which portions, if any, were privileged.[18]

Both the President and the Special Prosecutor challenged the order of Judge Sirica by filing separate petitions for a writ of mandamus in the United States Court of Appeals for the District of Columbia Circuit. On October 12, 1973, a majority of the judges of that Court, sitting *en banc*, affirmed Judge Sirica's order in most respects. The Court ordered that the case be returned to the District Court for further proceedings consistent with its opinion, but it provided that the issuance of its mandate would be stayed for five days (until Friday, October 19) to permit the seeking of Supreme Court review of the issues raised in the petitions.[19]

Beginning on Monday, October 15, the President initiated efforts to resolve the controversy extrajudicially.[20] He directed Attorney General Richardson to approach Special Prosecutor Cox with a proposal whereby the court would be given a non-verbatim record of the tapes verified by Senator John Stennis on the condition that, among other things, Cox not seek any other similar tapes or memoranda in judicial proceedings.[21] On Wednesday, October 17, Attorney General Richardson prepared and submitted to Special Prosecutor Cox a proposal embodying most of the President's suggested terms, except that the Attorney General deleted the prohibition against instituting further judicial proceedings seeking other tapes because he considered it to be undesirable.[22]

On Thursday, October 18, Special Prosecutor Cox prepared and submitted to Attorney General Richardson a memorandum [23] in which he voiced several concerns with the proposal and concluded by saying:

"The Watergate Special Prosecution Force was established because of a widely felt need to create an independent office that would objectively and forthrightly pursue the prima facie showing of criminality by high Government officials. You appointed me, and I pledged that I should not be turned aside. Any solution I can accept must be such as to command conviction that I am adhering to that pledge."

Also on Thursday, the 18th, the President's counsel, Charles Alan Wright, addressed a letter to Special Prosecutor Cox in which he stated that while some of Cox's comments on the Attorney General's proposal were negotiable, certain other of his comments departed "so far from that proposal and the purpose for which it was made that we could not accede to them in any form." [24]

On Friday evening, the office of White House Press Secretary released a statement by the President in which he said that he had decided not to appeal the Court of Appeals decision, but had chosen instead to propose a compromise to Special Prosecutor Cox, which had been rejected. The President added that he had "felt it necessary to direct [Cox] as an employee of the executive branch, to make no further attempts by judicial process to obtain tapes, notes, or memoranda of Presidential conversations." [25]

Later on Friday evening, the Special Prosecutor issued a statement in which he said that he considered the President to be refusing to comply with the orders of the courts and that he would present his objections to the courts and would abide by their decision.[26] He added that to comply with the President's order not to seek to obtain through judicial proceedings any other materials relating to presidential conversations would be to violate his promise to the Senate and the nation, something which he would not do. The next day, Saturday, October 20, Special Prosecutor Cox held a press conference in which he reiterated his inability to agree to the proposal made to him or to abide by the President's direction of Friday evening that he make no further attempts through judicial proceedings to obtain tapes, memoranda or other documents pertaining to presidential conversations.[27]

After that press conference, the President decided that the Special Prosecutor should be fired, and he directed Attorney General Richardson to do so. Richardson declined, and in a letter to the President, he repeated much of what he had said in his earlier letter of that same day [28] and stated that he had "been obliged to conclude that circumstances leave me no alternative to the submission of my resignation as Attorney General of the United States." [29] Upon Attorney General Richardson's resignation, the President next directed States." [29] Upon Attorney General Richard- Deputy Attorney Generol William D. Ruckelshaus to fire Special Prosecutor Cox. The Deputy Attorney General declined to do so, and submitted a letter resigning his office.[30]

The Attorney General and Deputy Attorney General having declined to carry out his instructions and having resigned, the President turned next to the defendant, who was then Solicitor General of the United States, and who thereupon became Acting Attorney General pursuant to 28 U.S.C. § 508(b) and 28 C.F.R. § 0.132(a). In a letter to the defendant dated October 20th, the President stated, in pertinent part:

"In his press conference today Special Prosecutor Archibald Cox made it apparent that he will not comply with the instruction I issued to him, through Attorney General Richardson, yesterday. Clearly the Government of the United States cannot function if employees of the Executive Branch are free to ignore in this fashion the instructions of the President. Accordingly, in your capacity of Acting Attorney General, I direct you to discharge Mr. Cox immediately and to take all steps necessary to return to the Department of Justice the functions now being performed by the Watergate Special Prosecution Force." [31]

That evening defendant signed a letter to Special Prosecutor Cox which stated that he had assumed the duties of Acting Attorney General, and that "I am, as instructed by the President, discharging you, effective at once, from your position as Special Prosecutor, Watergate Special Prosecution Force." [32]

A few minutes after the firing of Special Prosecutor Cox, F.B.I. agents acting on directions from someone in the White House, occupied and "sealed off" the offices of the Attorney General, the Deputy Attorney General, and the Watergate Special Prosecution Force, Prosecution Force staff attorneys were not permitted to remove any papers from their offices, either by hand or by mail. The F.B.I. agents were replaced on Sunday by U.S. marshals, who acted on instructions from defendant, but normal security procedures were not reinstated until Monday, October 22.[33] Also on Monday, the 22d, the defendant announced that he was placing Assistant Attorney General Henry E. Petersen in charge of the Watergate case.[34]

On Tuesday, October 23, 1973, the day this action was filed, defendant issued Order No. 546–73.38 Fed. Reg. 29466 (Oct. 25, 1973), which purported to abolish the Office of the Special Prosecutor effective October 21, and to revoke all prior orders and regulations pertaining thereto, including the regulations which had been promulgated by Attorney General Richardson on May 31st establishing the office and setting forth the agreed upon guidelines under which it would be conducted.

(3) The aftermath of the firing of Special Prosecutor Cox and the abolition of the Office of Special Prosecutor

The events of October 19th and 20th sent a shock wave through this nation which has not yet subsided. Beginning on Saturday night, members of Congress were flooded with letters, telegrams, and telephone calls from their constituents, most calling for the impeachment of the President.[35] When the

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House of Representatives convened on Tuesday, October 23rd, over 20 resolutions [36] were introduced calling for the initiation of impeachment proceedings of some sort, including resolutions by plaintiffs Waldie and Abzug; such resolutions were sponsored by over 65 members of the House. A large number of other bills and resolutions were introduced in both houses proposing various mechanisms for reestablishing a Special Prosecutor's office.[37] The Judiciary Committees of both houses announced that they would commence hearings on such legislation beginning on Monday, October 29. Some members of those two committees, as well as of the respective full houses of Congress, who believe that the dismissal of the Special Prosecutor and the abolition of his office were illegal, are uncertain whether they should expend their energies and resources and cast their votes for new legislation when they believe the former structure to have been illegally demolished.[38] At the same time, these members consider the reestablishment of some type of independent prosecutorial force to be of the utmost importance, and they are hesitant to withhold their support of such legislation because of the uncertainties that exist with respect to Mr. Cox's status. An expeditious disposition of this case will provide them with the guidance they need to perform their legislative duties.

Indecision and uncertainty have also been the order of the day within the Department of Justice generally, and the Office of the Special Prosecutor in particular. During the first thirty-six hours following the firing of the Special Prosecutor, members of the Force were severally inhibited in the discharge of their duties by the presence of F.B.I. agents and U.S. marshals who, on orders from the White House and the defendant, respectively, refused to permit the removal of any papers from the offices. Although that situation has normalized, uncertainty continues to exist. As recently as October 25th, members of the Force observed in papers filed with Judge Sirica that "[t]he status of the records developed by the Watergate Special Prosecution Force and the responsibility for the security of these materials is * * * uncertain." [39] In addition, the conclusion is inescapable that the work of the Force will be hampered until this controversy is resolved. Potential defendants in criminal cases and their attorneys will be reluctant to engage in any kind of plea bargaining until it is clear who has final authority to speak for the United States.

This uncertainty in both the Congress and the Department of Justice can only have been exacerbated by the President's announcement on Friday, October 27, that "in consultations * * * we've had in the White House today, we have decided that next week the Acting Attorney General, Mr. Bork, will appoint a new special prosecutor for what is called the Watergate matter." [40] While it remains unclear what powers this new special prosecutor would have, President Nixon did state that "[w]e will not provide Presidential documents to a special prosecutor." [40a]

In short, until this Court rules whether the firing of Special Prosecutor Cox and the abolition of his office were legal, neither the Congress, the Justice Department, nor those who are the subjects of investigation can make truly informed decisions about their future courses of action. As time passes without resolution of this issue, the task of righting the wrong which has been done grows more confusing and more difficult.

Finally, it cannot be overlooked that perhaps the greatest harm occasioned by the traumatic events of October 19–20 is the harm that is inflicted upon the American people when they witness the arbitrary dismissal of a highly respected public servant and the forced resignation of two other eminently regarded public officials who refused to violate solemn promises that they had made. Public distrust of government, already at an ebb, appears to be at its lowest point in recent memory.[40b] This lack of confidence will continue, and perhaps worsen, so long as there remains unanswered the question being asked by many—the question whether defendant violated the law in firing Special Prosecutor Cox and abolishing his office. Only an expeditious resolution of this issue can help to restore the citizens' lost confidence in their government and to quiet the raging storm which was unleashed by the abrupt dismissal of Archibald Cox.

ARGUMENT

I. Archibald Cox was unlawfully discharged as special prosecutor

When Elliot Richardson's confirmation hearings began eight days after his being nominated to be Attorney General, virtually the sole topic of concern to the Judiciary Committee members was the appointment of a special prosecutor for Watergate. Mr. Richardson agreed immediately that there was a need for an independent special prosecutor, and he and the Committee members discussed at great length the nature of the independence of the prosecutor. During the hearings he advised the Committee of his selection of Archibald Cox for the position, and on May 21, 1973 Mr. Cox appeared before the Committee to testify concerning his understanding of his role as the Special Watergate Prosecutor.

There can be little doubt that the confirmation of Elliot Richardson was contingent upon establishment of a truly independent prosecutor. As Senator Hart said, ". . . until we have an agreement on the ground rules establishing the independence of this special prosecutor we ought not to move to confirmation." [41] There were extended discussions about the independence of the prosecutor and the grounds for his selection and removal. Mr. Richardson stated at the start of the hearings that the Senate should "concur" in the selection of the special prosecutor.[42] Thus, even though technically the only confirmation was that of Mr. Richardson, it can hardly be disputed that the Senate also specifically approved the appointment of Mr. Cox as Special Prosecutor.

A considerable portion of the hearings related to the question of Mr. Cox's potential discharge should the Attorney General become displeased with his performance. Senator Ervin suggested that he would not be subject to removal "except for malfeasance in office." [43] When this matter was raised initially with the Attorney General designate, he replied that he would prefer the term "malfeasance or gross incompetence" but added that he "cannot conceive that either one would ever occur unless the man had a mental breakdown or something." [44] Later he indicated that, even if the President directed him to fire the special prosecutor, he would refuse "in the absence of some overwhelming evidence of cause," and then added that "these are things that in the present circumstances are so remotely possible as to be practically inconceivable." [45]

After receiving suggestions from the Committee members, Mr. Richardson made certain amendments in his proposed guidelines on the duties of the Special Prosecutor.[46] He stated that, although he reserved the power of removal for "extraordinary impropriety on the part of the special prosecutor, . . . it is totally inconceivable to me that Mr. Cox would ever be guilty of extraordinary improprieties in the conduct of any function." [47] When asked by Senator Tunney to define "extraordinary improprieties," Secretary Richardson indicated that he did not think he could, adding that the phrase was one contained in a letter sent to him by Senator Stevenson and 28 others as "indicative of their notion of specific circumstances under which removal might be justified. I had another phrase before that that was incorporated in language that I had used in other hearings, about arbitrary or capricious or irrational conduct and so on, and I thought that the senatorial phrase was somewhat better, so I substituted it." [48]

With the nominee having pledged to appoint Archibald Cox as special prosecutor, having vowed to vest him with extraordinary independence, and having agreed to discharge him only for "extraordinary improprieties," the Senate accepted the solemn pledge and confirmed Elliot Richardson as Attorney General of the United States. There can be little doubt that the arrangement had the tacit if not active approval of the President, since it was he who had selected Mr. Richardson and had given him the right to decide whether or not to appoint a special prosecutor.[49] Senator Hugh Scott, the minority leader of the Senate, stated that he had discussed the matter of the special prosecutor with the President, who indicated that he would not interfere in the selection or in the conduct of the Office of the Special Prosecutor, and that the President "wishes a complete, total, absolute and utter investigation to the end, to the truth, and to the ultimate consequences." [50]

On May 31, 1973, three days after Elliot Richardson was sworn in as Attorney General, he issued order 517–73, which established the Office of Watergate Special Prosecutor. This order, which was duly published in the Federal Register of June 4, 1973 (38 Fed. Reg. 14688), and was later codified at 28 C.F.R. § 0.37 (1973), is identical to the final agreement that he reached with the Senate Judiciary Committee,[51] save for the substitution of "is" in the first sentence for the words "will be." On the same day, he formally appointed Archibald Cox to be Special Prosecutor, confirming the letter of designation he had written on May 25th. Thus, the solemn compact made by Elliot Richardson with the United States Senate was complete, and the office of an independent Watergate Special Prosecutor was established with Archibald Cox in charge.

In spite of these assurances of independence, the President directed the Attorney General of the United States to fire Mr. Cox and to disband the Office less than five months after its creation. What Mr. Richardson had described during the hearings as actions "totally at variance with the whole approach [the President] set forth," and something that "just will not happen" [52] in fact did happen. Elliot Richardson refused to violate his agreement with the Senate and the Justice Department regulations and resigned, as did his Deputy, William D. Ruckelshaus. Then, on the evening of October 20, 1973, the Solicitor General of the United States, the defendant Robert H. Bork, became Acting Attorney General pursuant to 28 C.F.R. § 0.132(a), and at the direction of the President issued an order purporting to discharge Mr. Cox from office. The letter of discharge from the defendant to Mr. Cox [53] makes no reference to any cause, nor does it suggest that there were any "extraordinary improprieties" on the part of Mr. Cox within the meaning of the regulation establishing the office. Furthermore, at a post-resignation press conference, Mr. Richardson stated that he did not believe that Mr. Cox was guilty of any such extraordinary improprieties and that the President had not purported to fire him on that basis.[54] At his October 24th press conference the defendant never suggested that Mr. Cox had violated the regulation but stated that he wrote the letter because "the decision of the President to discharge Mr. Cox was final and irrevocable." [55]

There can be little doubt that Mr. Cox was fired for one and only one reason: he refused to accede to the order of the President directing him to cease further litigation with re-

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spect to documents subpoenaed from the White House. Mr. Cox had first challenged the claim of executive privilege in this Court, where he was successful in resisting the claim, and on appeal the decision below was affirmed with modifications not relevant to this proceeding. On October 19th, the President decided not to take the case to the Supreme Court, but refused to do more than provide Mr. Cox with summaries of the documents. It was in this connection that he directed Mr. Cox not to proceed with further litigation, and Mr. Cox announced at an October 20th press conference his intention not to abandon the pending litigation.[56] Immediately after that press conference, the President decided to fire Mr. Cox because of his refusal to cease litigation on the issues of executive privilege and the President's compliance with the order of the Court to produce the subpoenaed documents for an *in camera* inspection. No other basis for the firing has been suggested, and we do not understand either the defendant or the President to have taken a contrary position.

Seeking court resolution of a dispute would not ordinarily be thought to be "extraordinary improprieties," even where the dispute relates to executive privilege. More important, however, both the testimony before the Judiciary Committee and the terms of the enabling regulation make it clear that Mr. Cox's refusal to cease litigation of the issues was not an extraordinary impropriety. The regulation specifically gives to the Special Prosecutor the "full authority * * * for * * * determining whether or not to contest the assertion of 'Executive privilege' or any testimonial privilege * * *" [57] This specific authority was discussed and approved by the Senate Committee in various parts of the hearings,[58] and thus there can be no doubt that the applicable regulation, which permits a discharge only for extraordinary improprieties, cannot be read to apply to an assertion of a power which was specifically granted to the Special Prosecutor. Finally, when the defendant was asked at his press conference whether Mr. Cox was guilty of extraordinary improprieties, he stated that he had "very little knowledge of Mr. Cox's activities" and that he believed Mr. Richardson who told him that Mr. Cox "was guilty of no extraordinary improprieties." [59]

The regulation governing the discharge of the Special Prosecutor was legally in full force and effect when the attempted firing took place, and hence it limits the authority of the Attorney General to discharge Mr. Cox except for "extraordinary improprieties" until it is validly amended or repealed. The principles of administrative law firmly establish that an agency which issues regulations is bound by them and cannot act in disregard of them. *Vitarelli v. Seaton*, 359 U.S. 535 (1959), and *Service v. Dulles*, 354 U.S. 363 (1957). Even though Mr. Cox might have been summarily dismissed in the absence of the regulation, its existence limits the authority of the defendant to discharge Mr. Cox except for "extraordinary improprieties." See *Vitarelli, supra*, 359 U.S. at 540.

Under these basic principles of administrative law, it is plain that the firing of Archibald Cox was unlawful. This result is particularly appropriate here since there can be little doubt that Elliot Richardson would not have been confirmed by the Senate without specific assurances that Mr. Cox would be truly independent and not subject to normal rules regarding dismissal, and that he would be given full authority over the Watergate investigation. Moreover, it is equally clear that Mr. Cox assumed the job only after assuring himself that he would be independent and could be discharged only in accordance with the guidelines,[60] which Mr. Richardson stated would be issued as regulations having the full force of law.[61] Since his discharge was not for the only valid reason under the regulation, it was unlawful and must be set aside.[62]

It may be argued that the same result could have been obtained by revoking the regulation first and then firing Mr. Cox. The answer to this, of course, is that this is not what was done. The defendant issued an Order on October 23rd, purporting to make it effective as of October 21st, abolishing the Office of the Special Prosecutor. Since Mr. Cox was fired the day before the purported effective date of the order, that order cannot arguably validate the discharge. Moreover, as we shall demonstrate in Point II of this Memorandum, even the belated attempt to revoke the regulation and abolish the Office was invalid.

Archibald Cox was fired in clear violation of a valid existing regulation which permitted his discharge only for "extraordinary improprieties." It is apparent that no such improprieties existed and that the cause of his firing was his refusal to desist from doing that which he was specifically authorized to do under that regulation. Seen in this light, plaintiffs have established not merely that there was a strong probability that Mr. Cox was unlawfully fired, but a virtual certainty of that.

II. The attempted abolition of the Office of the Special Prosecutor was invalid

A. The Regulation Precludes Abolition of the Office

In order to achieve the objectives of the President, the defendant issued an order on October 23rd which purports to abolish the Office of Special Prosecutor. Plaintiffs contend that the order is without validity for a variety of reasons, the first of which is that the regulation creating the office provides for the "Duration of assignment" of the Special Prosecutor as follows:

"The Special Prosecutor will carry out these responsibilities, with the full support of the Department of Justice, until such time as, in his judgment, he has completed them or until a date mutually agreed upon between the Attorney General and himself." [63] The clear import of this provision is that the Office of Special Prosecutor shall remain in existence until the Special Prosecutor determines that his work is done, or until he and the Attorney General agree upon a termination date. There can be no dispute that neither of those conditions has been met, and accordingly, under the terms of the regulation itself, the office may not be abolished.

The only defense to the plain meaning of this provision, which mandates the continuation of the Special Prosecutor's Office until either of two events occurs, is that there was no authority to enact such a provision and that it could have been revoked the day after its adoption.[64] Our research has disclosed no case in which a revocation of a regulation containing a provision similar to this has been challenged in court. We believe that an analogous area of the law—that dealing with the validity of statutes establishing fixed terms for Presidential appointees—may be of assistance to the Court in this case. Thus, cases such as *Humphrey's Executor v. United States*, 295 U.S. 602 (1935), and *Wiener v. United States*, 357 U.S. 349 (1958), suggest an analysis that is relevant in determining the validity of the provision establishing a determinable, non-revocable term for the Office of the Special Prosecutor. Those cases hold that the validity of statutory limitations on the President's removal powers turns upon the question of whether the office was purely executive, or whether it was one which contained functions which are in part either legislative or judicial. *Humphrey's Executor, supra*, 295 U.S. at 628–629. In addition, the necessity for the independence of the particular officer was considered to be highly significant. *Id.* at 629–30. Judged by these standards, it is apparent that the Office of Special Prosecutor was not purely executive, as was the Postmaster Firstclass in *Myers v. United States*, 272 U.S. 52 (1926) in which the Court held the limitation on discharge to be unconstitutional.[65] The relation of the Special Prosecutor to the Grand Jury and the fact that the Special Prosecutor had been created in a compact with the Congress in part to investigate the executive branch demonstrate that the office is not purely executive. It is obvious that no person could investigate the President and his closest associates and be a purely executive officer. Therefore, the situation is similar to that in *Humphrey's Executor* (Federal Trade Commissioner) and *Wiener* (War Claims Commissioner) where the discharge limitations were upheld.

There are further very strong justifications for the independence of the Special Prosecutor here which support the necessity for insuring that the Office cannot be abolished. Certain of the members of the Justice Department may be witnesses to charges of obstruction of justice (such as Assistant Attorney General Henry Petersen who is now in charge of the investigation), and other former Justice Department officials may themselves be prosecuted. In both of these cases, it is obvious that the Special Prosecutor's Office must be independent of those persons and that, if it is part of the Department of Justice, that independence will be destroyed. Furthermore, although Mr. Petersen had assured the public in September 1972, that an exhaustive investigation of the Watergate matters had taken place [66] it is obvious that the Senate wanted a fresh look taken at the situation and felt that the Justice Department could not properly provide it. This was a situation in which it was essential that public confidence be restored by a truly independent prosecutor who, among other things, could assure sources, who might be unwilling to cooperate with the Justice Department proper, to come forth with evidence. Finally, and perhaps most important of all, Mr. Cox and the staff, which he was free to hire himself, would not have served unless the necessary assurances had been given that he would truly be independent.[67] It is apparent that "independence today but abolition tomorrow" is not the kind of independence that the Senate approved when it confirmed Elliot Richardson. The continued vitality and existence of the Special Prosecutor's office was part and parcel of the confirmation proceedings since the identical terms regarding continuation of the Office that were in the guidelines submitted by Mr. Richardson to the Senate are in the regulation. Everyone, from the President down, knew precisely the nature of the bargain that had been struck with the Senate. To confirm Elliot Richardson as Attorney General, it was necessary to agree to the establishment of an independent Special Prosecutor's office, and in exchange the Senate put aside the various other legislative solutions which had been proposed to it.[68] It is inconceivable that the Senate would have confirmed Elliot Richardson if the position of the President and the Justice Department were that the assurances of the continued operation of the Special Prosecutor's office were no more than empty promises which could be broken as soon as either Elliot Richardson changed his mind, resigned, or was fired. Yet, that is precisely the position which the defendant must take in this proceeding if he is to persuade this Court that the abolition of the office was lawful under the circumstances of this case. We submit that the attempted abolition of the Office of Special Prosecutor by Order 546–73 was a nullity and that there was no authority even for a duly confirmed Attorney General to abolish the Office at this time.[69]

Footnotes at end of article.

B. The Defendant, Who Is Acting as Attorney General Pursuant to 28 U.S.C. § 508 (b), Lacks the Power To Abolish the Office of Special Prosecutor

The attempted destruction by the defendant of the Office of the Special Prosecutor is also invalid because defendant is merely an Acting Attorney General. The Office was established by Elliot Richardson, whose confirmation depended upon his agreement to set up such an Office, and thus it is inconceivable that the Senate expected that the Office could be abolished by someone who became Acting Attorney General pursuant to 28 U.S.C. § 508(b). To permit the defendant to abolish the Office would mean it could also have been eliminated by any of the nine Assistant Attorneys General covered by Section 508(b), including one whose appointment does not even require confirmation. See 28 U.S.C. § 507. That cannot have been the intent of those who voted for the confirmation of Elliot Richardson.

The proposition that the defendant, who is a confirmed Solicitor General but merely an Acting Attorney General, has no authority to effect major organizational changes such as this in the Department of Justice, is supported by the Department's own regulations. Chapter 28 of the Code of Federal Regulations, section 0.180 provides in pertinent part that—

"All documents relating to the organization of the Department or to the assignment, transfer, or delegation of authority, functions, or duties by the Attorney General or to general departmental policy shall be designed as orders and shall be issued *only* by the Attorney General in a separate, numbered series." (emphasis added).

Our research discloses that this is the only instance in the Justice Department's published regulations in which a function is authorized to be performed "only" by the Attorney General. In fact, in only two other instances in the Justice Department regulations is the term "only" used to explicitly limit the authority granted to the persons described. In both of these instances (28 C.F.R. §§ 3.6 and 17.23) persons other than the Attorney General are also authorized to take the particular actions. In the case of § 17.23, which provides that only the Attorney General and such other officials as he has designated in writing may classify documents Top Secret, the use of "only" is clearly for emphasis since the very next section, which deals with Secret and Confidential classifying authority, fails to use that term. Thus, the use of "only" in § 0.180 cannot be lightly disregarded, and since defendant was not the Attorney General, he had no authority to issue order 546–73 which so significantly affects the organization of the Justice Department.[70]

Chapter 31 of Title 28 (Sections 501–526), which contains the Congressional mandate covering the Department of Justice and the Attorney General, provides statutory support for the proposition that the defendant may not effect wholesale changes in the organization of the Department of Justice. Section 508(a) provides that, in the case of a vacancy in the office of the Attorney General, the Deputy Attorney General "may exercise all of the duties of that office . . . ." The immediately following subsection [508 (b)], which deals with the instant case in which neither the Attorney General nor the Deputy is available, provides in startlingly different language that the next person in succession, who may be either the Solicitor General or an Assistant Attorney General as designated in departmental regulations, "shall act as Attorney General."[71] If Congress had intended that someone acting under Section 508(b) would have the same powers as a Deputy Attorney General acting under Section 508(a), it would surely have used the same and not different language. The failure to use identical language in two parts of the same section strongly suggests that Congress did not intend the authorities granted by those provisions to be identical.

Moreover, the legislative history of Section 508 demonstrates that this difference in language is not a mere happenstance of draftsmanship but is based on significant differences between the duties and qualifications of the Deputy on the one hand, and the Assistant Attorneys General and the Solicitor General on the other, and thus operates to withhold from defendant the authority to order such drastic changes as the abolition of the Office of Special Prosecutor. Under Section 347 of the Revised Statutes of 1874, the Solicitor General was the person who filled any vacancy in the office of the Attorney General and was given the power "to exercise all of the duties of that office," which is the same language used now in Section 508(a) regarding the Deputy. Following the passage of the Reorganization Act of 1949, Reorganization Plan No. 4 of 1953 was submitted by President Eisenhower to the Congress on April 20, 1953.[72] Section 1(a) of that Plan provided that "[t]he function with respect to exercising the duties of the Office of Attorney General vested in the Solicitor General by section 347, Revised Statutes, as amended (5 U.S.C. 293),[73] is hereby transferred to the Deputy Attorney General, and for the purposes of Section 177, Revised Statutes (5 U.S.C. 4)[74] the Deputy Attorney General shall be deemed to be the first assistant of the Department of Justice." Thus, Section 1(a) substituted the Deputy Attorney General for the Solicitor General as the immediate successor to the Attorney General, and this provision became the basis of Section 508(a) of the current Title 28. Section 1(b) of that Reorganization Plan established a new provision which is substantially identical to the present Section 508(b) and which provided for the filling of the vacancy of the office of Attorney General when neither the Attorney General or the Deputy is available, by the Solicitor General or the Assistant Attorneys General in such order of succession as the Attorney General may from time to time prescribe. Section 1(b) specifically provided that the person filling the vacancy in that case "shall act as Attorney General," a marked contrast to the language used to describe what the Solicitor General formerly might do under Section 347 of the Revised Statutes, and what the Deputy could do once the change took place, as it did on June 20, 1953, without objection by Congress.[75]

The accompanying reorganization message sent by President Eisenhower gives the reasons for this change.[76] He stated that the Solicitor General is:

"No longer the appropriate officer of the Department of Justice to be the first in the line of succession of officers to be Acting Attorney General. His basic and primary function is to represent the United States before the Supreme Court. He is not concerned with the day-to-day administrative direction of the affairs of the Department of Justice. Thus, he is not likely to be the officer of the Department whose regular duties best prepare him to assume the occasional responsibility of guiding the affairs of the entire Department in the capacity of Acting Attorney General."

The message then detailed the duties of the Deputy Attorney General, from which President Eisenhower concluded that the Deputy is "both by title and by the nature of his functions, the officer best situated to act as the administrative head of the Department of Justice when the Attorney General is absent or disabled or the office of Attorney General is vacant."

The differences in language between these two provisions, now Sections 508(a) and 508 (b), and hence the differences between the authority given the Deputy and that given the others when filling a vacancy in the position of Attorney General, are amply supported by the reasons given by the President for removing the Solicitor General from the position as immediate successor to the Attorney General and these reasons still apply today. The duties of the Solicitor General, as set forth in 28 C.F.R. § 0.20, indicate that he is basically an appellate attorney, one who, in the language of Section 505 of Title 28, is selected because he is "learned in the law." Similarly, the Assistant Attorneys General all are given areas of special expertise, ranging from tax, to criminal law, to antitrust. While those persons may be well-qualified in their areas of expertise, there is no guarantee that they have any broader range of experience such as would be normally found in an Attorney General or his Deputy. Moreover, they were not confirmed for their positions with these broader duties in mind and have ordinarily had virtually no experience in the Department outside their specialized area. Accordingly, they would, in the normal course of events, be ill-suited to handle the wider-ranging duties of the Attorney General, whereas the Deputy by reason of his normal functions would be prepared to take over for the Attorney General, and his confirmation would have been given with this in mind. It is one thing for Congress to provide a statutory framework to insure that there is always someone to act as the head of the Justice Department; it is another to assume that when Congress used different language to describe what different officials may do when filling a vacancy in the office of Attorney General, that it meant that in both instances the powers were identical.

The notion that an Acting Attorney General has limited powers and cannot perform all of the duties that the Attorney General may, is fully consistent with the Constitution and, indeed, may even be required by it. Article 2, section 2, clause 2 provides that the President . . .

Shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the Supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, or in the Courts of Law, or in the Heads of Departments.

There can be little doubt that the requirement of Senate confirmation is essential in order for Congress to maintain some measure of control over those department heads who are in charge of effectuating the laws which have been duly enacted by Congress. It is apparent that, if a person not confirmed by the Senate as a department head could assume the duties of a department head, great changes could be wrought without any opportunity for Senatorial supervision and control. On the other hand, it is equally apparent that some interim measures must be provided for so that when a sudden vacancy occurs in an important governmental office, the immediately necessary work of that office does not cease because there is no person validly holding the office as head of the department.[77]

Therefore, the Second Congress enacted a statute in 1792 which provided for the temporary filling of vacancies in the offices of Secretary of State, Treasury, and War by the President.[78] It was not until 1863 that Congress extended to the President the power of temporarily filling a vacancy in the other heads of departments and simultaneously imposed the first time limitation on vacancy appointments (six months).[79] In 1868, because of alleged abuses by President Andrew Johnson, the period for filling a vacancy was

Footnotes at end of article.

cut to 10 days by the statute which is known as the Vacancies Act and is now codified in 5 U.S.C. §§ 3345–49.[80] Senator Trumbull, the statute's principal Senate sponsor, stated that it was his intention that the bill should repeal all other laws inconsistent with it and that:

"The intention of the bill was to limit the time within which the President might supply a vacancy temporarily in the case of the death or resignation of the head of any of the departments or of any office appointed by him with the advice and consent of the Senate in any of the departments * * *" 39 Cong. Globe 1163 (Feb. 14, 1868).

The ten day limit for filling temporary vacancies was increased in 1891 to the present 30-day period[81] because of a belief that the shorter time limit resulted in undue haste and possible mistakes in selecting persons for important positions. See 22 Cong. Rec. 2078–79, (Feb. 3, 1891) (Remarks of Senator Gorman and others). Accordingly, since the office of Attorney General is covered by the Vacancies Act, see 28 U.S.C. § 508(a) and 5 U.S.C. §§ 101 and 3345–49, the defendant may continue as the interim head of the Justice Department only for a period of 30 days. See *Williams v. Phillips*, 360 F. Supp. 1363 (D. D.C.), *motion for stay denied*, 482 F. 2d 669 (D.C. Cir. 1973).[82]

Thus, the Congressional decision to permit the President to fill vacancies in emergency situations, where the Constitution otherwise requires that he first obtain the advice and consent of the Senate, coupled with the short periods of time for which those vacancies may be filled, strongly suggests a Congressional concern that these interim appointments be only for the purpose for which they are intended—*i.e.*, to handle emergency or quasi-emergency situations. Congress never intended the Vacancies Act to be a blanket authorization to the President to affect wholesale changes in the operation of the departments during periods in which the head of a department is an interim appointee who has not been confirmed by the Senate.

Seen in this light, the distinction between the language in Sections 508(a) and 508(b) is quite significant and represents a judgment initially made by President Eisenhower and confirmed by the Congress that the emergency powers which may be conferred upon a Deputy Attorney General are of one kind, whereas those conferred upon the Solicitor General and the other specialists who head the divisions of the Justice Department, are of a different sort. Congress was obviously aware that the vacancies would only be for a period of 30 days and that the nature of the matters to be undertaken during that time could not be fully predicted. Yet these statutes clearly indicate an expression of Congressional policy that the Solicitor General and the other Assistant Attorneys General do no more than is necessary, whereas far greater power is given to a Deputy Attorney General who is filling the Office of the Attorney General. Judged in light of the historical perspective, it is apparent that Congress, in passing the Vacancies Act and in enacting Section 508(b), never intended to allow a Solicitor General, as an Acting Attorney General, to take so drastic an action as the abolition of the Office of the Special Watergate Prosecutor, which had been painstakingly created in conjunction with the Senate and which had been the *quid pro quo* for the confirmation of Elliot Richardson and the abandonment of proposals to create an independent special prosecutor by Act of Congress.

Finally, the defendant has himself expressed the view that as an Acting Attorney General his proper role is a limited one:

". . . I am not nominated and confirmed Attorney General, and therefore, I view it as my task simply to keep the Department going on an even keel and to make it as effective as possible for as long as we can until a new Attorney General is nominated and confirmed. I don't plan any major structural changes. I don't plan any personnel changes.[83]

This common sense view, that an Acting Attorney General is little more than a caretaker, is buttressed by Section 508(b) when the Acting Attorney General is someone other than the Deputy. Yet the major organizational change which defendant ordered is wholly at odds with his own concept of a limited role for an Acting Attorney General. Accordingly, for the reasons set forth above, defendant lacked the power to issue order 546–73 abolishing the Special Prosecutor's Office.

C. Defendant's Order Assigning the Functions of the Office of Special Prosecutor Back to the Criminal Division Was Not an "Appropriate" Order Within 28 U.S.C. § 510, and was Arbitrary, Capricious, and Without Basis in Law Or Fact

The attempted abolition of the Office of the Special Prosecutor by defendant was also invalid because it was not an "appropriate" order under 28 U.S.C. § 510. The analysis of this issue begins with Section 509, which provides that "all functions of other officers of the Department of Justice and all functions of agencies and employees of the Department of Justice are vested in the Attorney General . . ." with four exceptions not relevant here. Next, under Section 516 the conduct of litigation to which the United States is a party, which includes all criminal proceedings, is reserved to officers of the Department of Justice under the direction of the Attorney General.

Thus, under this statutory framework, the President has the undisputed authority to nominate, and with the advice and consent of the Senate, to appoint the Attorney General of the United States, but he does not have the power to run the Justice Department, or to require the Attorney General to perform specific acts, or to direct the Attorney General's subordinates to do any such acts. This is made clear from provisions such as Section 511, under which the Attorney General "shall give his advice and opinion on questions of law when required by the President," a power specifically derived from Article 2, Section 2, Clause 1 of the Constitution.[84] That same clause in the Constitution also makes the President Commander-in-Chief of the Armed Forces, an authority which permits him to direct their operations. But there are no comparable statutory or constitutional authorizations for him to direct the Department of Justice, and hence if he disagrees with the policies which the Attorney General is following, his only recourse is to discharge him. The President does not have the authority to direct the implementation of those policies, and indeed he has no authority to order the discharge of inferior officers or the reorganization of the Department of Justice. The actions of the President in this case confirm this interpretation since he did not attempt to discharge Archibald Cox himself, nor did he issue any orders which purported to abolish the Office of the Special Prosecutor. These tasks he assigned to others, and when two Attorneys General resigned rather than comply, the defendant was asked and agreed to carry out the directives.

The Supreme Court has recognized that the provision in Article 2, Section 1 of the Constitution that "the executive power shall be vested in a President of the United States" does not mean that the President may direct the actions of every single person in the executive branch of the government contrary to express Congressional direction:

"The executive power is vested in a President, and as far as his powers are derived from the Constitution, he is beyond the reach of any other department, except in the mode prescribed by the Constitution through the impeaching power. But it by no means follows that every officer in every branch of that department is under the exclusive direction of the President. Such a principle, we apprehend, is not, and certainly cannot be claimed by the President.

"There are certain political duties imposed upon many officers in the executive department, the discharge of which is under the direction of the President. But it would be an alarming doctrine that Congress cannot impose upon any executive officer any duty they may think proper, which is not repugnant to any rights secured and protected by the Constitution; and in such cases, the duty and responsibility grow out of and are subject to the control of the law, and not to the direction of the President.

* * * * *

"It was urged at the bar that the Postmaster General was alone subject to the direction and control of the President, with respect to the execution of the duty imposed upon him by this law, and this right of the President is claimed, as growing out of the obligation imposed upon him by the Constitution to take care that the laws be faithfully executed. This is a doctrine that cannot receive the sanction of this court. It would be vesting in the President a dispensing power which has no countenance for its support in any part of the Constitution; and is asserting a principle which, if carried out in its results to all cases falling within it, would be clothing the President with a power entirely to control the legislation of Congress, and paralyse the administration of justice. *Kendall v. United States*. 37 U.S. [12 PET.] 524, 610, 612–13 (1838)."

Accordingly, it is the determination of the defendant who ordered the abolition of the Office, and not that of the President which must be judged in assessing the lawfulness of the attempt to bring the Office of Special Prosecutor back into the Criminal Division of the Justice Department.

In assessing the validity of the defendant's direction, it is well to recall the sequence that led to the attempted abolition. On the afternoon of October 20th, after both the Attorney General and the Deputy Attorney General declined to discharge Mr. Cox and to abolish the Office of Special Prosecutor, the President made a similar request of the defendant, and he agreed to execute the orders. That very evening, minutes after the discharge orders were conveyed to Mr. Cox, agents of the Federal Bureau of Investigation were sent by the White House to take control of the files at the Office of the Special Prosecutor and thereby to deny access to members of that staff to the premises. Thus, the legality of the determination to reassert control over the Watergate investigation must be judged on the basis of what the defendant knew and considered on Saturday, October 20th, and not at the time that the decision was committed to writing three days later.

The authority under which the Attorney General may assign the functions of the Justice Department among its employees is contained in Section 510, which provides that the Attorney General may "make such provisions as he considers appropriate authorizing the performance by any other officer, employee, or agency of the Department of Justice of any function of the Attorney General." Thus, the statute requires that the Attorney General consider the assignment to be "appropriate," and it is apparent here that the defendant gave no independent consideration to the question, but simply obeyed the order of the President. Mere obedience to the command of another cannot constitute a proper use of administrative discretion.[85]

Footnotes at end of article.

There are only two reasons of which we are aware for which the office might have been abolished. If either or both of these reasons is improper, *i.e.*, legally irrelevant to defendant's determination that abolishing the office was "appropriate," then the determination must be set aside. *D.C. Federation of Civic Ass'ns.* v. *Volpe*, 459 F. 2d 1231 (D.C. Cir. 1971), *cert. denied*, 405 U.S. 1030 (1972). The first possible reason is that the President did not want to surrender more than the summaries of the tapes, which he had agreed to provide to Judge Sirica, and which Mr. Cox, and presumably other members of the Office of the Special Prosecutor, would not accept as being sufficient. That reason is not necessarily related to the independence of the Office since any prosecutor could demand the tapes, subject only to the threat of discharge by the Attorney General for doing so. Thus, that reason seems wholly irrelevant to any consideration that might properly cause defendant to abolish the Office of the Watergate Special Prosecutor.

The second possible reason is that the President himself was concerned that the investigation was coming too close to him, to former members of his Cabinet, to his friends, and to his former close associates in the White House. In short, he was concerned that the independent prosecutor would truly be independent, and that he and his closest associates might be adversely affected by such continued independence. No other reason has been suggested for the abolition of this office, and the circumstances admit of no other conclusion. It is apparent that if this other reason is the basis for assigning the functions of the Special Prosecutor back to the Criminal Division, that is not an "appropriate" reason under Section 510.

Finally, in determining whether the defendant acted in an arbitrary and capricious manner in abolishing the Office, it is well to consider that he was aware of the resignation of the two predecessors in office and knew that he would be out of a job unless he also agreed to the President's desire.[86] Seen in this light, his decision, even if he had the authority and met the technical requirements of the statutes and regulations, was clearly affected by a personal stake and thus must be judged with the greatest skepticism. In that respect the defendant's decision must be viewed in the same manner as the Court of Appeals for this Circuit did in assessing the approval by the Secretary of Transportation for the Three Sisters Bridge in *D.C. Federation of Civic Ass'ns.* v. *Volpe, supra*. The improper influence in that case was a threat on the part of Representative Natcher to withhold badly-needed funds for the District of Columbia Metropolitan Transit Authority unless the bridge was approved by Secretary Volpe. Judge Bazelon found this pressure to be "sufficient, standing alone, to invalidate the Secretary's action," [87] and Judge Fahy agreed that it was sufficient, when combined with other factors, to overturn the administrative decision. We submit that the virtual certainty of the defendant that he would be fired unless he obeyed the President's order, coupled with the fact that the President appears to have acted in part to prevent the Special Prosecutor from investigating him and his closest associates, fatally taints defendant's decision to abolish the Special Prosecutor's Office and requires that this Court set aside Order 546–73 of October 23, 1973.

* * * * *

The question presented on the abolition of the Office of the Special Prosecutor is whether the statutes, regulations, Constitution, and the Congress of the United States contemplate that a Solicitor General, who is suddenly catapulted into the office of Acting Attorney General, should be able to make the drastic organizational change of destroying the Office of an independent prosecutor, which was established to reassure public confidence in the investigation of the Watergate matters, where he did so at the direction of the President who is a subject of the investigation and where he made the decision in order to avoid being fired and without any rational basis. Plaintiffs submit that the answer to this question is clearly "No," and that the attempted abolition of the Office of Special Prosecutor was of no force and effect.

III. Immediate injunctive relief is required in this case

The Court of Appeals for this Circuit established the criteria for the issuance of a preliminary injunction in *Virginia Petroleum Jobbers Ass'n* v. *FPC*, 131 U.S. App. D.C. 106, 110, 259 F.2d 921, 925 (1958). Under that decision, this Court is required to consider the probability of success on the merits, to balance the equities between the parties, and to assess where the public interest lies. Moreover, the Court made it clear that a far lesser showing of irreparable harm to the plaintiffs is required as the probability of success increases. *Id.* As we have demonstrated above, there is a very strong likelihood that Mr. Cox was unlawfully discharged from his office and that the attempted abolition of the Office of Special Prosecutor was invalid. Thus, the showing of harm to these plaintiffs which is required can be met without proof of the kind of irreparable harm present in other situations where plaintiff's case on the merits is not so strong.

Each of the plaintiffs is seeking to restore the public confidence in the administration of justice in this country and to insure that a truly independent special prosecutor is given full powers to investigate the full range of Watergate matters. Their efforts will be greatly aided by a preliminary injunction since that will permit them to turn their attentions away from legislative solutions to the problem of an independent prosecutor and direct their efforts towards other aspects of the problem, particularly since preliminary relief will entail a finding of probable success on the merits.[88]

A preliminary injunction will cause almost no harm or inconvenience to the defendant since he has little personal stake in the outcome of this controversy; in fact, an injunction may relieve him of the problem of selecting a new prosecutor to handle the Watergate matters and of the need to exercise any further supervision over this matter. As for the public interest, even a preliminary injunction will go a long way towards restoring the public's faith that ours is still a system of laws and not men and that the actions of every citizen are subject to scrutiny by the courts where they transgress specific provisions of law.

This motion also asks that the hearing on the motion for a preliminary injunction be consolidated with a hearing on the merits as authorized by Rule 65(a)(2). This case would seem to be a particularly appropriate one for consolidation since the facts would not appear to be in dispute and the conflicts are solely those of law. Perhaps more important than the absence of factual dispute, and the consequent lack of need for discovery, is the real public need for the resolution of this conflict at the earliest time. So long as there is any uncertainty about the legality of the firing of Mr. Cox, the work of the office cannot go forward. No defendant will be able to consider entering a plea until he knows who is in charge of the prosecution, and no indictments can be brought until it is determined who has the final authority to decide who is to be charged with what. Perhaps the best evidence of the uncertainty that must be resolved is the joint motion of the Special Prosecutor's Office and Mr. Petersen which asked Judge Sirica to take control over the Office's files until these questions of control can be resolved.[89]

Finally, the stated intention of the President to have the defendant appoint during this week a new special prosecutor, who will operate within the Justice Department, makes clarification of the legality of defendant's actions at the earliest time even more urgent. It is clearly not in the interest of anyone to have a new prosecutor embark on examination of all the work undertaken by the Special Prosecutor's Office only to be told later that Archibald Cox is still validly holding the position of Special Prosecutor.

CONCLUSION

For the reasons set forth above, plaintiffs' motion should be granted in all respects, and this Court should enter plaintiffs' proposed order submitted herewith.

Dated: Washington, D.C., October 29, 1973.

Respectfully submitted,

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FOOTNOTES

[1] Submitted simultaneously with this motion is a motion for leave to amend the complaint and add additional parties. This amended complaint raises no new issues, and most of the changes simply reflect the addition of the new parties and the changes in circumstances that have occurred since the original complaint was prepared. For the convenience of defendant and the Court, we will refer to the amended complaint in this memorandum in lieu of the original complaint and include facts and arguments related to the parties in the amended complaint.

[2] 119 Cong. Rec. S 8094 (daily ed. May 1, 1973).

[3] *Hearings Before the Sen. Comm. on the Judiciary on Nomination of Elliot L. Richardson, of Massachusetts, to be Attorney General*, 93rd Cong. 1st Sess. (1973) [hereinafter cited as "Hearings"]. [A copy of the Hearings is being provided to the Court for its convenience].

[4] Even before the hearings began, numerous resolutions and bills had been submitted in both houses of Congress calling for the creation of a special prosecutor's office. *See* S. Res. 105, 106, 109; H.R. 7590, 7504, 7855; H.J. Res. 538, 541; H. Con. Res. 208; H. Res. 367–369, 373–374, 376–378, 381, 384–386, 391, 93d Cong., 1st Sess. (1973).

[5] Hearings at 12 (Remarks of Senator Hart).

[6] *Id.* at 4–5.

[7] See, e.g., *id.* at 5, 15, 17, 36, 45–47, 94, 130–131, 144–147, 177. Members of the Committee were especially insistent that the Watergate prosecution not be under the direction of Henry E. Petersen, the Assistant Attorney General in charge of the Criminal Division. See, e.g., *id.* at 152–153.

[8] Senator Ervin stated early in the hearings, "[h]e should have assurance that he would not be subject to removal from his position except for malfeasance in office." See also *id.* at 38 and 137–139, as well as the prescient, if overly optimistic exchange between Senator Tunney and Secretary Richardson discussing the possibility of the Attorney General's being pressured by the President to dismiss the special prosecutor, *id.* at 72–73.

[9] See generally *id.* at 40–42, 52, 57–58, 68–69, 76–77, 79, 159.

[10] Hearings at 144–146. Such guidelines were first proposed in a Senate resolution offered by Senator Stevenson and others, and were later the subject of correspondence between Secretary Richardson and Senator Stevenson. See 119 Cong. Rec. S 9713–15 (daily ed. May 23, 1973).

[11] Hearings at 146, 149–150, 155–156, 177–178.

[12] *Id.* at 159. See also *id.* 179–182.

[13] *Id.* at 200–01 (colloquy between Secretary Richardson and Senator Mathias).

[14] 119 Cong. Rec. S 9709 (daily ed. May 23, 1973). See also *id.* at S 9711 (Remarks of Senator Kennedy), S 9712 (Remarks of Senator Javits), and S 9712–15 (Remarks of Senator Stevenson).

[15] 38 Fed. Reg. 14688 (June 4, 1973), 28 C.F.R. §§ 0.1, 0.37.

[16] Also on May 31, 1973, Attorney General Richardson promulgated Internal Order 518–73, which was not published in the Federal Register, designating Special Prosecutor Archibald Cox the Director of the Watergate Special Prosecution Force, effective May 25, 1973. Additional orders were promulgated by Attorney General Richardson over the next few months to further clarify the authority of the Special Prosecutor. See 38 Fed. Reg. 18-877 (July 16, 1973); 38 Fed. Reg. 21404 (Aug 8, 1973).

[17] See *Hearings Before the Select Sen. Com. on Presidential Campaign Activities on Watergate and Related Activities*, 93d Cong., 1st Sess. 2073 *et seq.* (1973).

[18] *In re subpena to Nixon*, 360 F. Supp. 1 (D.D.C. 1973).

[19] See *Nixon v. Sirica*, — F.2d — (D.C. Cir. No. 73–1962, decided Oct. 12, 1973), reprinted at 119 Cong. Rec. S 19303 *et seq.* (daily ed. Oct. 18, 1973).

[20] Transcript of Press Conference of Former Attorney General Richardson, October 24, 1973, p. 3; a copy of the transcript is submitted as Exhibit 14 to the Affidavit of W. Thomas Jacks filed herewith [hereinafter referred to as "Richardson Press Conference"]. [Exhibits to this affidavit will hereinafter be referred to as "Jacks Exhibit —"].

[21] See Richardson Press Conference [Jacks Exhibit 14] at 3–4. A copy of Attorney General Richardson's proposal is submitted as Jacks Exhibit 1.

[22] Richardson Press Conference at 4.

[23] A copy of this memorandum is submitted as Jacks Exhibit 2.

[24] A copy of this letter is submitted as Jacks Exhibit 3. On Friday, October 19, the day on which the stay of the Court of Appeals was to expire, Special Prosecutor Cox and Attorney Wright had still another exchange of correspondence, but were still unable to resolve their differences. Copies of these two letters are submitted as Jacks Exhibits 4 and 5.

[25] Copies of the President's statement and the White House press release are submitted as Jacks Exhibit 7. Just before issuing this statement, President Nixon sent a letter to Attorney General Richardson directing him to instruct Special Prosecutor Cox accordingly and expressing his regret for "the necessity of intruding, to this very limited extent, on the independence that I promised you * * * when I announced your appointment * * *" [A copy of the President's letter is submitted as Jacks Exhibit 6]. Attorney General Richardson responded to the President's letter the next day, stating that the President's direction was an intrusion on the independence promised him by the President and that for him to carry out the order would be to violate a number of the specific promises made by him to the Senate. [A copy of this reply letter is submitted as Jacks Exhibit 9].

[26] A copy of the Special Prosecutor's statement of October 19 is submitted as Jacks Exhibit 8.

[27] A copy of a transcript of Special Prosecutor Cox's press conference of Saturday, October 20, is submitted as Jacks Exhibit 10.

[28] This letter is discussed in note 25, *supra*.

[29] A copy of Attorney General Richardson's letter of resignation was released by the White House on October 20th; a copy of that release is submitted as Jacks Exhibit 11.

[30] Deputy Attorney General Ruckelshaus' reasons for resigning were discussed by him in a press conference on Tuesday, October 23, a transcript of which is submitted as Jacks Exhibit 15.

[31] The text of the President's letter to the defendant was released by the Office of the White House Press Secretary on October 20th; a copy of that release is submitted as Jacks Exhibit 12.

[32] A copy of this letter is also part of Jacks Exhibit 12.

[33] See Motion for Prospective Order, *In Re Investigations By June 5, 1972 Grand Jury and August 13, 1973 Grand Jury* (D.D.C. filed Oct. 25, 1973) (copy submitted as Jacks Exhibit 17).

[34] See note 7, *supra;* In a written statement released to the press, Bork added that "[m]y job is to keep the Department operating effectively until such time as the President nominates and the Senate confirms a new Attorney General. In my capacity as Acting Attorney General, I hope to preserve for that future Attorney General the programs and initiatives begun by Elliot Richardson." A copy of the Acting Attorney General's written statement is submitted herewith as Jacks Exhibit 13.

[35] See the affidavit of plaintiff Moss, which is submitted herewith.

[36] See 119 Cong. Rec. H 9356–57 (daily ed. Oct. 23, 1973).

[37] See, e.g., S. 2603; S. Res. 191, H.R. 11043, H.R. 11067, H.R. 11075, H.R. 11081, H.J. Res. 784–788, 791–793, H. Res. 632, H. Con. Res. 366, 93d Cong., 1st Sess. (1973).

[38] See generally the affidavit of plaintiff Moss submited herewith.

[39] See note 33, *supra*.

[40] *New York Times*, Oct. 27, 1973, at 14, a copy of which is submitted as Jacks Exhibit 19.

[40a] *Id.*

[40b] See the Moss affidavit submitted herewith.

[41] Hearings at 12.

[42] *Id.* at 5.

[43] *Id.* at 6.

[44] *Id.* at 38.

[45] *Id.* at 72.

[46] *Id.* at 144.

[47] *Id.* at 150.

[48] *Id.* at 177.

[49] *Id.* at 73.

[50] *Id.* at 46.

[51] *Id.* at 144–46.

[52] *Id.* at 73.

[53] Jacks Exhibit 12.

[54] Jacks Exhibit 14, p. 37.

[55] Jacks Exhibit 16, p. 4.

[56] Jacks Exhibit 10 pp. 16–17.

[57] 28 C.F.R. § 0.37 (1973).

[58] Hearings at 41–42, 52, 57–58, 68–69, 77.

[59] Jacks Exhibit 16, pp. 27–28.

[60] Hearings at 144, 174.

[61] *Id.* at 200–201.

[62] In addition, the discharge was invalid for the reasons set forth in Sections B and C of Point II of the Argument—*i.e.*, that as Acting Attorney General the defendant lacked the power to discharge Mr. Cox and that his decision to do so was not an independent exercise of his discretion but was merely a carrying out of the President's order in order to prevent the President from discharging him as well.

[63] 28 C.F.R. § 0.37 (1973).

[64] In this connection it should be noted that Justice Department regulations, 28 C.F.R. §§ 0.25(b) and 0.182, require the Assistant Attorney General in Charge of the Office of Legal Counsel to review all proposed orders, including those affecting organizational changes in the Department, for form, legality, and consistency with other orders. It would be interesting to know what led the same person, Robert G. Dixon, to conclude in May that the provision was valid, and to reach the opposite result in October.

[65] The Court held that there could be no limitation on the President's power to dismiss where Congress had vested the power of appointment in the President. It noted that until Congress "is willing to vest their appointment in the head of the department, they will be subject to removal by the President alone and any legislation to the contrary must fall as in conflict with the Constitution." 272 U.S. at 163. Thus, *Myers* is not applicable to the issue of discharge since Mr. Cox was not appointed by the President.

[66] Hearings at 152.

[67] *Id.* at 144–46.

[68] *Id.* at 62. See also note 4, *supra*.

[69] The legislative understanding was further confirmed when the Senate appropriated 2.8 million dollars for the Office of the Special Prosecutor. S. Rep. No. 368, 93rd Cong., 1st Sess. 12 (1973); See also *Hearings Before the Committee on Appropriations*, 93rd Cong., 1st Sess., pt. 2, at 2151–2153, 2181–2194 (1973). Because the Office was created after the House committee had concluded deliberations on the Justice Department fiscal 1974 appropriations, no provision was included in the House bill, and as of this date, no conference committee meeting has been held to resolve the differences between the two bills.

[70] The importance attached to organizational changes is demonstrated by the Reorganization Act of 1949, 5 U.S.C. §§ 901 *et seq.*, under which a reorganization plan must be submitted by the President to Congress for 60 days before it can become effective. Such plans include "the consolidation or coordination of a part of an agency *or the functions thereof* with another part of the same agency or the functions thereof . . ." 5 U.S.C. § 903(a)(4), and thus appear literally to cover the transfer at issue here. However, the Act has never been considered to apply to functions which are created administratively, and hence its requirements are useful only as a guideline that Congress attached to major organizational alterations.

[71] Prior to October 23rd, the only successor designated was the Solicitor General. 28 C.F.R. § 0.132(a). On that date defendant issued a new order providing for further successors after the Solicitor General. See 38 Fed. Reg. 29466 (Oct. 25, 1973).

[72] Jacks Exhibit 18.

[73] Now 28 U.S.C. § 505.

[74] Now 5 U.S.C. § 3345.

[75] 67 Stat. 636 (1953). In 1966 the codification of Title 28 merely reflected these changes in what are now Sections 505 and 508.

[76] A copy of President Eisenhower's message is submitted as Jacks Exhibit 18.

[77] The defendant's action in promulgating an order of succession to follow him (38 Fed. Reg. 29466, October 25, 1973) was clearly the type of emergency action which he had authority to take since the prior regulations, 28 C.F.R. § 0.132(a), did not cover the case in which there is no Solicitor General to fill the vacancy.

[78] 1 Stat. 281, Ch. 37, Sec. 8.

[79] 14 Stat. 656, Ch. 44.

[80] 15 Stat. 168, Ch. 227.

[81] 26 Stat. 733, Ch. 113.

[82] We do not suggest that the actual confirmation process and swearing in must be completed within 30 days, which expires in this case on November 19th, since that would permit the Senate, by delaying action on a nominee, to cause the removal from office of the person holding the acting position. In our view the Vacancies Act is properly construed to require only the nomination of a new Attorney General within that period of time. This view is supported by the remarks of Senator Trumbull, who said: ". . . the President is authorized to detail some other officer to perform the duties for ten days in case of a vacancy, and during those ten days it will be his duty to nominate to the Senate * * * some person for the office * * *." 39 Cong. Globe 1164 (Feb. 14, 1868).

[83] Jacks Exhibit 16, at 5.

[84] "The President . . . may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any

Subject relating to the Duties of their respective offices. . . ."

[86] The Department's own regulation, 28 C.F.R. § 0.182, requires the submission of proposed orders to the Office of Legal Counsel "for approval as to form and legality and consistency with existing orders." There is not the slightest indication that any such action was taken before the F.B.I. take-over of the files of the Special Prosecutor, and thus there also appears to be a failure of compliance with the Department's own regulations.

[87] Jacks Exhibit 16, p. 3.

[87] 459 F. 2d at 1245.

[88] Had the attempted discharge not already taken place by the sudden unilateral action of defendant, there seems little doubt that the balance of equities would compel the issuance of an injunction, even if the case were far weaker on the merits.

[89] See Jacks Exhibit 17.

POLITICAL REFUGEES IN CHILE

Mr. KENNEDY. Mr. President, on October 18, I wrote to Secretary of State Henry A. Kissinger to express my concern over conditions in Chile, particularly the difficult situation of political refugees and the continuing violation of human rights.

Although the record does suggest that a measure of progress has been made in this important area of international concern, a tremendous gap continues to exist between the actions of the Chilean authorities and their repeated assurances on human rights questions to various international organizations and to other governments.

Because of numerous reports regarding personal tragedy and human rights violations in the aftermath of the coup in Chile, I urgently appealed on September 12 for humanitarian initiatives by the United Nations High Commissioner for Refugees and the International Committee of the Red Cross. The military government in Chile subsequently admitted representatives from these international humanitarian organizations and has committed itself to the humane treatment of political prisoners and the protection of political refugees and others in distress. Several thousand refugees are now awaiting safe conduct out of the country under international auspices.

In supporting the work of the United Nations High Commissioner for Refugees, I urged Secretary Kissinger and the Department of State to respond positively to the appeal of the High Commissioner on October 17 to provide resettlement opportunities for political refugees in Chile who wish to migrate to other countries. In light of the fact that there are now a number of applications for refugee visas to the United States pending at the American Embassy in Santiago, I believe the time is long overdue for our Government to express its willingness to assist in this resettlement effort of the U.N. High Commissioner.

I urge the administration to take immediate steps to provide asylum and resettlement opportunities in our country to a reasonable number of political refugees in Chile, under the parole provisions of the Immigration and Nationality Act.

The time to act is now. And, as we have done with refugees from Hungary, Czechoslovakia, and Cuba, and more recently in the case of Asians from Uganda, this humanitarian gesture is in keeping both with the law and our past traditions.

Mr. President, I ask unanimous consent that the full text of my letter to Dr. Kissinger and my questions to the Department of State on developments in Chile, as well as the text of the appeal by the United Nations High Commissioner for Refugees, be printed in the RECORD.

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

U.S. SENATE,
Washington, D.C., October 18, 1973.

Hon. HENRY A. KISSINGER,
Secretary of State, Department of State, Washington, D.C.

DEAR MR. SECRETARY: Congressional and public concern continues over the conditions in Chile, including the difficult situation of political refugees and the continuing violation of human rights. As you know, I share this concern, and, since the overthrow of the Allende government on September 11, I have strongly advocated and supported efforts by our government in behalf of protecting human rights and of providing international protection and safe conduct out of Chile for political refugees and others in distress.

On September 28, the Judiciary Subcommittee on Refugees appreciated the testimony on these matters from the Honorable Jack B. Kubisch, Assistant Secretary for Inter-American Affairs, and Mr. Louis A. Wiesner, Acting Director of the Department's Office of Refugee and Migration Affairs. In this connection, and as anticipated by the Subcommittee's witnesses, enclosed are a number of questions which elaborate the Subcommittee's concerns over developments in Chile, especially in the area of human rights and refugees.

Although the record suggests that a measure of progress has been made in this important area of international concern, a tremendous gap continues to exist between the actions of Chilean authorities and their repeated assurances on human rights questions to international organizations and other governments. Action taken in recent days by the Executive Committee of the United Nations High Commissioner for Refugees (UNHCR) clearly suggests this. Moreover, reports from many sources confirm that the situation of many thousands, both foreign residents and Chilean nationals, continue to deteriorate. Apart from the general concern over the repressive policies of the Military Government, there is specific concern over the treatment of political prisoners, and over the failure of Chilean authorities to maximize the protection of political refugees and provide for their safe conduct out of the country.

In light of these conditions, I would like to encourage a more positive and active policy on the part of our government, and urge that a number of immediate steps be taken.

First, our government should make strong representations to Chilean authorities in support of the UNHCR's effort to provide full protection for political refugees under his mandate, including their unimpaired access to the many "safe havens" and refugee centers established in Chile under international auspices.

Secondly, our government should make strong representations to Chilean authorities for a speedy conclusion of agreements with the UNHCR to ensure the safe conduct out of Chile of political refugees under his mandate, including several hundred persons remaining in foreign embassies.

Thirdly, in light of the UNHCR's current efforts to find resettlement opportunities for all refugees from Chile, I am extremely hopeful that our government will reconsider its apparently negative response to my earlier recommendation that the United States should offer asylum to a reasonable number of refugees from Chile under appropriate provisions of the Immigration and Nationality Act.

Fourthly, our government should make strong representations to Chilean authorities in behalf of the humane and just treatment of all persons, including former members of the Allende Government, who are being detained for political reasons. Especially, the United States should strongly support efforts by the International Committee of the Red Cross (ICRC) in this area of international concern, and actively encourage Chilean authorities to invite a regular inspection of all detention facilities by representatives of the ICRC and to provide for the orderly due process or release or safe conduct of persons detained for political reasons.

Fifthly, our government should actively encourage and support efforts of the Inter-American Commission on Human Rights to undertake an immediate inquiry into recent events in Chile.

And finally, with the exception of emergency humanitarian assistance, the President should deny the new Chilean Government American economic or military assistance, until this Government carries out its assurances to the UNHCR and others on questions of human rights and refugees, and fulfills its humanitarian obligations in conformity with international conventions to which Chile is a party.

I am extremely hopeful that Congress and the American people can be fully assured of our government's active concern over developments in Chile, and that every effort is being made to encourage and facilitate a resolution of Chile's human rights and refugee problems under international auspices.

Many thanks for your consideration, and I look forward to hearing from you soon.

Sincerely,

EDWARD M. KENNEDY,
Chairman, Judiciary Subcommittee on Refugees.

QUESTIONS ON DEVELOPMENTS IN CHILE SUBMITTED TO THE DEPARTMENT OF STATE BY SENATOR EDWARD M. KENNEDY

1. During September 28 hearings before the Subcommittee on Refugees, Department of State witnesses were asked to comment on allegations in the press and from other witnesses before the Subcommittee regarding widespread killing, executions, torture, etc. At one point, Assistant Secretary Kubisch said: "We do not have all the facts now but we are tracking down everything we can . . . We have not been able to find out anything concrete. . . . It has been so far only hearsay. . . . I do not exclude the possibility that we may learn more in a week or two, or a month from now, but we are doing everything we can now to find out. . . ."

What is the Department's current assessment of allegations regarding: widespread killing, executions, torture, etc.? What is the Department's current understanding of the cumulative total of persons killed, executed, arrested, detained, etc.? What is the Department's overall assessment of the impact of the Allende Government on political activities, civil liberties, and human rights in Chile?

2. Generally describe the mandates, activities and objectives in Chile of the United Nations High Commissioner for Refugees (UNHCR) and the International Committee of the Red Cross (ICRC).

3. Describe the number, location, administration, and conditions of the "safe havens", which are operated under the auspices of the UNHCR for political refugees. Are the

centers open to both foreign residents and Chilean nationals? How many persons are in these centers? What are their nationalities? Are the locations of these centers publicly known and easily accessible? Are Chilean military or police personnel in the centers or around them, and has there been any evidence of interference by the Military Government in the effective operation of these centers or in the movement of persons into the centers? Have any persons been removed from the centers by Chilean authorities, and, if so, for what reasons? An October 17 UNHCR press statement declares: "Chilean authorities have said that refugees who have committed offences would be prosecuted, but the High Commissioner said it was not as yet clear what was meant by the term 'offences'. He was trying to obtain clarification on this point." Comment on this statement, and what is the Department's understanding in this area of concern?

4. What is the status of the UNHCR's efforts to provide safe conduct out of the country for persons able to reach a refugee center? Have any persons in the refugee centers been given safe conduct out of the country? Why has there been so little progress on the conclusion of safe conduct agreements, and what is the United States doing about it?

5. What is the number of persons who sought asylum in foreign embassies? What are the nationalities of these refugees, and in which embassies did they find asylum? How many refugees in these embassies have been given safe conduct out of Chile? What are their nationalities, from which embassies did they leave, and where did they go? How many refugees remain in embassies? What are the nationalities of these refugees, and in which embassies are they still found? Why haven't they been given safe conduct out of Chile, and what is the United States doing to help resolve this problem?

6. Were any persons given asylum in the American Embassy? Were any persons refused asylum in the American Embassy, and, if so, on what grounds? Generally elaborate on United States policy towards granting asylum in an American Embassy or United States government office overseas.

7. Generally describe our Embassy's activities in behalf of Americans present in Chile during and following the military coup. What specific activities were carried out in behalf of Americans detained, missing, etc? Has the Department been satisfied by the response of Chilean authorities to official American inquiries and activities in this area of concern?

8. Describe any supportive role the United States Embassy has played vis a vis UNHCR, ICRC, and similar international activities or presence in Chile.

9. Why hasn't the United States responded positively to the UNHCR appeal for resettlement opportunities for refugees from Chile?

10. What is the Department's understanding as to the number and nationalities of political prisoners in Chile, the number and location and condition of detention facilities, the treatment of detainees, the allegations of torture and summary executions, and the prosecution and sentencing of those charged with "offences"?

11. Has our Embassy in Chile and the Department of State been satisfied with the Chilean Military Government's response to UNHCR, ICRC, and other international activities in behalf of refugees and human rights in Chile? Is it the Department's judgment that the Military Government is living up to its publicly stated commitments to the UNHCR and the ICRC, and that the Military Government is fulfilling Chile's humanitarian obligations under international conventions and law? If not, what can, or should, the United States do?

12. Define the considerations which led to United States recognition of the Chilean Military Government on September 24. Did any bi-lateral understandings, commitments, etc. accompany American recognition of the junta?

13. Describe any United States aid or other commitments to Chile as of early September 1973. Describe any pending Chilean requests to and/or negotiations with the United States, again, as of early September 1973. What effect did the Allende Government's overthrow have on these commitments, requests and/or negotiations?

Describe any new United States aid or other commitments to Chile since the Allende Government's overthrow by the junta. Describe any pending Chilean requests to and/or negotiations with the United States.

14. Was the overthrow of the Allende Government in Chile in the best interests of the United States? Elaborate.

15. Regarding contacts between United States personnel attached to the Embassy and Chilean military personnel, list the names of the personnel involved, the dates of contact, and the subjects of conversation during the 10 days immediately preceding the coup.

16. The Senate Foreign Relations Subcommittee on Multinational Corporations concluded in its report: "ITT sought to engage the CIA in a plan covertly to manipulate the outcome of the Chilean presidential election," and that "The pressures which the company sought to bring to bear on the U.S. for CIA intervention . . . are also incompatible with the formulation of U.S. foreign policy in accordance with the U.S. national, rather than private interests." On the issue of whether American foreign policy should be highly influenced by the interests of private U.S. firms, have U.S. officials or Department of State personnel met with officials of U.S. firms which had been nationalized by the former Chilean government since the coup? If so, when and who and which companies were represented? Elaborate on the purposes of the meetings and at whose initiative they were called.

17. From the ITT hearings of the Foreign Relations Committee, the Senate is familiar with a series of Forty Committee meetings in 1970 which dealt with Chile. The first meeting of which there is public knowledge took place in June 1970. At that meeting, the CIA was authorized to carry out a covert propaganda campaign against Allende. $400,000, was, in fact, spent for this purpose. Additionally, the testimony states that there was a further meeting of the Forty Committee which dealt with Chile soon after Allende was elected on September 4, 1970. The Subcommittee was unable to get a clear answer as to precisely what transpired at this meeting. But it was subsequent to this meeting that Mr. Broe of the CIA made his proposal of September 29, 1970, to Mr. Gerrity of the ITT Corporation to create economic chaos in Chile. The testimony showed that this proposal was made with Mr. Helms' knowledge and approval.

How many times since has the Forty Committee considered the Chilean political situation and U.S. policy with respect to the Allende regime? When was the last Forty Committee meeting prior to the coup in which the subject of Chile was discussed? What were the conclusions regarding Chile?

Did the Forty Committee at any of these meetings authorize CIA assistance, directly or indirectly, in any form whatever, to any of the groups or individuals opposed to Allende?

From Mr. Hennessey's testimony before the Multilateral Corporations Subcommittee it is clear that the U.S. Government used its influence in the multilateral lending institutions to prevail upon these institutions to cut off economic development credits to Chile, even before there was any expropriation of any properties by the Chilean government. Yet Mr. Hennessey also testified that the United States Government made available millions of dollars of credits for military purchases. Why were new military credits offered and new economic loans denied?

18. In an article in the *New York Times* of September 27, 1973, a *Times* correspondent reports that the plotting of the coup which toppled Allende began as early as November 1972. In October 1972 there were a series of demonstrations by Chileans, primarily from the middle class who were opposed to Mr. Allende, the so-called "pots and pans" demonstration. This demonstration bore a striking resemblance to similar demonstrations which took place in Brazil in 1963 and early 1964 against the Goulart regime. Did the CIA play any role whatsoever, directly or indirectly, in the demonstrations which took place in Chile in October of 1972?

UNHCR EXECUTIVE COMMITTEE CABLES CHILEAN GOVERNMENT ABOUT PROTECTION OF REFUGEES

(The following is reproduced as received from UNHCR, Geneva)

The Executive Committee of the United Nations High Commissioner for Refugees (UNHCR) has sent a cable to the Government of Chile expressing "the hope that Chile will, in continued co-operation with the High Commissioner, and in conformity with the international conventions to which it is a party, promote rapid solutions for refugees under the High Commissioner's mandate in Chile, taking into account their need for protection and assistance".

The idea of dispatching a cable was first suggested by the Norwegian delegate to the Committee, Edward Hambro, after a great number of delegates among the 31 member Governments had stated their concern about the situation of refugees from various Latin American countries who are living in Chile.

ANOTHER UNHCR OFFICIAL SENT TO SANTIAGO

UNHCR's presence in Chile was strengthened yesterday when another senior official was sent to Santiago from Geneva to join UNHCR's Regional Representative for Latin America, Oldrich Haselman. Soon after the change of regime last month, Mr. Haselman established "working modalities" with the Chilean Ministries of Foreign Affairs and of Interior.

Several hundred refugees from various Latin American countries have sought protection and assistance in the emergency reception centres that have been set up under the auspices of the National Committee for Aid to Refugees. UNHCR has secured the services of a Chilean lawyer to provide to the greatest extent possible due process of law and proper defence of refugees charged with offences.

Chilean authorities have said that refugees who have committed offences would be prosecuted, but the High Commissioner said it was not as yet clear what was meant by the term "offences". He was trying to obtain clarification on this point.

In addition to strengthening the UNHCR presence in Chile, the High Commissioner is intensifying his contacts with Governments, the International Red Cross, the Intergovernmental Committee for European Migration, and international as well as national voluntary agencies, to ensure co-ordinated actions to assist the refugees in Chile.

Supporting the idea of sending a cable to the Chilean Government, the delegate of Sweden, Governor E. A. Westerlind, stated during the Committee's deliberations: "If the international instruments that safeguard the rights of refugees are not applied entirely in Chile, this could have a bearing on their application in other situations. Silence today might destroy the whole system of measures of protection that has been built up so laboriously over the years".

Chile is a party to the two main instruments in the field of international protection of refugees, namely, the 1951 Convention relating to the Status of Refugees, which defines the rights of refugees and prescribes a standard of treatment to which refugees are entitled, and the 1967 Protocol relating to the Status of Refugees which extends the provisions of the 1951 Convention to new groups of refugees and is thus applicable to the present situation.

APPEAL FOR RESETTLEMENT OPPORTUNITIES FOR 1,000

The High Commissioner has also appealed to the Governments who are members of his Executive Committee to provide resettlement opportunities for some 1,000 refugees in Chile who wish to migrate to another country. This is considered an initial figure which may increase considerably. UNHCR has been informed that 20 refugees have already arrived in Canada.

Even before the High Commissioner's appeal, the representatives of Sweden, Switzerland and France had told the Committee that their Governments would be willing to accept refugees uprooted as a result of events in Chile who decided to resettle elsewhere.

The full text of the cable that was handed yesterday by the Chairman of the Executive Committee, Axel Herbst of the Federal Republic of Germany, to Pedro Daza, Permanent Representative of Chile to the United Nations in Geneva, for transmittal to the Minister of Foreign Affairs, is as follows:

"The Executive Committee of the programme of the United Nations High Commissioner for Refugees has during its present session requested me to inform Your Excellency of the following: The Executive Committee has considered the situation of the refugees under the mandate of the High Commissioner in Chile. With reference to the contacts which have taken place and the arrangements made between your Government and the High Commissioner in view of the humanitarian aspects involved, the Committee has expressed the hope that Your Excellency's Government will, in continued co-operation with the High Commissioner and in conformity with the international conventions to which Chile is a party, promote rapid solutions for these refugees, taking fully into account their need for protection and assistance.

"Accept, Your Excellency, the assurances of my highest consideration."

ANNIVERSARY OF UNITED CHURCH OF WEST RUTLAND

Mr. STAFFORD. Mr. President, on October 20, 1973, the bicentennial celebration was held for the United Church of West Rutland, Vt. A beautiful historic landmark, the church has a rich local history. In 200 years the church has had 25 pastors and has worshiped in four church buildings. The impressive development of both the church and the town has been facilitated by a very active membership.

The Reverend Benajah Roots was the first pastor from 1773 to 1787. The church was built early in the ministry of Lemuel Haynes, the first Congregational clergyman of partially black ancestry. Father Haynes was a self-educated and widely respected man of independent thought and fearless utterance. The worship service opening the bicentennial week included a memorial to these men and to the fine people who have shaped the history of the United Church of West Rutland.

I ask unanimous consent that the following article from the Rutland Herald of October 1, 1973, be printed in the RECORD.

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

ANNIVERSARY FOR CHURCH IN WESTSIDE

The United Church of West Rutland began with a gathering of 14 persons at the home of its first pastor Oct. 20, 1773. And later this month, the present membership will celebrate that event and the 200 years of rich, local history that followed.

A succession of church buildings marks the evolution and expansion of both the church and the town.

At first, the church served only Congregationalists. Now, it serves Baptists, Methodists and Episcopalians as well.

The first incorporated group met under the leadership of the Rev. Benajah Roots, who was pastor from 1773 to 1787. Services were held at a log meeting house which had slabs for seats. The house was on the west side of what was known as Meeting House Hill, near Evergreen Cemetery in Center Rutland.

This log meeting house was the first established church in Rutland County and the 10th in the state. Since its founding, the church has moved to three other buildings and has thrived under its string of 25 pastors.

In 1784, the eastern parish of the original group erected its own meeting house and in 1788, its own church. This split was the beginning of the present Grace Congregational United Church of Christ in Rutland.

The Rev. Mr. Roots died in 1787. The following year, his parishioners built a new church. This wood frame church was just south of the old Pleasant Street Cemetery.

It was an austere church, lacking a steeple, chimney, paint or heat. It was built early in the ministry of the Rev. Lemuel Haynes, who was pastor until 1818.

The Rev. Mr. Haynes was the first Congregationalist minister with black blood. He was self-educated and had fought as a Minuteman in the Revolutionary War.

During his tenure, 300 persons joined the congregation despite his outspoken opinions on national politics. The Rev. Mr. Haynes was later dismissed from the pastorate at his own request.

The wood frame church served the parish until 1855. In 1826 a porch, a belfry, a steeple and three galleries were added. It was described as a "handsome building."

But the parish decided in 1855 to build a brick church.

The new church was Greek Revival in style, with white columns and a steeple. It cost $18,000 and was on the east side of Pleasant Street, across from the cemetery and the wood frame church.

This new church was believed by some to be ill-fated. When it was being built, the master builder fell to his death.

The hall echoed, the roof leaked and the church often filled with smoke because the chimney had been poorly placed.

The church was torn down in the late 1880's after only 30 years of service. Much controversy is recorded about the decision, but renovation of the old church would have been too expensive.

A new site was chosen in the growing western side of the village. One parishioner laid the misfortunes of the first brick church to the omission of a religious service at the laying of its cornerstone. "I expected accidents would happen," he is reported to have said, "and that everything would go wrong. The Lord wants His work to start right," he said.

Things were put right for the fourth church. A formal ceremony was held when the cornerstone was laid Sept. 10, 1886, for the second brick church at its present site—the corner of Chapel and High Streets.

The cornerstone contains copies of The Herald, the Vermont Chronicle, the Boston Congregationalist (a church manual dating from 1831), a sermon preached by the Rev. Mr. Haynes in 1805 and a historical address by one Deacon Thrall.

The foundation of the church is dark blue marble donated by Sheldon and Sons. A pipe organ dated 1866 and made in Westfield, Mass., was moved from the old brick church. Its black walnut case was altered to the style of the 1880s.

The membership of the church broadened early in the century. The Congregational Society voted Dec. 27, 1918, to invite the Methodist and Baptist churches to join them as the United Church of West Rutland.

The Episcopal Church didn't join this union. But it discontinued its own services at the same time. The Methodist and Baptist churches were sold and torn down. The Episcopalian chapel is now a house near West Rutland School.

On March 2, 1919, the Rev. Thomas Carlson became the first United Church pastor. In the middle 1960s, the West Rutland church was affiliated formally with the United Church of Christ.

The church has been renovated and redecorated over the years through the work of youth groups, the Women's Society and individual gifts.

A two-story wooden building called Pratt Hall is adjacent to the church and is used for Sunday school and special programs. It has been a meeting hall during remodeling at the church.

The bicentennial celebration begins Oct. 14 and will continue for a week. Highlighting the actual anniversary on Oct. 20, will be a banquet at the Beacon Restaurant in North Clarendon.

The speaker will be Robert W. Mitchell, editor and publisher of The Herald. Chauncey Osborne will be toastmaster. Reservations are available from Mrs. Louis Shannon or Mrs. H. B. Pratt.

A memorial tablet will be dedicated to the Rev. Mr. Roots, the first pastor, at the Sunday morning worship service opening the bicentennial week.

The Rev. James McLaughlin, pastor from 1965 to 1967, the Rev. Roger L. Albright, pastor from 1957 to 1965, will take part with the current pastor, the Rev. Irving E. French.

An organ recital will be held in the afternoon. Also scheduled are a Gospel music concert Oct. 17 and a special morning worship service Oct. 21.

AQUACULTURE AT WOODS HOLE, MASS.

Mr. KENNEDY. Mr. President, seldom do we have the opportunity to discuss good news for the New England fishing industry; but recently there has been some renewed hope that we can be successful in our efforts to revitalize the industry. We have witnessed a growing national awareness of the problems of the fishing industry and movement in the Congress to deal with those problems.

We have heard of the disappointment at recent ICNAF meetings; but we saw some small signs of hope at the meeting 2 weeks ago in Ottawa that other nations are at least aware of the serious intention of the Congress to act to preserve and protect our fish stocks. New inspection procedures and a reduction in quotas for 1975 to allow our dwindling fish stocks

to recover are both important steps achieved at the Ottawa meeting to assist the New England fishing industry.

And in the last few months, representatives of the New England fishing industry working with the National Oceanic and Atmospheric Administration have initiated a plan funded by NOAA to deal with some of the unique problems facing New England fishermen.

I want to bring to the attention of the Senate another important development in the painfully slow process of revitalizing the fishing industry and that is the research that is being conducted at Woods Hole Oceanographic Institution in Massachusettts in aquaculture.

Very simply, Dr. John Ryther of the institution is recycling waste to grow algae which is a source of food for shellfish. It is the kind of research that is important in the field of pollution abatement, renewal of the fish stocks, and ultimately food supply for the world.

I ask unanimous consent to print in the RECORD an article from the Woods Hole Notes which describes in greater detail this important research project.

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

AQUACULTURE AND ADVANCED WASTE TREATMENT

Aquaculture—the farming of the sea and cultivation of its animal resources—is being done at many locations today for the development of food resources from the sea to support the world's growing population. None, however, reflect the approach of Dr. John Ryther of the Woods Hole Oceanographic Institution, whose acquaculture project incorporates an advanced waste treatment process by recycling human wastes to grow algae as a source of food for shellfish.

In a sense, Dr. Ryther is working with one aspect of overpopulation—pollution—to help meet the needs of another—food. In recent months, he has received grants from the National Science Foundation and from several private sources totalling more than one million dollars to fund the initial construction and operational costs of an Environmental Systems Laboratory for further expanded research. The first phase of the laboratory, located in a wooded area in the Quissett section of Falmouth, about two miles from Woods Hole, was finished at the end of the summer and becomes operational next month.

"A major focal point for aquaculture is in the oyster fisheries," said Ryther, explaining how shellfish have been produced in a variety of ways around the world for years. "In the Chesapeake Bay region, draggers called skipjacks are employed, dredging oysters under sail in a picturesque but inefficient method. In Brittany, lime-coated tiles are systematically laid out in estuaries. The oysters attach themselves to the tiles from which they are later removed, planted in prepared inter tidal beds, and allowed to grow to maturity. In Japan, a three-dimensional hanging culture method was developed which makes available a whole water column to nourish the growing oysters. When grown under these conditions, the oysters reach marketable size in about a year. A single raft in the Inland Sea of Japan can produce four tons of oyster meat per year—the highest rate of production of animal protein per unit anywhere on earth."

As a source of oyster food, algae has been the subject of diverse research pertinent to its growth. "Fresh water algae has been grown in various kinds of little ponds and other experiments have been carried out at the University of California at Berkeley, using raw sewage as a source of food for the algae," pointed out Ryther. "Shellfish, like clams and oysters, are filter-feeding mollusks which can feed on the algae grown under controlled conditions using sewage for nutrition. Through the shellfish, the algae is converted at little cost into a form of animal protein with high nutritional and commercial value for mankind."

Ryther envisioned the output of an algae farm being linked to a shellfish farm designed along the lines of the Japanese hanging culture method. "The water containing the treated sewage would provide a source of nutrients for the algae farm, and the algae would provide food for oysters," he said. "In turn, the oysters would become a source of food for man, based around a large-scale but reasonable farm system."

Under Ryther, a similar, experimental process has been going on in laboratories at the Oceanographic Institution for the past three years. A scaled-down model of the tertiary-treated, sewage-aquaculture system was designed and successfully tested both indoors and outside before evolving to the present plan. This summer, as in the past two years, a scale model of the system was set up on the Institution's pier, but for the last time. The level of experimentation now must be increased to a much larger scale, which will be accommodated at the new Environmental Systems Laboratory.

Basically, Ryther's aquaculture project involves working with pollution—growing marine phytoplankton in diluted effluent from treated sewage and other compounds. Inorganic products of sewage decomposition, such as ammonia and phosphate, are removed in the process, and crops of the commercially-valuable shellfish are raised on the resultant algae. Carried to a high level of sophistication, the system could raise food crops of oysters and other bivalve mollusks such as mussels and scallops for man, using algae as a source of food for the shellfish. In turn, the marine animals would keep the seawater in the area clear of excessive algae, which would otherwise grow as a result of enrichment from the sewage.

"In any consideration of pollution problems, the choice is not simply between 'clean' and 'dirty' water," points out Ryther, "but may also, to a large extent involve the choice between high and low productivity of organisms, including those of direct use to man as food. There can be little question that the high yields of shellfish from such places as Chesapeake Bay, Long Island Sound, and other estuaries is due, at least in part, to the fertilization of these waters with human wastes. The cleansing of these waters may therefore be accomplished at the expense of their fisheries.

"The resulting dilemma is an example of the conflicting uses of, and demands on, the coastal zone," he continued. "The solution to such problems must lie in our ability to design processes and techniques whereby these various uses may be made compatible, either by separating them physically or by designing them functionally so that they are not mutually exclusive within the same physical environment." The system under investigation, consisting of a combined sewage treatment-acquaculture process, would concentrate two essential uses of the coastal zone—food production and waste disposal—in one confined area, leaving the contiguous waters free and unaffected by those uses for other purposes such as recreation.

Done on a large enough scale, the system could produce an annual crop of one million pounds of shellfish meat from a one-acre animal production facility and a 50-acre algae farm using treated effluent from a community of 11,000 people, according to Ryther. Projecting the pattern even further, he noted: "In New York, 10 million people produce about a billion gallons of sewage per day, which is discharged into New York Harbor and Bight. This could flow through a second-ondary sewage system so that the organic matter is decomposed and mineralized into inorganic nutrient materials. Sea water could be brought through a nuclear power plant, providing warm water the year round for the growth of the algae. The output of the algae farm could be linked to a shellfish farm designed along the lines of the three-dimensional hanging culture method first developed in Japan."

Thinking on such a hefty scale, one would expect Ryther to be among those citing the untapped resources of the sea as a potential cure-all for man's increasing demands for food to satisfy his multiplying numbers, but such is not the case. His view is tempered by the experience of two decades of ocean study rather than by the rhetorical expectation of the decades to come. "We've drastically revised our estimates of the potential of the ocean for food production," he said. "The ocean is not the great reservoir of food that everyone thought it was—a thought which came about after *Challenger* and other expeditions showed the great variety of life in the deep sea.

"In my own work, I started out measuring primary productivity in the oceans," he continued: "Soon, it became obvious that most of the ocean was nutrient-limited; productivity was extremely low, and it was centered in the coastal areas. Most people now generally agree that 90 per cent of the ocean is poor in terms of food resources. This led me to aquaculture with the possible beneficial application of human wastes for increasing productivity."

That application will continue as the main thrust of the research conducted by the Ryther group at the newly-completed Environmental Systems Laboratory, but while the scientists will be most concerned with waste recycling in respect to aquaculture, other studies also will be made on the accumulation of pollutants such as heavy metals and chlorinated hydrocarbons in the marine food chain, since pollution has such a major bearing on the field. The 4,800 foot single story structure was designed by the engineering firm of Kramer, Chin, and Mayo of Seattle to house laboratories and a supporting complex of elaborate piping systems and tanks. A second phase of construction is envisioned for the future and will include additional ponds and enclosures for the growing animals, and laboratories.

Initially, the Environmental Systems Laboratory will utilize a 12,000 foot algae farm and shellfish and finfish culture tanks using seawater from Vineyard Sound, a short distance from the site, and treated effluent to cultivate algae as food for the fish. The six algae ponds are 50 feet in diameter with three foot depths, the shellfish growing units occupy a 3,000 square foot area, and the piping system is capable of filtering and heating up to 1,000 gallons of seawater per minute. The facility is unique in that it will be the first such large scale operation to draw on salt water and treated effluent in an aquaculture project.

Earlier research in existing laboratories was done by Dr. Ryther and his staff on a smaller scale with seaweed, oysters, clams, shrimp, lobsters, and other shellfish. It revealed that nutrient-enriched waste water diluted with seawater to a concentration of 50 per cent has proved to be an excellent culture medium for the growth of phytoplankton at the base of the marine food chain. The 20-man staff of the Environmental Systems Lab will be conducting related research on a much larger scale which could make future production of shellfish as a high-protein source of food for man economically feasible. The facility also will be concerned with other

aspects of pollution control and the environmental sciences in general.

A book entitled "Aquaculture: the Farming and Husbandry of Freshwater and Marine Organisms," written by Ryther, John E. Bardach, and William O. McLarney, was nominated by the National Book Awards Committee for the 1973 science book of the year. In their preface, the authors noted: "Seafaring, including the quest for fish, and the domestication of land plants and animals, has enabled man to spread over the globe. We now wish to explore what species can be domesticated in the sea or in lakes and rivers, especially with the development of some technical mastery over the once alien, liquid portion of our biosphere. It is not surprising that aquaculture has advanced farther in fresh than in salt water and that mariculture is still in its infancy. Thus, the only true domesticated aquatic animals are carp and trout rather than saltwater creatures.

"Whether we wish to grow crab or mullet, lobster or shrimp, and whether the first consideration is to make money or to supply additional animal protein in a country's diet, we should have complete manipulative mastery over the entire life cycle of the animal." In this regard, the authors were concerned with the capability of initiating reproduction at predetermined times while considering other points such as nutrition and diseases and their interplay with aspects of the animals' behavior. Still a third focal point was the utilization of economically-sound technology—aquaculture engineering, an area which ranges from the construction of simple ponds or hand-operated sluicegates that mix fresh and salt water "to more complex, such as sophisticated larval rearing schemes that employ pumps, filters, and ultraviolet sterilization of the water, all more or less automated."

Among the problems to be studied by Ryther's aquaculture project are those relating to the presence of toxic substances in domestic sewage and in industrial cooling water, and their transmission through the food chain. They may interfere with the biological system itself because of their toxicity, or they may become concentrated in the shellfish at the top of the food chain, making them unsuitable as food. Among the toxic pollutants being studied are the ions and organic complexes of heavy metals, and such organic compounds as chlorinated hydrocarbons, polychlorinated biphenyls, dioxins, and petroleum derivatives. The presence and possible biological concentration of the substances must be taken into account if the proposed aquaculture system is to be properly evaluated. The study of the transfer of the pollutants through the experimental food chains will be an important part of the research program and will involve both waste products occurring naturally and those added artificially.

Overall, Ryther sees the problem as an extremely valuable research opportunity. "Little is yet known about the mechanisms, routes, and rates of transfer and concentration of most of the toxic constituents of human wastes," he said. "A few studies have been made with DDT and other pesticides, but for the most part, however, conclusions concerning the food-chain amplification of pollutants have been based on analyses of organisms collected from nature and their assumed position in the food chain. Little attention has been focused on such problems as the partition and rate of transfer of the various pollutants within the various phases of the marine ecosystem (water, sediment, and organisms), the biochemical and geochemical transformations that take place within each phase, and the effects of these variables on biological uptake and concentration."

LONG-RIBICOFF CATASTROPHIC HEALTH INSURANCE AND MEDICAL ASSISTANCE REFORM ACT OF 1973

Mr. RIBICOFF. Mr. President, on October 2 Senator RUSSELL LONG and I introduced the Catastrophic Health Insurance and Medical Assistance Reform Act of 1973. This bill has been cosponsored by 23 Members of the Senate. Our bill will help every segment of our population.

Wherever I go in Connecticut people come up to tell me of their experiences with the high costs of illness. Thousands have written me expressing approval and concern. No one is immune from the possibility of such a catastrophe. This bill provides protection not only for those who have to face present medical bills, but also for those who know that prolonged illness could happen to them.

I am pleased that many newspapers throughout Connecticut and elsewhere recognize the need to take steps now to remove the burden of catastrophic health costs from all American families.

I ask unanimous consent that several editorials be printed at this point in the RECORD.

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

[From the Bridgeport (Conn.) Post, Oct. 3, 1973]

NEEDED HELP

Senator Abraham Ribicoff has been busy lately addressing himself to the problems of the chronically and seriously ill.

Our senior Senator is the co-sponsor with Senator Russell Long of Louisiana of the Catastrophic Health Insurance and Medical Assistance Reform Act of 1973.

The measure would create a fund for all Americans covered by Social Security which would be financed by an additional Social Security payment of .3 per cent by both employes and employers. From this fiscal reservoir, the government would assume payment of medical costs after 60 days of hospital care or $2,000 of medical bills.

The bill would also establish a uniform national program of basic medical benefits for low-income persons to cover the first $2,000 and 60 days. Another provision makes available to every American a private health insurance policy at group rates to cover the same basic costs.

The United States, compared to many other industrialized nations, has been remiss in caring for its citizens' medical needs. Although we have the Medicare and Medicaid programs, Senator Edward M. Kennedy recently pointed out that persons covered by the government health insurance are paying higher medical bills now than in 1965 before the programs were enacted.

Hospital costs have been rising at an annual rate of almost 13 per cent. The average daily cost of in-patient care in Connecticut is $97, and the figure for the nation as a whole is a dismaying $110. A National Cancer Foundation survey shows that prolonged illness can reduce a middle-income family to poverty in less than two years.

The Ribicoff-Long proposal has several features to recommend it. It puts a ceiling on runaway medical costs for the individual. While it places the largest burdens on the government, it does not interfere with private plans for basic coverage and makes group coverage available to those who otherwise would not have access to it. Finally, the bill has a much better chance for passage than Senator Kennedy's mammoth $80 billion Health Security Act, firmly opposed by the Nixon Administration.

Ribicoff-Long deserves fullest consideration. A measure of this kind is needed to ensure that for Americans prolonged illness does not spell financial ruin.

[From the New Canaan (Conn.) Advertiser, Oct. 18, 1973]

CRITICAL HEALTH NEED

Most American families, in contemplating their future, would admit that catastrophic illness is their biggest worry.

With hospital rates at $100 or more per day—not even including the special services often required or the medical expenses—a single serious illness in a family can all but wipe out that future.

Often, the cost of coping with such illness is so great that various hospitalization insurances are but of only minor assistance. Gone in one fell swoop are a life's savings, the children's education fund and all of the aspirations for the years ahead. Only the affluent can survive the toll illness can exact; many of the rest are reduced to virtual poverty and even a place on the public welfare rolls.

The desperate plight of the afflicted has not gone unrecognized, however, and last week U.S. Sen. Abraham Ribicoff of Connecticut introduced legislation that promises to help.

Under its terms, the government would guarantee all medical costs above $2,000 and all hospital expenses incurred beyond 60 days. In addition, of course, everybody would be eligible to buy private insurance that would help cover those initial expenses.

The provisions of the bill are not so generous that they constitute a give-away. They leave with the individual the responsibility of providing for himself and his family, but they compassionately recognize also the limits beyond which a family cannot assume health burdens without ruinous impact.

As in most Congressional legislation, however, provisions for how these costs would be financed remain unclear. Presumably, Americans would make their contributions as they do now to Social Security benefits for their old age. At any rate, the cost in payroll deductions seems preferable to the alternative—depletion of a family's resources.

Concerned Americans should urge their Congress to examine this bill carefully, weighing its practicalities with compassion. We need it or something like it to spare American families from the threat of financial disaster.

[From the Naugatuck (Conn.) News, Oct. 18, 1973]

THE COST OF MEDICAL CARE

That the cost of medical care these days is a problem for most Americans is an established fact.

The question is—what can be done about it?

Well, we rather like what we have been hearing from Connecticut's Sen. Abe Ribicoff, who joined hands a few days ago with Sen. Russell Long of Louisiana to introduce a measure in Congress which would, it seems to me, go a long way toward accomplishing that objective.

The Long-Ribicoff Bill would provide government insurance, similar to Medicare, which would pay everything beyond the first $2,000 of a medical bill or beyond 60 days of hospitalization.

There's a bit of a gap here, since average hospital costs—around these parts, at least—are about $100 a day. That means the guy

who faces a 60-day hospital stay also faces a $6,000 hospital bill—and forget about the extras.

That, however, is something that can be ironed out in due time.

Further, the Long-Ribicoff Bill would seek to introduce health insurance companies to offer policies at a "reasonable cost" covering the first 60 days of hospital care and the first $2,000 of medical bills.

Replace the federal-state Medicaid programs, which vary from state to state, with a uniform national program of medical benefits for low-income people. It would cover 12 million additional low-income people as well as the 22 million poor now covered.

The plain fact is that almost anyone, regardless of income, can find his life savings depleted or his house sold out from under him, educational opportunities for his children lost—all because of a major illness or injury.

Low-income individuals are hurt most of all, but let's face it—middle class Americans can be financially destroyed almost as easily.

Long and Ribicoff propose that their bill could be financed by an increase in social security taxes, which would cover the anticipated $3.6 billion cost.

That may not go down too well with the average worker who is getting a bit fed up these days with payroll deductions—but a small increase in social security deductions is little enough to pay for protection against major financial losses in the event of serious and prolonged illness or injury.

[From the Waterbury (Conn.) American, Oct. 10, 1973]

AID IN LONG ILLNESSES

The Ribicoff-Long national health insurance plan, which places emphasis on catastrophic illnesses, makes a reasonable start toward finding a solution to the medical cost problem plaguing American families. Undoubtedly many other bills will be introduced before a feasible plan is developed.

The Ribicoff-Long measure introduced in the Senate would cover all families on major medical costs above $2,000 and some low-income families for the first $2,000 as well. UAW President Leonard Woodcock charged immediately that the plan is inadequate and unfair. He claims less than a million persons would benefit from it annually, while everyone would be taxed for it.

The Senate measure proposes a $37.80 a year increase in Social Security taxes. The annual cost has been estimated at $8.9 billion. Many other plans carry costs far in excess of this, and also would call for higher taxes. Congress will have to sift out the various proposals, keeping in mind the overall costs and the amount of benefits that should be provided. It will be no easy task.

Already there are predictions that a health insurance plan will not be passed at the current congressional session. Hopefully, however, the plight of families who lose their homes and savings to pay for illnesses will gain enough publicity to pave the way for more thorough studies on ways to finance catastrophic illnesses.

[From the Danbury (Conn.) News-Times, Oct. 7, 1973]

NEW HEALTH INSURANCE PLAN

Senator Abraham Ribicoff of Connecticut, joined by Senator Russell Long of Louisiana, has moved to break the impasse in Congress over a national health insurance plan.

They introduced the Catastrophic Health Insurance and Medical Assistance Reform Act of 1973 and almost immediately drew several other senators, including Senate Republican Leader Hugh Scott and Senator Robert Dole, former Republican national chairman, as co-sponsors.

Their compromise bill probably will not get Senate action until sometime in 1974.

But the sponsorship is a clear indication to the Senate of an effort by its Finance Committee to come up with a workable compromise and a signal to the House Ways and Means Committee that the Senate is receptive to action before the 93rd Congress adjourns sometime in late 1974.

Senator Long is chairman of the Finance Committee and like most of its other members a recognized member of the Senate's conservative bloc. Senator Ribicoff is one of only two or three Finance Committee members identified with the liberal bloc.

The Long-Ribicoff bill would limit the amount an American family would have to spend for medical care in case of serious illness. The catastrophic insurance would cover all medical bills in excess of $2000 and all hospital costs incurred beyond 60 days.

The bill would also make available a certified private insurance policy at reasonable rates to cover the first $2000 and 60 days of cost. Low income individuals would be covered under a medical assistance plan to be administered by the Social Security Administration.

The Long-Ribicoff approach if adopted, would be far less costly than a comprehensive health insurance system proposed by Senator Edward Kennedy of Massachusetts. But it goes well beyond the minor program proposed by the Nixon administration.

As Senator Ribicoff pointed out in introducing the bill, "You don't have to be poor to be staggered by health costs. Almost anyone can find his life savings depleted, his house sold out from under him, educational opportunities for his children lost—all because of major illness or injury."

The Long-Ribicoff bill is not perfect. It can be improved. It does represent an approach which appears reasonable and financially realistic.

It should draw constructive response from all concerned with the financial aspects of health care.

[From the Groton (Conn.) News, Oct. 16, 1973]

NHI—A REASONABLE START

It has been a standard prediction that U.S. Senator Russell Long, a very conservative Democrat, would come up with a National Health Insurance plan that would, in effect, keep the government out of the insurance business.

In cooperation with U.S. Sen Abraham Ribicoff, Russell has produced that plan, and, if it is adopted, and found to be workable, it should easily accomplish that objective.

Ribicoff, in introducing the Long-Ribicoff plan to the senate, conceded that it is a far cry from some of the proposals that have been made for comprehensive National Health Insurance.

He points out, realistically, that every reform must start somewhere—and that the Long-Ribicoff bill is a good starting point.

He is correct in that assessment, for the plan goes to the heart of the health care crisis in the United States. It is an immediate attack on the unbelievably high costs of catastrophic illness.

But, and perhaps most important, it provides legal jaw-boning to force the private insurance industry to come up with a reasonably priced and comprehensive policy for the payment of ordinary medical and surgical bills. The incentives are strong—for if an insurer fails to provide for such a plan after a three year period, he would be excluded from serving as a carrier for Medicare, and thus, in effect, forced out of the health insurance business.

The catastrophic coverage envisioned by the Long-Ribicoff bill would take over after a family has incurred $2,000 in medical bills in the course of a year, and hospital costs would be paid after a person has incurred 60 days of hospital care.

Although the deductibles seem high, the plan would have every chance to work, if the private insurers were able to produce a policy that would cover the first $2,000 or 60 days of medical costs.

The benefits of the plan would be extended to low-income families without payment of premiums, and families above the income eligibility limit for Medicaid benefits would be included if their medical costs reduced their net income sufficiently.

The plan is moderately complex, although its basic purposes are clear.

As Ribicoff said in his presentation to the Senate, "a catastrophic illness can reduce a middle-income family to poverty in less than two years . . ." It is not unusual for families in the middle income class to be inflicted with medical payments in excess of $25,000 for a protracted illness or complex surgery.

In effect, the plan places a ceiling on medical costs for the entire nation—and provides the means for everyone to share equally in the opportunity for a sensible medical prepayment plan. It accomplishes these two purposes without throwing the private insurance industry out of business. That is a benefit that is important—for the insurance industry is a major employer, purchaser and investor in our economy.

[From the Hartford (Conn.) Courant, Sept. 28, 1973]

HIGH-COST HEALTH OPTIONS

Plans for national health insurance could be called a dime a dozen—except that the prospective first-year price range runs from $3.1 billion to $80 billion.

Much as we might be tempted by Senator Edward Kennedy's $60-to-$80 billion plan, which would cover nearly everyone against nearly everything, reality dictates that we do our shopping in lower price ranges.

At the other end of the scale, we could limit ourselves to protection against the catastrophic costs of long-term illness. Senator Abraham Ribicoff has just announced he is backing such a plan.

A plan of this type would extend the Medicare principle to cover the cost of hospital stays longer than 60 days and other costs which exceed $2,000, regardless of the patient's age. In the form now before the Senate, the yearly cost would be $3.1 billion to be paid with increased Social Security taxes.

In the next-higher price bracket one finds several similar proposals, including those backed by the American Hospital Association, the Health Insurance Association of America and the Administration, whose proposal is currently being redrafted.

These call for a partnership between government and the private health insurance industry. Government-backed insurance would be intended primarily to cover gaps not filled by normal private plans.

Most would also provide coverage for catastrophic illness, would encourage health maintenance organizations and other potentially cost-saving means of service and would give strong backing to planning and research.

Within this broad group, though, there is a great cost spread, from about $7.5 billion to $18 billion. The revised Administration plan is expected to come in at the $7.5 billion mark.

Much of the cost difference depends on how much coverage we would buy. For example, the $18 billion proposal would cover up to 90 days in a hospital, while an $8.1 billion version would pay for only 30 days.

Buying national health insurance, then, is a matter of paying your money and taking your choice. A catastrophic illness plan would seem to be the most basic item. It would be relatively low in cost and would meet one of the most serious needs.

There is much to be said too, for the partnership principle in which government would supplement and encourage private health insurance rather than trying to replace it.

Beyond that, however, the selection of added benefits would be similar to adding options to a new car. Air conditioning and power windows might be nice, but they do add to the cost. The same is true of broader insurance benefits.

Before we make the final selection of any national insurance plan, we must first answer some basic questions: How much protection do we really want and need, and how much are we willing to pay for it.

[From the Baltimore (Md.) Sun, Oct. 7, 1973]

MEDICAL CARE LEGISLATION

Comprehensive medical care insurance legislation may at long last get off dead center and could conceivably pass Congress during the coming election year. Such a timetable is implicit in the Long-Ribicoff bill introduced this week. Aim of the sponsors, which include, of course, the ideologically distant Senators Long and Ribicoff, as well as Minority Leader Scott and leading liberals from both parties, Senators McGovern and Percy, is, simply, to get something done in this long-neglected legislative area. Then later if it should prove necessary, Congress could go ahead with more radical measures such as the now-stymied Kennedy-Griffiths bill.

But the Long-Ribicoff strategy is not one of getting just anything passed. Their bill is drawing wide bipartisan and inter-ideological support and at the same time appears to offer promising remedies for the present chaos of medical and hospital care financing. Title I of the bill would establish federal insurance coverage (financed by payroll taxes) for all citizens for catastrophic illnesses, defined as requiring hospital and/or medical care payments exceeding $2,000 annually or requiring more than 60 days hospitalization. Title II of the bill would provide federal insurance coverage for the poor for illnesses not covered under the catastrophic provisions. Title III would impose far-reaching reforms on the private health insurance industry, essentially requiring this industry to provide comprehensive insurance policies at reasonable cost for illnesses not included under the first two titles—or else. The stick held over insurance companies would be a three-year oversight of the Title III program with a view to nationalizing health insurance if the insurors do not perform. The bill also would establish devices for more rational hospital utilization and elimination of duplicating facilities, for encouraging membership in health maintenance organizations and for incentives to doctors to move into inner city and rural areas which now suffer severe doctor shortages. Cost of the total program is estimated at $8.9 billion annually in payroll taxes and general funds.

The overworked Senate Finance Committee, of which Senator Long is chairman, cannot get to the bill this year, and the House Ways and Means Committee appears to be in a similar bind. But Senator Long promises early Finance Committee action next year, and many House members are interested in sponsoring similar legislation there. As in the recently passed pension bill, the once recalcitrant and conservative Finance Committee appears to be playing a major social reformist role. The medical care legislative logjam thus may break soon and, with luck, the result will be constructive legislation.

THE CONTINUING SAGA OF JACK HUSHEN

Mr. GRIFFIN. Mr. President, syndicated columnist Nick Thimmesch recently wrote a column about Jack Hushen who served as my press secretary for more than 4 years before going to the Justice Department in May of 1970 as chief press officer. I ask unanimous consent that the column be printed in the RECORD.

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

JACK HUSHEN HAS SEEN THEM COME AND GO

(By Nick Thimmesch)

WASHINGTON.—Write a column on a government public information officer? White House press secretaries, yes, but a department public relations man, how come? Well, Jack Hushen is worthy, if only because he has served as press officer under five attorneys general in three and a half years, and that says something about the Justice Department.

Hushen started under John Mitchell in May, 1970, shared Richard Kleindienst's ordeal for 13 months, was hopeful for a new era under Elliot Richardson for nearly five months, blinked as William D. Ruckelshaus held office for 20 minutes and earnestly vowed to continue under the Honorable Robert H. Bork, acting attorney general.

"Bork is going to be in the job at least until the question over the Watergate investigation is settled," Hushen said. "If he would have quit Saturday (after Richardson and Ruckelshaus), I think there would have been a mass exist here. He prevented that and did the right thing. He had no pledge on Cox as they did."

It must be difficult for Hushen to muse over the department's top names of the past three and a half years because only two of the 27 senior officers who came to DOJ in 1969 are still there—Lawrence Traylor, the pardons attorney, and Ben Holman, director of community relations service.

It's remarkable how Hushen has seen them come and go. "John Mitchell wasn't an ogre as depicted," Hushen says, as though Mitchell's time was light-years ago. "He had the President's ear and did plenty to get more funding and manpower. He built the Law Enforcement Assistance Administration (LEAA), and worked hard on the 1970 organized crime act and antitrust activity. He told me that he did not sign the orders on wiretapping Dr. Kissinger's staffers and some newsmen (the famous 17), and it shocked me when I learned he had.

"Dick Kleindienst was a good guy, but he didn't have a chance to get going. He was tied up three months in confirmation hearings, and the rest of 1972 went to the campaign. He was strong on civil rights and antitrust. There was no reason for him to resign except that he was close to some of those under fire for Watergate, and he didn't want any conflict of interest.

"Richardson was making progress, both in reorganizing the department and reviving work left neglected. We thought we were moving again, especially with programs (drug abuse, crime, D.C. court reorganization) developed in recent legislation.

"I was sorry to see Bill Ruckelshaus leave, too. He was dedicated, like Richardson, and greatly respected here. Did you hear the ovation by department people when Richardson gave his speech and press conference?"

Hushen, 38, was a Detroit newspaperman before joining Robert Griffin in his successful 1966 campaign against G. Mennen Williams for the U.S. Senate. Hushen came to Washington as Griffin's press secretary, was soon in the thick of the controversy generated by Griffin over Justice Abe Fortas.

Griffin's revelations stopped Fortas from becoming chief justice. Hushen was Griffin's conduit to the press in the subsequent squabbles over Clement Haynsworth and G. Harrold Carswell, President Nixon's rejected nominees.

In 1970, Jerris Leonard, head of the civil rights division, was instrumental in bringing Hushen to the department. He serves at the pleasure of the attorney general for $36,000 a year, has an immediate staff of 18 and oversees the work of another 70 Office of Information employees.

Hushen has known newspapering all his life (his father worked 31 years at the Detroit News), worked his way through college as a copy boy and was a student editor before becoming a reporter. The press here, including the jackals, likes and respects him.

So he's listened to when he speaks of newsmen's responsibilities for fairness, especially in the Watergate era, when competition is fierce to find new sin and report it. The result, says Hushen, can be that "ethics is forced into the background. So-called source stories—some of questionable validity—spring forth from every reporter. Today's hallway speculation by someone who has no facts is tomorrow's headline."

Hushen encouraged Richardson to stop leaks from DOJ, and to provide the press with a list of officials at Justice "who know what the facts are" during his past embroilment. Hushen also is against an absolute shield law for newsmen, but strongly supports the practice of no newsman being subpoenaed unless the attorney general okays it.

It was Hushen who announced a new Richardson directive that the attorney general's approval would have to be obtained before any newsman could be questioned, arrested or indicted for a suspected offense while covering a news story.

If Hushen gets no salutes for serving under that quintet of attorneys general, he rates one, at least, for helping set guidelines on how the law must deal with working newsmen.

DR. PAUL DUDLEY WHITE

Mr. KENNEDY. Mr. President, all Americans have been saddened at the passing of Dr. Paul Dudley White. Dr. White was one of the world's most renowned cardiologists. His famous textbook "Heart Disease" was instrumental in influencing the teaching of cardiology throughout the Nation. His skill as a clinician won him the respect and admiration of physicians around the world.

He was dedicated to preventing heart disease and to fostering international peace and cooperation. He devoted much of his life to bridge building with professional colleagues of his behind the Iron Curtain. In 1957 he helped to found the International Cardiology Foundation which is dedicated to combating heart disease on a worldwide basis.

Mr. President, in its editorial yesterday the Boston Globe paid tribute to a "man of heart." I ask unanimous consent that the Globe's editorial be printed in the RECORD.

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

MAN OF HEART

If anyone in the world deserved the title "Dr. Heart" it was Paul Dudley White, who died yesterday in his beloved Boston. He deserved the title for many reasons. One is that when he was born on June 6, 1886, the word cardiology did not exist. When he became an intern at Massachusetts General Hospital in 1913, cardiology was being born. They grew together and he became one of the greatest developers: teacher, physician, innovator, preacher and prophet without peer.

In addition, Dr. White had "heart" for all his patients, whether they were presidents or peasants, and whether they lived in Boston, Washington, Moscow or Timbuktu. He treated South American dictators, Soviet scientists, his friend Dr. Schweitzer, President Eisenhower and Boston welfare recipients with equal compassion and skill.

It was this universal interest in people that led him in 1957 to help found the International Cardiology Foundation, an organization dedicated to fight heart disease everywhere through research, travel grants, heart conferences, educational training and fund raising. Its philosophy is that heart disease knows no political, religious or geographical boundaries and that only through international communication can this common threat be conquered.

Much of Dr. White's energy in recent years went into the foundation. His work was so important he was nominated for the Nobel Peace Prize in 1970 and in 1966 was presented a gold stethoscope by his former patient, Dwight Eisenhower, for contributions to medicine and world harmony, especially the idea that common effort among heart scientists could help break down barriers dividing nations.

Many of Dr. White's associates feared that his contributions to cardiology might be overlooked at the time of his death because of his prominence as President Eisenhower's physician. They point to his early recognition of coronary artery disease, his authorship of the first standard text in cardiology, his constant preaching to people, rich and poor, to exercise and to eat sparingly if they wanted to improve their chances for longevity.

Dr. White was "a doctor's doctor." To other physicians he was the man who wrote the book on cardiology. Dr. Alan Friedlich, who was Dr. White's physician, said on Dr. White's 85th birthday, in 1971: "He has done more than any living man to give us the understanding and knowledge of heart disease which are the tools with which to work."

Dr. White did not die a wealthy man, but he died extremely rich in friends and accomplishments. He gave of himself and his pocketbook unsparingly in good causes. He made friends everywhere he went, through his optimism, his ever-present belief in a better world to come, his love for people and his devotion to patients. He taught other doctors the value of optimism in treating heart disease.

The following quotation perhaps best sums up Dr. White, his philosophy and the kind of advice for fellow humans that will long remain with us.

"It is good for the hearts of men, as of women, to do their own chores, to cut the grass, to shovel the snow, to dig and weed the garden, to chop the firewood, to put on and take off the storm windows, and even to take out the ashes. It gets us down to earth, keeps us humble, is good for our health and, incidentally, saves us money."

SENATOR LAWTON CHILES MEETS WITH THE MINISTER OF FOREIGN RELATIONS OF CHILE

Mr. CHILES. Mr. President, despite the swirl of events here at home and in the Middle East, I have had a continuing concern for events in Chile and U.S. relations with Chile. Two weeks ago I met with the new Minister of Foreign Relations of Chile, Vice Adm. Ismael Huerta, who came to see me after his participation in the opening sessions of the United Nations in New York. I wish to report to my colleagues in a summary way the kind of concerns I expressed to Minister Huerta.

I told him that there was great concern in this country for the respect for human rights in Chile. He seemed to be well aware of this and expressed surprise that there was so much concern here. I told him that Chile had a special place in the minds of Americans because of its long democratic tradition and the identity we feel as Americans with other nations like Chile which have a strong commitment to democratic ideals. For this reason there is concern here not just for civil liberties in Chile but for the integrity of the court system, the fact that the Congress has been dissolved and that all the political parties made either illegal or suspended and the effects these might have on the overall evolution of Chilean society.

The Minister emphasized that the military did not want to intervene and take over the government in Chile and they are intent on limiting their period in the government. I warned the Minister that no matter how well intentioned they are it is always more difficult to leave power than to take it. I know that many people in Chile view the military coming to power as a means of regaining their position and their property. The "tuvos," those who had wealth before Allende, now see that it may not be gone forever. This group provides an obvious political base for the present government which over time will create pressure on the military junta to stay in power. While the junta is now looking for support from groups in Chile, it will become difficult to abandon those groups further down the road.

Furthermore, I told the Minister that we had seen in our own country recently the truth in the old saying that "power corrupts, and absolute power corrupts absolutely." We have seen the dangers of too much concentration of power. It seems evident that the more power is concentrated the more it is abused. While it is more difficult to govern, the more that power is diffused, the more freedom there is and the more checks there are on the abuse of power. I told the Minister that I am not alone in looking forward to seeing how quickly Chile can again diffuse power.

I especially emphasized the necessity of freedom of press. I told him that public criticism by the press is an essential means of preventing the abuse of power and of keeping political leaders in touch with the public. No government, even a military government, can afford to lose touch with the society they govern. Whereas Allende definitely made efforts to manipulate the press through increasing government control of advertising and the production of newsprint he never succeeded in stifling any of the news media altogether. At least the Chilean people knew what disasters were occurring. Now there are only three progovernment newspapers in Chile whereas there were at least a dozen papers before the military coup. My own belief is that any government benefits from freedom of the press.

I was glad to have the opportunity to talk with the Minister of Foreign Relations in Chile. I was happy to hear his point of view and his ideas, and I was pleased to be able to express to him the concerns of many Americans, given our own traditions and history, for the future of democracy in Chile.

RECOGNITION OF ENVIRONMENTAL LEADERSHIP BY FORMER SENATOR J. CALEB BOGGS

Mr. ROTH. Mr. President, I would like to take a minute to recognize a former colleague of ours, Cale Boggs. Cale Boggs has been a public servant and leader for more than 24 years, beginning as a Member of the Congress, then Governor, and then Senator from Delaware.

A spirited man, and a man with foresight, Cale Boggs worked hard as a member of the Senate Public Works Committee to protect our environment, from air and water polution laws to ocean dumping laws.

Senator Boggs was recognized recently for his interest and leadership in the environment by the National Recreation and Parks Society.

Mr. President, I ask unanimous consent that the newspaper article that appeared in the Evening Journal be printed in the RECORD.

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

ENVIRONMENT UNIT TO FETE BOGGS

Former Sen. J. Caleb Boggs will receive a national award Monday in Washington as the National Recreation and Parks Society recognizes his efforts toward preserving the environment.

The national association will meet until Thursday at the Sheraton and Shoreham Hotels.

Boggs this year was awarded the first "Friends of Recreation" award by the Delaware Recreation and Parks Society. The state group nominated him for the national honor. The recommendation cites that Boggs was a leader in successful moves to get the Army and Navy to return land at Cape Henlopen to Delaware to become part of Cape Henlopen State Park: wrote provisions into law which financed anti-pollution efforts in the Brandywine, considered a model river program for the nation; worked to get a $9 million grant for Delaware to build a trash recycling plant; worked for Congressional funds for beach protection along the Atlantic and helped write laws controlling ocean dumping and coastal zone pollution programs.

He worked with the Army Corps of Engineers to get fishing piers along the Chesapeake and Delaware Canal and was instrumental in getting additional funds for acquiring more land and operating funds for Lums Pond State Park. He was active during his years in the Senate in writing air, water and solid waste pollution measures.

SPECIAL PROSECUTOR: THE CONSTITUTIONAL ISSUE

Mr. KENNEDY. Mr. President, the Senate Judiciary Committee is presently considering legislation to provide for the establishment of an independent special prosecutor to succeed Mr. Cox, who was fired from his job 2 weeks ago for at-

tempting to fulfill the responsibilities imposed upon him by the Senate and Attorney General Richardson. The events of last week, and testimony of Mr. Cox this week, make it abundantly clear that Congress must provide maximum insulation for a special prosecutor if he is to be free to pursue his law enforcement duties without influence or pressure or threat from the White House.

Senator HART, along with myself and 53 other Members of the Senate, introduced S. 2611, a bill to provide for the appointment of a special prosecutor by the chief judge of the district court in the District of Columbia. We believe this legislation to provide the ultimate safeguard against White House inteference—the special prosecutor will not be appointed by or removable by or under the direction of any officer or employee of the executive branch of Government.

Our attempt to vest appointment power in the "courts of law" has given rise to a continuing debate on the constitutionality of the legislation. I indicated upon introduction of the bill, as did other sponsors at the time, a firm conclusion that the bill was constitutionally sound under article I, section 8, and article II, section 2 of the Constitution. The Senate Judiciary Committee will be hearing testimony from constitutional law experts in the coming week, but the House has already taken testimony on this subject and I believe that the statements of law professors before the Judiciary Committee of that body provide us an excellent preview of what our own hearings will be developing: a clear case for the constitutionality of our bill.

Mr. President, I think that Congress cannot lose sight of the need for statutory establishment of an independent special prosecutor, despite our reaction to or attitude toward the appointment of Mr. Jaworski yesterday to serve in that post. Both the law and the public statements of executive branch officials make it clear that the President can have whoever is appointed fired as quickly as he did Mr. Cox. The mere possibility of this ultimate control must hang heavily over the head of any special prosecutor appointed by the executive branch. Some vague notion of consultation with congressional leadership provides an inadequate safeguard to the public's right to have the special prosecutor carry out his duties in the most independent manner. The editorial in today's Washington Post reflects what I believe to be the dominant sentiment now—that the only special prosecutor acceptable to the American people and the Congress is one who does not owe his job to the President and who cannot under any circumstances be dismissed by him. That special prosecutor is provided for in S. 2611.

I ask unanimous consent that the statements of Prof. Paul Mishkin of the University of California at Berkeley, and Prof. Daniel Meador of the University of Virginia, along with a memorandum prepared for the House Judiciary Committee on the constitutionality of a court-appointed prosecutor, be printed in the RECORD. I also ask unanimous consent that the editorial referred to be printed in the RECORD after those materials.

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

STATEMENT OF PAUL J. MISHKIN

My name is Paul J. Mishkin. I am professor of Constitutional law at the University of California at Berkeley. I welcome the opportunity to appear before this Committee which is dealing with what is undoubtedly a most important matter for the integrity of our government and the welfare of our country.

The subject to which I will address myself is the constitutionality of the Congress establishing a new Special Prosecutor to be appointed by a Federal judge or court and protected against removal except for his own misconduct, whose principal focus would be crimes relating to presidential election campaigns or misconduct on the part of executive officers. On initial consideration, proposals along these lines seemed to me to raise constitutional difficulty. On further study and reflection, however, I have concluded that an act of Congress creating such an office would be entirely constitutional. That conclusion is supported by the text of the Constitution, by authoritative precedent, by principle and by history.

The most direct source of the authority to vest such appointment in a Federal judge is Article II, Section 2 of the Constitution. After providing that the President, with the consent of the Senate, shall appoint "Ambassadors, other public Ministers and Consuls, Judges of the Supreme Court, and all other Officers of the United States" not otherwise provided for, that section continues:

"But the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments."

The language seems plain enough. And on the basis of the Constitutional history as well, I have little doubt that the proposed Special Prosecutor would be an "inferior Officer" within the meaning of this provision. On the face of the Constitution, therefore, there seems to be no reason why his appointment could not be vested in a judge or judges of what the Constitution elsewhere describes as "inferior" Federal Courts.

The objection has been raised, however, that this language should be taken as allowing vesting in the courts of law only appointments of officers whose work is somehow judicial or related to the work of the courts. It would certainly be possible to make a strong case for the proposition that prosecuting attorneys would qualify even under such a restrictive interpretation; moreover, some early history of the Republic which I shall mention later would support that position. But it seems sufficient to say at this point that the Supreme Court of the United States has entertained that restrictive view but on full consideration decisively and unanimously rejected it. In 1880, the Court squarely held that while Congress might appropriately be guided by such considerations, the Constitution itself imposed no such limitation. *Ex Parte Siebold*, 100 U.S. 371.

The appointment issue might appropriately be taken as completely settled by this case. But one need not rest simply on authority, for this conclusion is well supported by reason, principle and history as well. Judicial appointment of the prosecutor, his independence from the executive, and his protected tenure of office is entirely in accord with the separation of powers which we properly consider a fundamental principle of the framework of our democratic government. The other side of the coin of separation of powers is checks and balances. In the words of Justice Louis Brandeis, "Checks and balances were established in order that this should be 'a government of laws and not of men.' . . . The doctrine of separation of powers was adopted by the Convention of 1787 not to promote efficiency but to preclude the exercise of arbitrary power. The purpose was not to avoid friction, but, by means of the inevitable friction incident to the distribution of the governmental powers among three departments to save the people from autocracy." *Myers* v. *United States*, 272 U.S. 52, 292–93 (1926).

What must be emphasized is that the separation of powers means not the building of high walls or watertight compartments between the different branches but the *sharing* of power among them. In the words of Mr. Justice Jackson:

"While the Constitution diffuses power the better to secure liberty it also contemplates that practice will integrate the dispersed powers into a workable government. It enjoins upon its branches separateness but interdependence, autonomy but reciprocity."

It would be possible to spell out many examples of this, but it hardly seems necessary. I cannot, however, resist pointing out the fact that in President Nixon's brief in the Court of Appeals in the Watergate Tapes Case, the President is described in a single sentence as both "Chief Executive . . . and Chief Legislator." (p. 11)

Our Constitution thus provides—and this has been considered its genius—for the kind of flexibility and development which are essential if a fundamental framework of government is to survive for long in a constantly changing world. Thus, with the industrialization of our society, it has now become well established that the Constitution permits the establishment of independent regulatory agencies with members having protected tenure and with functions that are fairly characterized as essentially mixed legislative, judicial and executive in nature. In view of some recent argumentation, it is perhaps worth noting that the essential charge and responsibility of such agencies is to execute the laws entrusted to their care.

In 1934, the Supreme Court unanimously upheld the constitutionality of a provision protecting the members of such a Commission against removal without cause. Rejecting an effort by President Roosevelt to remove a Federal Trade Commissioner, the Court held that protected tenure could be sustained whenever the functions assigned to an office appropriately called for such protection. *Humphrey's Executive* v. *United States*, 295 U.S. 602.

The protection of the Special Prosecutor's tenure against removal except for cause can easily be justified in terms of the function which the office is to perform. It is certainly not difficult to support the need for such insulation of an officer whose principal charge involves the determination and prosecution of criminality in high executive offices. If abstract reasoning is not sufficient to demonstrate that necessity, recent experience should certainly fill any lack.

To be sure there is a danger when the role of prosecutor is too closely tied with that of the judge presiding over the trial. And this might be of constitutional proportions if one contemplates continuous supervision by a judge of the activities of the prosecutor. When, as contemplated by many of the bills presently before you, the judge will in fact merely be an appointing authority with limited power to remove, the dangers involved are of much smaller proportion. In fact, it may be worth recalling that judges sitting on criminal cases can appoint defense counsel, and presumably have the power to remove them if they misbehave badly enough in the conduct of the case, but no one seems to feel that this combination of powers represents a serious threat. Nevertheless, to be safe, and in order that justice not only be done but also be seen to be done, it would

probably be at least the better part of wisdom for the appointing judge to disqualify himself from sitting on trials conducted by the Special Prosecutor.

Note, however, that the objection just considered arises from the point of view of due process or fairness to a defendant being prosecuted, and not from any claim of the executive branch. From the latter point of view, the objection raised is that prosecution is "inherently executive" and must be part of the executive branch. Sometimes this is justified on the basis that prosecutorial decisions should ultimately be accountable to the electorate, and this can only be achieved through making the President responsible. I agree that ultimate accountability to the electorate is indeed an important element of our form of government.

Viewing separation of powers in light of its purposes, let us consider the effect of the proposals for an independent Special Prosecutor. He is to be charged with prosecuting crimes committed in, by or for the executive branch. Does this contribute to a concentration of power which is the danger sought to be avoided by the separation doctrine? Or isn't it, rather, fair to say that the creation of this office, particularly under present circumstances, would in fact constitute one of the checks and balances which are not less important than separation of powers in our scheme of government?

But it seems to me that the idea that this is only achievable by keeping all prosecutions under the President is much more attractive as superficial theory than sustainable in fact: On the one hand, it is certainly highly unlikely that prosecutorial decisions will become a significant element in any given presidential campaign. On the other, the Congress is also accountable to the electorate, no less than the President. And it would seem clear beyond question that, should such drastic action be necessary, Congress would have the absolute power to abolish totally the office of Special Prosecutor which it has created.

The phrase "inherently executive" needs further analysis. The term "inherently "normally is used to signify that a power may be inferred, though not expressly provided for in the Constitution, because it goes with a power which is granted by the Constitution. In that sense, I agree that the prosecutorial function is "inherently" an executive function—without being explicitly stated in the Constitution, it is clearly a function which can be derived from the duty to take care that the laws be faithfully executed.

But that concept of "inherently executive" does not mean that no one else may exercise a prosecutorial role. To support that conclusion, "inherently executive" must be made to mean instead "exclusively executive". And that proposition seems to me impossible to maintain. Indeed the very existence of the Grand Jury, with its duty of investigating corruption and other offenses, in government and out, and its power to stand astride the issue of whether any prosecution can be initiated, might itself be viewed as a refutation of that proposition. It is true that in recent years we have seen great centralization of the conduct of Federal criminal prosecutions in the Department of Justice. And while I consider that on the whole a desirable development, the reasons are reasons of policy and evenhandedness rather than constitutional necessity.

Certainly the early history of this country contradicts any idea that criminal prosecution was perceived as exclusively an executive function.

The Federalist papers considered the essence of the executive power to consist of foreign affairs, the planning and managing of appropriated funds, and military operations; in line with this concept, the original Departments of the government were Foreign Affairs (later State), Treasury, and War. There was an Attorney General, but he was not the head of a Department. There was no Department of Justice until 1870. There were local U.S. Attorneys but until 1861 they "remained formally independent of supervision by the Attorney General or anyone else, save as particular statutes gave to him or another officer, such as the Solicitor of the Treasury, a power of direction in particular matters." (Hart & Wechsler, *The Federal Courts and the Federal System* 67, n.2 (1953).)

The attitude of the Framers toward the function of prosecution as purely executive was thus apparently far from categorical. This is certainly suggested also by the fact that at least some of them considered it entirely appropriate under the Constitution that the local U.S. attorneys might be appointed by the district judges, and the Attorney General by the Supreme Court.

That was the proposal of the Senate Judiciary Committee in the First Congress, whose membership included five members of the Constitutional Convention [out of first 8, then 10 members of the Committee]—including such leaders as Ellsworth and Paterson. Though this provision was dropped on the Floor of Senate (for reasons unavailable to us), the very fact of the Committee proposal indicates that prosecution was not conceived as ineluctably executive in nature. The notion of central executive control of federal criminal prosecutions is certainly of relatively recent vintage.

Finally, the idea that prosecution must be instituted and managed by a member of the executive branch is totally inconsistent with another fact of history: the First Congress (which has been viewed as virtually a continued session of the Constitutional Convention) explicitly authorized criminal prosecutions to be instituted and maintained to conclusion by *private individuals* (as well as public prosecutors); one example of this is a statute *outlawing larceny* in federal territory (1 Stat. 112, § 16 (Act of April 30, 1790)).

All of this confirms the basic proposition that— regardless of what some abstract concept of separation might imply—the concept of separation of powers under our Constitution certainly allows for an office such as is contemplated in the bills before this Committee. I have previously dealt specifically with the issue of judicial appointment of a Special Prosecutor. I believe that his independence of the executive and his insulation from removal from office are also entirely consistent with the Constitution. I also believe as a general proposition that the power of removal may appropriately be assigned with the power of appointment. But in any event, in the present case, the same reasons that support the appointment of the Special Prosecutor by the judiciary equally support vesting the power of removal in the judiciary. As I indicated previously, I recognize that too great an aggregation of such power in a single judge may raise a question of fairness or due process for defendants in related criminal trials were that judge to preside over such trials. But that problem can be met. And I see no incongruity with the judicial role for a judge to exercise such powers over a prosecutor. We are certainly accustomed to such judicial supervision over grand juries, and no question can now be raised as to that. It is also true that under the First Judiciary Act and since, judges have exercised certain supervisory powers over United States marshals, who are law enforcement officers.

I thus have no difficulty with vesting the power of removal in a judge or judges. Other possibilities exist. But the choice is in my judgment for this Committee and the Congress. I do not believe that the Constitution bars a reasonable solution to this question.

STATEMENT OF DANIEL J. MEADOR

NOVEMBER 1, 1973.

I am Daniel J. Meador, James Monroe Professor of Law at the University of Virginia, where I have been a member of the Law Faculty since 1957, with the exception of four years during which I was Dean of the University of Alabama Law School and of one year during which I was a Fulbright Lecturer in England. During 1972–73 I served as Chairman of the Courts Task Force which authored the Report on Courts for the National Advisory Commission on Criminal Justice Standards and Goals. Currently I am director of the Appellate Justice Project of the National Center for State Courts.

In response to the invitation of committee counsel, I am presenting my views on the constitutionality of a proposal that Congress create an office of special prosecutor, with a high degree of independence, charged with responsibility for investigating and prosecuting suspected offenses arising out of the Watergate episode and the 1972 presidential campaign. In varying forms such a proposal is embodied in H.J. Res. 784, H.R. 11043, H.R. 11067, H.R. 11075, H.R. 11081, H.R. 11132, and H.R. 11135. The comments which follow are directed to the constitutional validity of the proposal and not to its wisdom and desirability; the latter are matters for the political judgment of Congress.

Although the question is not free from doubt, my conclusion, supported by the reasoning set forth below, is that it is constitutionally permissible for Congress, in the present circumstances, to provide by legislation for a special prosecutor, with investigatory and prosecutory responsibilities as to specified matters, to be appointed by a federal court, and subject to removal only by the court.

1. THE CONSTITUTIONAL TEXT

Article II, Section 2, of the Constitution grants to the President power, with the advice and consent of the Senate, to appoint certain federal officials "and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law." This is followed immediately by a proviso: "but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments." For purposes of the question at hand, it is enough to read the words "such inferior Officers" in the latter clause to refer only to "all other Offices of the United States" in the preceding clause.

It is unnecessary to consider here whether this provision would permit Congress to place in the courts the power to appoint officials unconnected with the courts. For a prosecuting attorney, like all members of the bar, is an officer of the court. In the criminal process he is as integral as the judge to the work of the courts. See American Bar Association, Standards Relating to the Prosecution Function and the Defense Function 44 (1970). His role is so intimately involved in the judicial process that the prosecutor's office was dealt with at length in the Report on Courts (1973) of the National Advisory Commission on Criminal Justice Standards and Goals. Thus there is little substance to an argument that to authorize a court to appoint a prosecuting attorney is to involve the court in the appointment of a wholly unrelated official. Such an argument was made as to court appointment of board of education member in *Hobson v. Hansen*, 265 F. Supp. 902 (D.C. 1967), appeal dismissed, 393 U.S. (1968). But even as to those board members, the court upheld the constitutionality of the statute vesting their appointment in the U.S. District Court for the District of Columbia. While that decision relied in the

alternative on the special powers of Congress over the District of Columbia, it rested equally on the constitutional power of Congress under Art. II, Sec. 2, to provide for court appointment of officials (265 F. Supp. at 911–16).

In Ex parte *Siebold*, 100 U.S. 371 (1879), the Supreme Court sustained the constitutionality of an Act of Congress which authorized judges of the United States Circuit Courts to appoint "supervisors of election" in connection with elections of representatives to Congress. The supervisors thus appointed were authorized and required by the statute to attend at the times and places fixed for registration of voters, to challenge applicants, and to cause names to be registered as they thought proper; the supervisors were also required by the statute to attend the elections, to challenge voters, to be present when ballots were counted, and to inspect poll books and tallies. The argument was made that these supervisors performed only executive duties and that the courts could not be empowered to appoint officers whose duties were not connected with the judiciary. In rejecting that argument and upholding the statute, the Supreme Court said:

The Constitution declares that 'the Congress may, by law, vest the appointment of such inferior officers as they think proper, in the President alone, in the courts of law, or in the heads of departments.' It is no doubt usual and proper to vest the appointment of inferior officers in that department of the government, executive or judicial, or in that particular executive department to which the duties of such officers appertain. But there is no absolute requirement to this effect in the Constitution; and, if there were, it would be difficult in many cases to determine to which department an office properly belonged. Take that of marshal, for instance. He is an executive officer, whose appointment, in ordinary cases, is left to the President and Senate. But if Congress should, as it might, vest the appointment elsewhere, it would be questionable whether it should be in the President alone, in the Department of Justice, or in the courts. The marshal is preeminently the officer of the courts; and, in case of a vacancy, Congress has in fact passed a law bestowing the temporary appointment of the marshal upon the justice of the circuit in which the district where the vacancy occurs is situated. [presently 28 U.S. § 565]

But as the Constitution stands, the selection of the appointing power, as between the functionaries named, is a matter resting in the discretion of Congress. (100 U.S. at 397–98.)

In addition to the statute mentioned in the *Siebold* opinion authorizing court appointment of marshals, there is, and has been for many years, a statute authorizing a federal district court to appoint a United States Attorney whenever a vacancy in the office occurs in the district. 28 U.S.C. § 546. The constitutionality of this provision was sustained in *United States* v. *Solomon*, 216 F. Supp. 835, 838–43 (S.D.N.Y., 1963). As to both marshals and U.S. Attorneys, the court's appointment holds only until the vacancy is otherwise filled. But this is because Congress chose to couch the appointing power in those terms. The constitutional basis for the Congressional authorization of these judicial appointments is Art. II, Sec. 2, and nothing there limits the authorization to temporary appointments or to those necessary to fill a vacancy on an interim basis.

For present purposes, however, it is unnecessary to consider the constitutionality of a statute empowering the courts to appoint a general prosecutor for all purposes or on a permanent basis. The proposals under consideration all contemplate that the special prosecutor is to have a specifically defined province. He is not to roam over the entire range of suspected criminal activity in the nation. Rather, his authority to investigate and litigate is restricted to matters arising out of specified activities—Watergate and the 1972 Presidential election. The life of the office is also limited to the time within which those matters are disposed of.

2. CONFUSING THE FAMILIAR WITH THE NECESSARY

Where an existing scheme is the only one we have known, there is often a misleading tendency to view it as the only one that is constitutional. Although there are scattered provisions in the federal statutes authorizing courts to appoint officials, most officials are appointed by the President or by a lesser executive officer. This is because Congress has arranged matters that way. The entire executive structure is, to a high degree, a statutory creation. The cabinet departments and their heads and sub-heads are all provided for by Acts of Congress. Provisions concerning the Department of Justice and its officials, for example, are found in 28 U.S.C. § 501 et seq. Though familiar and long standing, this arrangement is nevertheless not constitutionally mandated. The text of Art. II, Sec. 2, and such judicial explication as there has been of these clauses point clearly toward a choice vested in Congress as to the allocation of the appointing power.

Another familiar feature of our system is the placing of prosecutorial functions almost exclusively in an official who is considered a member of the executive department. This too gives rise to erroneous assumptions that the Constitution requires such an arrangement.

Here the English practice may be instructive. There is in England a Director of Public Prosecutions with a staff of lawyers; this office may be analogized to an American prosecutor's office. But relatively few cases are handled by that office. The basic principle in England, subject to a few exceptions, is that any member of the public may prosecute a crime. The prosecuting party need have no special interest in the case, although a prosecution is always conducted in the name of the Crown. Many prosecutions are carried out by the police, as they investigate and assemble evidence of offenses; they prosecute, however, not as officially designated prosecutors but as members of the public, and they engage private lawyers to present the cases in court just as a private citizen would. Other prosecutions are at the instance of businesses such as insurance companies or of government departments such as the Board of Trade.

Some are by private individuals. Jackson, *The Machinery of Justice in England* 154–65 (6th ed. 1972); Devlin, *The Criminal Prosecution in England* 16–19 (1960). The point is that there is no concept of an executive official, or any other official, with a monopoly on the prosecuting function. There is instead a multiplicity of prosecuting possibilities. In the main, private, non-governmental attorneys appear in court to present cases in the name of the Crown, at the instance of the prosecuting party who may or may not be a government official or agency.

While English practices are of course not binding on the meaning of the United States Constitution, they are significant in that they reveal attitudes about legal institutions held by a people with a common legal ancestry and with a traditionally high regard for civil liberties and government under law. The English way of handling prosecutions suggests that there is nothing fundamental to ordered liberty or government under law about having a monopoly of all prosecutions lodged in an executive officer appointed by the President. Nothing in our Constitution expressly prohibits an adoption of the English arrangement. But to sustain a court appointment of a special prosecutor, in the present circumstances, it is not necessary to go nearly so far as that. It is necessary only to recognize that all prosecutions for all offenses need not be placed in the hands of one official or one department; a prosecuting attorney can be designated to handle a specially described group of cases, leaving all others to other prosecuting parties.

The English practice is instructive also in underlining the functional distinction between investigating suspected criminal conduct and presenting cases in court, that is, the distinction between the role of the investigator and the role of the advocate. In England criminal investigations are handled by the police; the presentation of cases in court is handled by solicitors and barristers. There, lawyers appearing in court, in the name of the Crown, have no role in investigation. In the United States these roles are to a degree kept separate, but they are often blended. Many American prosecuting attorneys play an active part in investigating cases as well as appearing in court as lawyers for the state. The proposals for a special prosecutor contemplate combining the investigating and litigating functions in a single individual and office. The constitutionality of authorizing court appointment of a lawyer to represent the government in litigation, and to play no role in investigation, might be somewhat clearer because of the intimate relationship between advocate and court. But adding the investigating function to this advocate's responsibilities would not appear to alter the constitutional power of Congress to place the appointing power in the court.

3. SEPARATION OF POWERS

The doctrine of separation of powers is pointed to as an obstacle to the proposal for a Congressionally authorized, court-appointed special prosecutor. While nowhere expressly set forth in the Constitution, this doctrine is viewed as one of the premises on which the constitutional scheme rests. It is reflected in the creation of the three departments of government—executive, legislative, and judicial. But the special prosecutor proposal, if carefully structured, need not run afoul of the purpose of the doctrine.

The purpose of the separation of powers is to prevent the concentration of power and thereby to protect liberty and to guard against abuses of power. As Madison wrote on this subject in The Federalist (No. 47), "The accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether of one, a few, or many . . . may justly be pronounced the very definition of tyranny." And in this same paper Madison read Montesquieu—"The oracle" on the subject—as meaning "that where the whole power of one department is exercised by the same hands which possess the whole power of another department, the fundamental principles of a free constitution are subverted."

Taking the prosecutorial function out from under the dominion of the President in no way runs counter to these concepts. The separation of powers is not concerned with the diminution of power; it is concerned about the consolidation of power. Thus there would appear to be no violation of the doctrine, properly considered in light of its purpose, in allocating the prosecution of certain described offenses to one outside the executive branch. Indeed such a division of the overall prosecution role might be thought of as consistent with the purpose of the separation of powers doctrine by dividing power still more.

Apprehensions may be voiced, however, that authorizing a court to appoint and remove a prosecutor would move toward combining in the judicial branch the executive power in relation to those cases within that prosecutor's jurisdiction. But this need not be so for at least two reasons.

First, nothing in the proposed bills suggests that the appointing court is to control the prosecutor in his decisions and actions. Presumably existing law to the effect that a

court cannot direct a prosecutor in the performance of his duties would continue. To make this clear, it might be desirable to include in the bill a provision expressly stating that a court may not exercise any control over the special prosecutor's discretionary decisions concerning the investigation and prosecution of cases. Grounds for removal should be spelled out.

Second, in order to insure that the "same hands" do not exercise the "whole power" of two departments, it might be wise to include in the bill a provision that no judge participating in the appointment of the special prosecutor shall sit in any matter handled by the special prosecutor's office and that no judge who has participated in any such matter shall participate in the appointment or removal of the special prosecutor. A provision such as this would also serve the salutory purpose of assuring future defendants in cases brought by the special prosecutor that the judge sitting in those cases would not have had any role in appointing the prosecutor and could have no role in his removal. The appearance of justice is as important as the fact of justice.

Considerations of justice and its appearance would also be served by vesting the appointing power in the court, or a majority of its judges, rather than in a named judge. Placing the power in the court would also be on firmer constitutional ground since Art. II. Sec. 2, speaks in terms of "the Courts of Law."

An argument of another sort is based on a premise that the Constitution vests in the President a certain minimum core of executive power which cannot be withdrawn by Congressional legislation and that the prosecution of federal crimes is part of this essential executive power. History and practice, however, rebut the idea that the prosecuting function must be lodged under the executive and can be placed nowhere else. The English practice, outlined above, is strong evidence that in Anglo-American jurisprudence there are a variety of legitimate arrangements for getting criminal cases before the courts. The view that there is nothing uniquely "executive" about a prosecuting attorney's role finds support also in the practices of some states in permitting a private attorney engaged by private persons to act as a special prosecutor. See 63 *Am. Jur. 2d*, Prosecuting Attorneys § 9, at 342–43 (1973). This view is also supported by the presence for many years in the U.S. Code of the provision authorizing a federal district court to appoint a U.S. Attorney when a vacancy occurs. 28 U.S.C. § 546. Indeed, state courts have taken the view that a court has inherent power to appoint a lawyer to represent the state in criminal cases when the regular prosecuting attorney is disqualified or unable to act. See 63 *Am. Jur. 2d*, Prosecuting Attorneys § 11, at 344 (1973).

Whatever in general may be thought of as the core of executive power and as the lines of separation among the three departments of government, express provisions of the Constitution control. Thus the provision in Art. II, Sec. 2, giving Congress power to vest appointing authority in the courts governs, even if it appears not to accord neatly with the separation of powers doctrine. As applied to court appointment of a prosecuting attorney, in the special circumstances where Congress finds allegations and grounds of suspicion that the President himself and persons closely associated with him may have engaged in criminal conduct, that clause goes far towards answering any objections based on the separation of powers.

Whether it is wise for Congress to deal with existing circumstances by the proposed means is another matter. The proposal, for example, to create a position of special prosecutor to be appointed by the President and the Senate acting together, with restrictions on presidential removal, would avoid most of the constitutional arguments which can be made against vesting the appointment in the court. Such choices of means, however, are for Congress to make.

MEMORANDUM FOR THE HOUSE JUDICIARY COMMITTEE
RE INDEPENDENT SPECIAL WATERGATE PROSECUTOR

This memorandum, prepared at the request of Representative John C. Culver, examines the Constitutionality of measures introduced by him in the House of Representatives on October 23, 1973 (H.J. Res. 784) and by Senator Birch Bayh in the Senate on October 26, 1973 (S. 2611). These bills would establish by statute an independent Special Prosecutor for defined purposes relating to the Watergate and similar offenses, such Special Prosecutor to be appointed by the United States District Court in the District of Columbia and to be immune from control or discharge by the President.

The two bills are marked more by similarity than by differences. Each exhibits the same purposes and essential mechanisms. There are some divergencies, however, as well as provisions that might appropriately be joined together.

The conclusions reached, based on review of the materials discussed in this memorandum, are, *first*, that the approach taken in the Culver-Bayh proposals is unembarrassed by any genuine or substantial Constitutional difficulty; *second*, that this approach is Constitutionally preferable to any other approach that might be taken to achieve the same purpose; and, *third*, that there are a few amendments to H.J. Res. 784 that might serve to perfect and harmonize the two proposals.

The balance of this memorandum will consider the question of Constitutionality under the following heads of discussion:

I. Prosecutorial Discretion in the Face of a Conflict of Interest.

II. The Separation of Powers.

III. Immunity of Presidential Appointees from Removal by the President.

IV. Immunity of Court-Appointed Officers from Extraneous Control.

V. Conflict of Functions and Due Process of Law.

VI. The Territorial Reach of the Special Prosecutor's Jurisdiction.

An appendix will contain some drafting suggestions for appropriate amendments.

Discussion

I. PROSECUTORIAL DISCRETION IN THE FACE OF A CONFLICT OF INTEREST

Despite the clear language of Article II, Section 2 of the Constitution—"the Congress may by law vest the appointment of such inferior Officers, as they think proper . . . in the Courts of Law"—it is sometimes argued that judicial appointment of a Special Prosecutor would impermissibly intrude upon the discretionary power of the Prosecutor.[1] The case usually cited for this proposition is *United States* v. *Cox*, 342 F. 2d 167 (5th Cir. 1965), in which the Court of Appeals quite properly refused to uphold a District Judge's order that the attorney for the United States sign an indictment presented to him by a grand jury. Nothing in the bills introduced by Representative Culver or by Senator Bayh would in any way change that rule of law; indeed, the prosecutor's freedom from judicial control established by that rule assists in overcoming a different objection that might otherwise be raised to judicial appointment of the prosecutor. (See Part V, *infra*.)

The whole question of prosecutorial discretion as it bears on this legislation has been exhaustively researched and analyzed in an article published last Spring by the American Bar Association's Section of Criminal Law. Schneider, Greenspan & Anzalone, *The Special Prosecutor in the Federal System: A Proposal*, 11 American Criminal Law Review 577–638 (1973). It points out and fully documents that freedom from prosecutorial control by the Courts is wholly compatible with freedom from prosecutorial control by or in the interests of potential parties defendant. Both are essential to the maintenance of the adversary process on which our system of justice is founded. As ABA President Chesterfield Smith put it in his speech on October 25, 1973, this is based upon ". . . the almost universally accepted proposition that only a prosecutor, independent and free from the dictates and controls of those whom he was to investigate, could satisfactorily resolve in the minds of the people the illegality of matters which he was to investigate."

President Smith pointed to the ABA Standards for Criminal Justice, which provide that the prosecuting officer should have no conflict of interest, or the appearance of a conflict of interest. He concluded:

"Thus, under that standard, it clearly was and is improper for an investigation of the Executive Branch of the government, of the Office of the President, or of the President himself or of his close associates, to be conducted by a prosecutor who is under the control and direction of either the President himself or some other person who himself is under the direction and control of the President."

This is so because:

"It has never been suggested to my knowledge that the truth of opposing contentions could be fairly and equitably ascertained if one of the opposing parties before the court could determine what evidence and what contentions his opponent could present to the judge or jury for consideration."[2]

These propositions are so fundamental that they may themselves be considered of Constitutional dimension. The Supreme Court of Missouri has declared it essential that a prosecutor's discretion "be exercised in accordance with the established principles of law, . . . [and] according to the dictates of his own judgment and conscience and not that of any other person." *State* v. *Wallach*, 353 Mo. 312, 322–23, 182 S.W. 2d 313, 318–19 (1944). And the Supreme Court of the United States has held that it violates due process of law for a judge to have a pecuniary interest in the outcome of a case. *Tumey* v. *Ohio*, 273 U.S. 510 (1927). The same might properly be held of a prosecutor, sworn to see that justice is done, whose very job tenure is dependent upon the outcome of his efforts as regards his adversary.

Thus to bow to the arguments of "prosecutorial discretion" when a conflict of interest is present might very well be to condone a violation of due process of law. It may be contended that an honorable man, when and if presented with an actual conflict, would resign as Elliot Richardson and William Ruckelshaus have done. But that of course would not accomplish the prosecutorial purpose. And the Supreme Court in *Tumey* spoke to this point by declaring that "the requirement of due process of law in judicial procedure is not satisfied by the argument that men of the highest honor and the greatest self-sacrifice could carry it on without danger of injustice." (273 U.S., at 532.) As Representative Culver suggested when introducing his bill, in matters of public moment particularly, it is important that justice be not only done but be seen to be done.

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[1] Roger Cramton, the immediate past Legal Counsel in President Nixon's Administration, advanced this argument in the Outlook section of the *Washington Post* for Sunday, October 28, 1973, page C5.

[2] Address of Chesterfield Smith before the National Legal Aid and Defender Association, Coronado Beach, Calif., pp. 4, 5, 7.

An independent prosecutorial discretion, in other words, free from both the reality and appearance of a conflict of interest, would answer fully to the requirements of *United States* v. *Cox* within its established legal setting.

II. THE SEPARATION OF POWERS

The *Cox* case is also sometimes cited for a broader proposition, that prosecution of offenses is somehow an inherently executive function whose placement in any other branch would violate the Constitutional principle of separation of powers. What the Court of Appeals said is that the prosecutor is "an executive official of the Government. . . . It follows, as an incident of the Constitutional separation of powers, that the courts are not to interfere with the free exercise of the discretionary powers of the attorneys of the United States in their control over criminal prosecutions." *United States* v. *Cox, supra,* 342 F. 2d at 171. But again, the Culver-Bayh legislation would not allow judicial interference; instead, it would create an authorization for a special "attorney for the United States" who would remain fully insulated from such judicial interference.

It is not the Separation of Powers, but due process of law as embodied in our adversary system of justice, that ensures freedom from judicial control. This question was met and disposed of in *United States* v. *Solomon,* 216 F. Supp. 335 (S.D.N.Y. 1963), which is the only Federal case to have passed on a Constitutional challenge to judicial appointment of a prosecuting officer. The appointment was made pursuant to 28 U.S.C. § 546 (1970), authorizing the District Courts to fill vacancies in the office of United States attorney, and the court squarely held that this did not violate the doctrine of the separation of powers. Canvassing the literature from Montesquieu to Madison, and the federal practice since adoption of the Constitution, the court determined that there is nothing doctrinaire or rigid about separated powers but that, in Holdsworth's phrase, "it was the autonomy in the action and in the development of these divided, though not quite separated powers, which, *by enabling them to check and balance one another,* was the guarantee of liberty." 10 Holdsworth, History of English Law 721 (1938) (emphasis added); see also The Federalist, Nos. 47 and 48 (Madison) (Wright ed. 1961). The purpose of the Culver-Bayh legislation would appear precisely to be one of setting up checks and balances against Presidential over-reaching.

Separation of powers has never been considered a bar to judicial appointment of what would otherwise be considered executive officers. This is made evident by the long-standing practice of the States. The highly respected Chief Judge of the Supreme Court of New Jersey, Arthur T. Vanderbilt, summarized the situation as follows:

"The state legislatures have . . . long cast many nonjudicial duties on the judiciary. This has traditionally been the practice in England both at the county level and nationally, and it was carried over to the colonies and then to the *states despite statements in the constitutions of many states expressly setting up the principle of the separation of powers.* Dean Pound has catalogued a wide variety of the nonjudicial functions of an eighteenth-century judge: 'In Connecticut, the County Courts appointed Collectors of Excise. . . . In Pennsylvania, the Quarter Sessions licensed rangers to take up stray cattle. . . . So it was in Virginia, where those courts . . . for example, licensed ferry keepers. . . . In North Carolina, the justices of the peace . . . appointed road commissioners. . . . In South Carolina, the County and Precinct Courts, afterwards superseded by the General Court, had general administrative powers. So had the justices of the peace in Georgia.'

"Throughout the country the situation has not changed. . . . A cursory examination of the laws of a single state [New Jersey] discloses that its judges are called upon to appoint county park commissioners, water commissioners, morgue keepers, commissioners to survey the boundaries between municipalities, and persons to examine mained, sick, or disabled animals." Vanderbilt, The Doctrine of the Separation of Powers and Its Present-Day Significance 113–114 (1953) (citations omitted).

Nor is the case any different when it comes to appointment of prosecuting attorneys. Quite the contrary, either by statute or without it the courts of almost all States are authorized to appoint a special prosecutor whenever the regular district attorney is incapacitated, fails *or refuses to perform his duty, or is disqualified by conflict of interest.* The cases are collected and analyzed in the American Criminal Law Review article previously cited, pp. 579–82. Typical is the Illinois Statute, Ill. Rev. Stat., Ch. 14, Sec. 6:

"Whenever the Attorney General or State's attorney . . . is interested in any cause or proceeding, civil or criminal, which it is or may be his duty to prosecute or defend, the court in which the cause or proceeding is pending may appoint some competent attorney to prosecute or defend said cause or proceeding, and the attorney so appointed shall have the same power and authority in relation to such cause or proceeding as the Attorney General or State's Attorney would have had if present and attending the same. . . ."

It was pursuant to this statute that attorney Barnabas Sears was recently appointed to prosecute State's Attorney Edward Hanrahan in Chicago, see *People* v. *Sears,* 49 Ill. 2d 14, 273 N.E. 2d 380 (1971). The statute has furthermore been upheld against a separation-of-powers challenge, *Tearney* v. *Harding,* 166 N.E. 2d 526 (Ill. Sup. Ct. 1929); and this notwithstanding the explicit language of the 1870 Illinois Constitution, Art. 3:

"The powers of the Government of this State are divided into three distinct departments—the Legislative, Executive, and Judicial; and no person, or collection of persons, being in one of these departments, shall exercise any power belonging to either of the others, except as hereinafter expressly directed or permitted."

There is of course no such separation of powers clause in the Federal Constitution (though if there were, Article II, Section 2 would still provide the requisite express direction or permission).

Some of the State special prosecutors have gained fame, notably Thomas E. Dewey who made impressive discoveries of official corruption in New York in the 1930's. See, *e.g.,* Wilkes, *A History Making Grand Jury,* 13 the Panel 1 (1935). Others have labored in more routine fashion, but the very routineness of their appointments is what is noteworthy here. Set out below in footnote are a representative sampling of decisions in three States which by statute or court ruling or both provide for judicial appointment of special prosecutors in conflict of interest situations.[3] Perhaps the aptest commentary on all such activity was provided by the Maryland Supreme Court, which in 1860 declared:

"We are not prepared to admit that the power of appointment to office is a function intrinsically executive, in the sense in which we understand the position to have been taken; namely that it is inherent in, and necessarily belongs to, the executive department. Under some forms of government it may be so regarded, but the reason does not apply to our system of checks and balances in the distribution of powers, where the people are the source and fountain of government, exerting their will after the manner, and by instrumentalities provided in, the Constitution." *Mayor of Baltimore* v. *State,* 15 Md. 376, 455 (1860).

Under the Federal Constitution, of course, it is the Congress that creates offices and that regulates their powers and duties. Congress need not have created a Department of Justice at all, or made it fully subject to the President's control. Normally it is more convenient to do so, but perceptions of convenience can change as for example when conflict of interest is involved. For any such case, Congress may at any time take the appointment power away from the President and "transfer the power to other hands." *Myers* v. *United States,* 272 U.S. 52, 177 (1926) (separate opinion of Holmes, J., concurring with the majority on this point, cf. 272 U.S., at 160). No case can be found in which the contrary has been held.

The notion of intrinsic Executive authority, insofar as it extends to creation or regulation of governmental offices, is antithetical to the Constitution. Article II, Section 2 demonstrates that ours is a government not of rigidly separated but of blended powers. In Professor Kenneth Davis' well-chosen phrase, "we have learned that danger of tyranny or injustice lurks in unchecked power, not in blended power."[4]

III. IMMUNITY OF PRESIDENTIAL APPOINTEES FROM REMOVAL BY THE PRESIDENT

Suggestions have been heard that, instead of vesting the appointing authority in the courts, Congress might better follow the more habitual route of allowing the President to appoint a Special Prosecutor by and with the advice and consent by the Senate. The independence of the prosecutor, it is contended, could be assured by prohibiting or severely restricting the President's right to remove him from office.

This is of course the route that was followed by the Reconstruction Congress in the various Tenure of Office Acts, and it provokes the controversy that culminated in the impeachment (but not conviction) of President Andrew Johnson. Many years later, in *Myers* v. *United States,* 272 U.S. 52 (1926), the Supreme Court struck down the Tenure of Office Acts as unconstitutional. Of course that opinion itself was over-broad, and it was substantially whittled down just nine years later in *Humphrey's Executive* v. *United States,* 295 U.S. 602 (1935). But *Myers* has never been over-ruled, and it remains as at least something of a threat to the independence of any Presidential appointed Special Prosecutor.

To assure independence, the case would have to conform very closely to that of *Humphrey's Executor.* There are responsible grounds for believing this could be done. *Myers* had involved a postmaster, which the Court described as "an executive officer restricted to the performance of executive functions. He is charged with no duty at all related to either the legislative or judicial power." (295 U.S., at 627.) *Humphrey's Executor* by contrast involved a member of the Federal Trade Commision, an agency with quasi-judicial as well as quasi-legislative responsibilities and one whose independence the Congress had been at pains to establish. "The commission is to be nonpartisan; and it must, from the very nature of its duties,

[3] Indiana: Ind. Ann. Stat., Sec. 49–2515–16 (1964), afterwards repeated but held constitutional in *Hendricks* v. *State,* 245 Ind. 43, 196 N.E. 2d 66 (1964); see also *Williams* v. *State,* 188 Ind. 283, 301–02, 123 N.E. 2d 209, 215 (1919). Iowa: *White* v. *Polk County,* 17 Iowa 413, 414 (1864). Missouri: *State* v. *Jones,* 306 Mo. 437, 445, 268 S.W. 83, 85 (1924).

[4] Davis, Administrative Law, Sec. 1.09, at 30 (1972).

act with entire impartiality. It is charged with enforcement of no policy except the policy of the law." (At 624.) The Court accordingly rejected the President's claim of power to remove a Commission before the end of this statutory seven-year term. And it suggested that the test for removability in such cases should turn on whether the officer in question is but a policy *alter ego* for the President; whether "their acts are his acts" and the President's will therefore controls. (At 631, citing *Marbury* v. *Madison*, 1 Cranch 137.)

There is much in the *Humphrey's Executor* opinion that is readily adaptable to a Congressionally created office of Special Prosecutor. Certainly the intent could be made clear that the Special Prosecutor was not to be the President's *alter ego*, that he was to enjoy independence, and that he should carry out his judicially related responsibilities with entire impartiality and pursuant to no policy but that of the law. Yet all that *Humphrey's Executor* actually decided, as the Court made plain, is that a postmaster can be fired whereas an FTC Commissioner cannot; other cases between these two, the Court said, would have to be decided as they arose. And the language of the opinion is no sure guide to how they may be decided. Supreme Court Justice Stanley Reed was fond of recalling how his staff assured him that, based on the expansive opinion in *Myers*, he could not possibly lose the first case he argued as Solicitor General. Yet he lost the *Humphrey's Executor* argument nine votes to nothing.

We conclude that, even with the advice and consent of the Senate, a Presidentially appointed Special Prosecutor is less certain of achieving secure and independent tenure than one appointed by the courts.

IV. IMMUNITY OF COURT-APPOINTED OFFICERS FROM EXTRANEOUS CONTROL

A. *Appointing Authority.* (1) *Article II, Section 2* of the Constitution expressly allows the Congress to vest the appointment of "such inferior officers, as they think proper" in the courts of law. It is plain from the language, in context, that "inferior officers" may include any that are not mentioned in the Constitution; anyone, that is, but the President and Vice President themselves, Ambassadors and other chief diplomatic officers, the Justices of the Supreme Court, and very likely the heads of the Cabinet departments. That still leaves what Justice Story described as "probably . . . ninety-nine out of a hundred of the lucrative offices in the government" free to be appointed as the Congress deems best. 2 Story, Constitution § 1544, cited in *Myers* v. *United States, supra*, 272 U.S. at 150.

It is also plain from the language, "as they think proper", that Congress' discretion is Constitutionally unlimited. Story's commentaries again provide an amplifying key: "The propriety of the discretionary power in Congress, to some extent cannot well be questioned. If any discretion should be allowed, its limits could hardly admit of being exactly defined; and it might fairly be left to Congress to act according to the lights of experience." This is exactly what was thereafter decided in *Ex parte Siebold*, 100 U.S. 371, (397–98) (1879), rejecting an argument that the appointing authority of the courts must be limited to court clerks or other strictly judicial officers. The Court pointed out that marshals are habitually appointed by the President and perform executive functions in the strictest possible sense, but that they might just as logically be appointed by the courts and that the courts in fact had (and still have, 28 U.S.C. § 565) statutory authority to fill vacancies in the office of U.S. Marshal. The parallel with 28 U.S. § 546 (U.S. Attorneys) could scarcely be more striking.

It is hard to find fault, then, with the recent conclusion by the U.S. District Court for the District of Columbia that "Article II is couched in terms of discretion; and Congress has not considered it can empower judges to appoint only officers concerned with the administration of justice. . . ." *Hobson* v. *Hansen*, 265 F. Supp. 902 (1968) (three-judge court). To be sure, there is language in *Ex parte Siebold* that the appointment must not be incongruent with the performance of regular judicial functions. But on any fair reading this must be taken to refer to the conflict-of-functions problem, considered in the next Part of this memorandum. At all events, *Siebold* approved judicial appointment of Congressional election supervisors, while *Hobson* approved similar appointment of a school board. The activities of a Special Prosecutor who is after all an officer of the court, will be far more congruent with the regular administration of justice. Certainly the long-established law and practice of the state courts on this matter should suffice to demonstrate any requisite congruence.

(2) *Article I, Section 8* of the Constitution is also in point and supports the legislation. It provides that the Congress shall have power over a wide scope of subject matter, and also "to make all laws which shall be necessary and proper for carrying into execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States or in any Department or Offices thereof."

If the prosecution of criminal offenses is claimed to be an inherent power of the President, or of the Department of Justice, and they are disabled by conflict of interest from exercising those powers as intended, then Congress under the plain language of this clause has full authority to take remedial legislative action to correct the disability. The power is to "make all laws", which should disabuse any argument that the sole Congressional remedy is impeachment. As Chief Justice Marshall put it in *McCulloch* v. *Maryland* 4 Wheat. 316, 415 (1910), the "necessary and proper clause" is a provision "made in a constitution intended to endure for ages to come, and, consequently, to be adapted to the various crises of human affairs."

(3) *Article I, Section 8* also gives the Congress plenary regulatory jurisdiction over the District of Columbia; and this is recited as additional Constitutional authority in Section 2(e) of the Senate bill (S. 2611). That is a more dubious proposition. In *Glidden Co.* v. *Zdanok*, 370 U.S. 530, 580–81 (1962), Justice Harlan set forth the following considered dictum:

"It is true that *O'Donoghue* v. *United States*, 289 U.S. 516, 545–48] upheld the authority of Congress to invest the Federal courts for the District of Columbia with certain administrative responsibilities—such as that of revising the rates of public utilites—but only such as were related to the government of the District. [Citations omitted.] To extend that holding to the wholly nationwide jurisdiction of courts whose seat is in the District of Columbia would be to ignore the special importance attached in the *O'Donoghue* opinion to the need there for an independent national judiciary.

"The national courts here may perform any of the *local* functions elsewhere performed by State courts." (Emphasis added.)[5]

[5] Footnote 54 then recites the probate and divorce jurisdiction of the U.S. District Court, and distinguishes "the appointing authority given judges of this District Court to select members of the Board of Education and of the Commission on Mental Health, . . . (which) *is probably traceable to Article II, § 2 of the Constitution.* . . ." (Emphasis added.)

Presidential accountability is of course not a local but a national matter. For this reason, it would appear that this Constitutional reference might as well be dropped.

B. *Immunity from Presidential Removal.* It is well-settled law that the power of removal goes with the power of appointment. In *Ex parte Hennen*, 13 Pet. (38 U.S.) 225 (1839), the Court so held with respect to a court-appointed clerk, and its opinion has controlled the law from that day to this. See, *e.g.*, *Myers* v. *United States*, 272 U.S. 52, 119 (1926); *Hobson* v. *Hansen*, *supra*, 265 F. Supp. at 913 n. 13. The relevant passage appears at 13 Pet. 258–60:

"The Constitution is silent with respect to the power of removal from office, where the tenure is not fixed. . . .

"In the absence of all constitutional provision, or statutory regulation, it would seem to be a sound and necessary rule, to consider the power of removal as incident to the power of appointment.

"[T]he Constitution has authorized Congress, in certain cases, to vest this [appointment] power in the President alone, in the courts of law, or in the heads of department; and all inferior officers appointed under each, by authority of law, must hold their office at the discretion of the appointing power. Such is the settled usage and practical construction of the Constitution and laws, under which these offices are held."

It follows that the President cannot claim any authority whatever to remove judicially appointed officers. And since the judges of the federal courts hold their offices for life under Article III of the Constitution, the President cannot do indirectly what he did with Archibald Cox by issuing instructions to remove the Special Prosecutor. Any such instructions would have absolutely no force or effect.

C. *Statutory Regulation of Tenure.* The *Hennen* rule applies as stated only "where the tenure is not fixed" by "statutory regulation." Where Congress has spoken, "the tenure of the office is determined by the meaning and intention of the statute." (13 Pet., at 260.) Employment by Congress of the Article II, Section 2 excepting authority entitles it to regulate the right of removal and restrict it. See *Myers* v. *United States*, *supra*, 272 U.S. at 160, quoting from and approving *United States* v. *Perkins*, in which it was held that a naval officer could not be removed by the Secretary of the Navy without a court martial, since the statute so specified:

"The head of a department [or court] has no constitutional prerogative of appointment to offices independently of the legislation by Congress, and by such legislation he must be governed, not only in making appointments but in all that is incident thereto."

The Culver-Bayh legislative proposals in fact do make the Special Prosecutor removable from office by the District Court, for "extraordinary improprieties." This is not only Constitutionally permissible but also highly desirable, to make sure of preserving the "inferior officer" status which might be jeopardized if the Special Prosecutor were not removable at all save by impeachment.

D. *Judicial Interference.* Apart from the causes specified in the legislation—as to which a hearing would have to be afforded, pursuant to the Administrative Procedure Act—the judges of the District Court would have no right to interfere with the discretion of the Special Prosecutor. This follows from the cases just considered, as well as the *Cox* decision previously cited. It is an essential element of the adversary process.

Judicial satisfaction that the prosecutor is in fact independent should actually help to assure that any trials are conducted with entire impartiality. It is when a judge suspects that a prosecutor is "pulling his punches" that he is most tempted to inter-

vene and take over the questioning of witnesses. This risks prejudicing the jury or otherwise producing a judgment that is reversible on appeal. See *The Special Prosecutor in the Federal System: A Proposal*, 11 American Criminal Law Review 577, 628–29 (1973), and cases there cited. Thus judicial appointment of the Special Prosecutor should enhance the prospects of attaining due process of law.

V. CONFLICT OF FUNCTIONS AND DUE PROCESS OF LAW

In *Ex parte Siebold, supra*, 100 U.S., at 397–98, the Supreme Court held that there was "no such incongruity in the [appointment] duty required as to excuse the courts from its performance, or to render their acts void." In *Hobson* v. *Hansen, supra*, 265 F. Supp., at 916, the court similarly declared that appointment of a prosecuting attorney would cause no due-process difficulties. And in *Tumey* v. *Ohio*, 273 U.S. 510, 534 (1927), where the judge was also the mayor of the village, the Court said that "the mere union of the executive power and the judicial power in him cannot be said to violate due process of law."

Notwithstanding these pronouncements, however, Constitutional and ethical considerations may counsel against vesting the appointing authority in the judge who will also sit in judgment on cases brought by his appointee. The judge might appear to the public or to himself to have acquired an adversary interest which would conflict with his impartiality. In *Tumey* v. *Ohio, supra*, 273 U.S., at 532, the Court stated that "every procedure which would offer a possible temptation to the average man as a judge to forget the burden of proof required to convict the defendant, or which might lead him not to hold the balance nice, clear and true between the State and the accused, denies the latter due process of law." On grounds such as these, the Congress has itself adopted a broad disqualification statute (28 U.S.C. Sec. 455 (1970)):

"Any justice or judge of the United States shall disqualify himself in any case in which he has a substantial interest, has been of counsel, is or has been a material witness, or is so related to or connected with any party or his attorney as to render it improper, in his opinion, for him to sit on the trial, appeal, or other proceeding therein."

In a recent case which bears considerable similarity to the present one, Judge Gerhard Gesell of the District Court here in fact did recuse himself from sitting in judgment on an indictment which, over the objection of the U.S. Attorney, he had refused to dismiss. See *The Special Prosecutor in the Federal System: A Proposal*, 11 American Criminal Law Review 577, 597–98 § nn. 119–21 (1973).

What this all comes down to is, *first*, that court appointment of a Special Prosecutor would not itself void any convictions or other judgments that might later be returned by that court; but, *second*, that a single appointing judge might feel compelled to disqualify himself from sitting on such cases. Representative Culver's bill indeed anticipates such a contingency in its Section 4. It it is desired to avoid this difficulty, so as to conserve the knowledge of past proceedings held by Judge Sirica, the simplest way would be to amend the bill, authorize creation of a three-judge panel to perform the appointing function, and provide that no member of this panel may participate in cases brought by an appointee.

VI. THE TERRITORIAL REACH OF THE SPECIAL PROSECUTOR'S JURISDICTION

H.J. Res. 784, Section 7, provides that the Special Prosecutor's powers to collect evidence shall extend "throughout the territory of the United States," and Section 6 authorizes him to proceed "in all Federal Courts . . . of the United States." S. 2611 would go further and specify in its Section 4(6) that the Special Prosecutor may initiate and conduct prosecutions "in any court of competent jurisdiction" (which could include the courts of the States, 18 U.S.C. § 3231, paragraph 2). Some question may be raised about the propriety of vesting so nationwide a jurisdiction in an officer appointed only by the District Court for the District of Columbia.

In *Ex parte Siebold, supra*, the Supreme Court ruled that considerations of convenience could guide the Congress' determination with respect to location of the appointing authority. In the present case, no other authority would be so convenient as the D.C. District Court. It is presiding over the two grand juries thus far empaneled to look into Watergate, the so-called "cover-up", and campaign finance offenses.[6] The Office of the Special Prosecutor is here, as is the Office of the President. Furthermore, all or most of the offenses covered by the Culver-Bayh legislation (Watergate, Presidential election, Presidential entourage) bear sufficient connection with the District of Columbia to be triable here. Crimes must be tried under the Constitution in the State and district where committed (Article III, Section 2; the Sixth Amendment)—but "any offense against the United States begun in one district and completed in another, or committed in more than one district, may be inquired of and prosecuted in any district in which such offense was begun, continued, or completed." 18 U.S.C. § 3237 (1970).

If it were thought desirable to resolve this question with absolute clarity, it might be in order to provide that the jurisdiction and venue for all proceedings brought by the Special Prosecutor shall be in the District of Columbia federal courts. There would be some risk, however, that some aspects of some cases could not be Constitutionally tried here. Furthermore, this could put an excessive burden both on the District Court and on the Special Prosecutor. Compulsory process may occasionally be more conveniently enforced in other parts of the country. The same may be true of the initiation of certain criminal cases, such as the prosecution of John Mitchell and Maurice Stans in the Southern District of New York. And alteration of the jurisdiction and venue provisions of the U.S. Code, which have been carefully considered and balanced over the years, is an uncertain venture.

For these various reasons, it appears preferable to authorize the Special Prosecutor to appear in all federal courts of competent jurisdiction[7] and perhaps to provide (on burden-sharing grounds) that the U.S. Attorneys in other districts shall be subject to his supervision and control for this purpose. This would also assist in the disposition of any ancillary civil business the Special Prosecutor may be given. (See Appendix.)

The only other alternative, that of giving each U.S. District Court a separate appointing authority, is too confusing to contemplate. Certainly there is nothing in the Constitution or cases construing it that would compel the Congress to adopt so unwieldy an instrument. Independent prosecution of the Watergate, etc. offenses can be conducted effectively only if it is under unitary management and control. This can be appropriately reflected in the findings and declarations of the legislation.

ROLAND S. HOMET, Jr.

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[6] The Court of Appeals is more removed, and does not enjoy the precedential benefits of the temporary appointment statute, 28 U.S.C. § 546. The United States Supreme Court should be held entirely detached from the matter.

[7] There is of course no conflict-of-interest justification for going into the province of state district attorneys.

APPENDIX: SOME DRAFTING SUGGESTIONS

1. *Title:* [Reconcile the name differences between H.J. Res. 784 and S. 2611.].

2. *Findings and Declarations:* (a) Under the adversary system of justice established in this country, the truth of opposing contentions is ascertained in an impartial court of law with each party free from control or restriction by his opponent in determining what evidence and arguments to bring forward.

(b) Recent serious allegations of improper and illegal activities involving former high officials and advisers of the President of the United States require for their investigation and resolution the services of a Special Prosecutor who will be independent and nonpartisan and engaged in enforcement of no policy but the policy of law, and who for this purpose will be free from either the appointment or removal power of both the President and of the Congress as well as of anyone who is subject to removal by them.

(c) Under Article II, Section 2 of the Constitution, the appointment and removal authority for such a Special Prosecutor may be vested by Congress "in the courts of law"; and the exercise of this power by statute is "necessary and proper" under Article I, Section 8 of the Constitution to assure the due and proper administration of justice.

(d) The court best qualified by location and jurisdiction to receive and exercise such authority is the United States District Court for the District of Columbia.

3. *Protection of Files.* [Section 2 of H.J. Res. 784 confirms the protective authority over Mr. Cox's files and records that Judge Sirica has already reportedly exercised. It would help to ensure that such protection is maintained until the appointment of a new Special Prosecutor. There is no comparable provision in S. 2611.]

4. *Appointment.* (a) The United States District Court for the District of Columbia shall appoint a Special Prosecutor for the purposes and with the powers and duties prescribed in this Act, and shall replace said officer only for extraordinary improprieties in the exercise of his responsibilities as an officer of the court, or in the event the office becomes vacant. [Similar language may be added for a Deputy Special Prosecutor if desired.]

(b) The authority conferred on the District Court by subsection (a) of this Section shall be exercised by a panel of three judges who are members of that Court, said panel to be convened by the Chief Judge thereof. Any vacancies occurring in said panel shall be filled through appointment by the then Chief Judge.

(c) No judge who is a member of the panel convened pursuant to subsection (b) of this Section shall thereafter preside over or otherwise participate in any judicial proceeding conducted by or in behalf of a Special Prosecutor [or Deputy Special Prosecutor] appointed by that panel.

5. *Special Prosecutor: Jurisdiction.* [Section 6 of H.J. Res. 784 covers the subjects in Section 3 (b) and Section 4 (6) and (7) of S. 2611 The following are suggested harmonizing amendments to Section 6 of H.J. Res. 784]:

Anything in the statutes or *rules* of the United States . . . including the Supreme Court of the United States, *involving* any or all of the following *matters:*

(a) . . .

(b) all offenses arising out of the 1972 Presidential election;

(c) offenses alleged to have been committed by the President, present or former members of his White House staff, or other present or former Presidential appointees;

(d) all other matters heretofore referred to the former Special Prosecutor pursuant to regulations of the Attorney General (28 C.F.R. § 0.37, rescinded October 24, 1973);

(e) perjury or other offenses arising out of previous or future investigation of such matters; and

(f) such other matters certified by the Special Prosecutor *in camera* to the three-judge panel convened under Section 4(b) of this Act and determined by it to bear a proximate relation to any of the foregoing matters.

6. *Special Prosecutor: Powers.* [Section 7 of the Culver bill covers subjects addressed in Sections 4 (2)–(5), (7) and 5 (a) of the Bayh bill. The following would amend Culver § 7]:

The Special Prosecutor . . . material described in Section 3 of this Act . . . subject matter described in Section 5 of this Act. . . . full power to:

(a) . . .

(b) [insert Section 4(4) of Bayh bill]

(c) [relettered Culver (b), as amended]: *make application to* any Federal Court . . .

(d) . . .; *and*

(e) notwithstanding any other provision of law, to exercise all other powers as to the conduct of criminal investigations and prosecutions within his jurisdiction, including supervision of the United States Attorneys, which would otherwise be vested in the Attorney General or the United States Attorney under the provisions of Chapters 31 and 35 of Title 28, United States Code, and . . . [balance of Bayh Section 4(7)].

7. *Civil Actions.* The Special Prosecutor shall have exclusive authority and responsibility to conduct in the courts of the United States any civil action that is ancillary to the exercise of his responsibilities under this Act, or that challenges its Constitutionality. [*Note*: this is adopted from Senator Stevenson's bill, introduced October 23, 1973, but narrowed so as to encompass such "ancillary" matters as civil contempt, habeas corpus, or a Constitutional challenge.]

8. *Succession.* (a) All material of the character described in Section 3 of this Act, and all information relating thereto, which may have been collected, produced or otherwise obtained after October 20, 1973 by the Attorney General or any other person designated by him to assume responsibility for the investigation of any of the matters described in Section 5 of this Act, shall be delivered into the possession of the Special Prosecutor appointed under this Act.

(b) [Insert Bayh Section 5(b).]

9. *Staff and assistance.* [Insert Bayh Section 6, with the insert of a new second sentence]: . . . The Special Prosecutor shall receive a salary equivalent to the current rate payable to positions at Level 5 of the Executive Schedule, under Section 5316 of Title 5, United States Code.

10. *Office, supplies, and services.* [Bayh Section 7.]

11. *Budgetary authority.* [Congress must reconcile Culver Section 5, last sentence, with Bayh Section 8.]

12. *Disclosure of information.* [Culver Section 8, first sentence. The committee might wish to add, if it sees fit, language along the following lines]: Any evidentiary privilege asserted as a bar to a formal request, signed by the Special Prosecutor, for such information or assistance shall be submitted by motion to the United States District Court for the District of Columbia within seven days from the date of such formal request; otherwise, the privilege shall be deemed to have been waived.

13. *Appearances before Congress.* [Culver Section 9, but insert, after the word "evidence"]: . . ., not inconsistent with the rights of any accused or convicted persons, . . .

14. *Public reports.* [Culver Section 11.]

15. *Limitations of Powers.* [Bayh Section 11, perhaps revising the first sentence for clarity to read]: The Special Prosecutor shall exercise only those powers and perform those duties specified herein. . . .

16. *Duration of office.* [Congress must reconcile Culver Section 12 and Bayh Section 9.]

17. *Funding.* [Culver and Bayh Sections 13, with the following addition]: Such funds shall remain available without fiscal year limitation until expended. All funds appropriated to the Watergate Special Prosecution Task Force pursuant to the Departments of State, Justice, and Commerce Appropriations Act for Fiscal Year 1974 and not previously expended, shall by virue of the enactment of this Act, be transferred to the account of the Special Prosecutor appointed hereunder.

18. *Public trust.* [Finish with Section 15 of the Culver bill, H.J. Res. 784.]

[From the Washington Post, Nov. 2, 1973]

NEW MEN AND OLD BUSINESS

The President has now presented us with a nominee to be his fourth Attorney General in less than five years, Sen. William Saxbe (R-Ohio). And Acting Attorney General Robert Bork has presented us with the new Special Prosecutor for the Watergate and related investigations, Leon Jaworski. Ordinarily the discussion of the wisdom of appointing these two men would proceed from an examination of their experience, ability and judgment. And ordinarily the nomination of a U.S. Senator who had served for eight years as attorney general of his own state would move quickly and smoothly through the Senate. Similarly, the appointment of a past president of the American Bar Association who has a reputation as an excellent lawyer and a strong law-and-order man to be Special Prosecutor would be widely hailed.

It scarcely needs to be noted, however, that these are not ordinary times. Both the circumstances creating the vacancies these men are to fill and the congressional proposals for alternative action to advance the Watergate investigations and prosecutions have to be taken into account. Mr. Nixon was so determined to be rid of Archibald Cox that he was willing to sacrifice two of the ablest officials in his administration—the top two men in the Justice Department—in order to achieve that end. In effect, Mr. Cox was offered a deal in which he had to agree to give up any further attempts to obtain vast amounts of evidence in the White House files which he had already identified as necessary to his pursuits. Both houses of Congress are now considering legislation to set up a truly independent prosecutor—one beyond the reach of presidential fiat and one whose search for evidence, recourse to the judicial process to secure it and judgments both as to the scope of his investigations and the nature and number of indictments he will ultimately bring, would be unimpeded.

Thus, the independence that is envisioned for Mr. Jaworski is the yardstick by which the new arrangement should be judged. That in turn depends on two questions. The first is the scope and nature of the assurances of independence which have been made to Mr. Jaworski. The second is his own independence of spirit and resolve to pursue these investigations wherever they may lead. All of that has to be weighed on the scale against the independence which Congress, on behalf of the people, is trying to achieve in the bills now before it.

On the first issue—the assurances Mr. Jaworski has received—the record is mixed. Mr. Nixon has made it clear he believes that presidential papers should not be made available to the Special Prosecutor and there is disquieting evidence that Senator Saxbe agrees with the President—or did, at least, prior to his nomination as Attorney General. Mr. Bork, on the other hand, has dusted off Mr. Cox's recently discarded charter and seems to have strengthened it. In addition to the extraordinarily wide latitude Mr. Cox had—at least on paper—Mr. Jaworski has the assurance that the President can't fire him until he has at least consulted with the majority and minority leaders of both houses and with the chairmen and the ranking minority members of both the Senate and House Judiciary Committees. In addition, Mr. Jaworski is given the power to sign indictments, a power Mr. Cox never had.

On its surface, all of that seems fine, but in light of recent events, it has to be tested. The best test we can think of is drawn from those recent events. The question of how complete these investigations ultimately turn out to be revolves not simply around how much evidence the Special Prosecutor is empowered to seek, but also how much evidence he is *inclined* to seek. Here, the only available standard is the range of investigations Mr. Cox has mounted and the nature and amount of information which Mr. Cox thought he needed in order to accomplish a full investigation into the matters within his jurisdiction.

Mr. Cox was conducting investigations into a number of matters. Among them were the Watergate burglary, the cover-up, the activities of the White House "plumbers," campaign dirty tricks, campaign financing, the ITT antitrust settlements and the political use of the Internal Revenue Service. Attorney General Elliot Richardson has told us that from time to time the White House would raise certain questions about Mr. Cox's jurisdiction and that he—the Attorney General—discussed them with Mr. Cox and invariably backed him. Will Senator Saxbe be as restrained and as resolute?

And further, will Mr. Jaworski be as diligent in pursuing all of these investigations and the evidence needed for them as Mr. Cox was? Mr. Cox has informed us that the subpoenaed tapes and related notes and memoranda were simply the tip of the evidentiary iceberg now buried in the White House. While the legal issue was being tested in the courts, Mr. Cox said, he didn't make a large point of going after the other evidence, but he did give us some idea of how important he thought it was and of the nature of the cooperation he was getting from the White House. He said:

"My efforts to get information beginning in May have been the subject of repeated frustration. This is a very special investigation in some ways. The problem is unique because nearly all the evidence bearing not only on the Watergate incident and the alleged cover-up, but on the activities of the Plumbers and other things of that kind, is in the White House papers and files, and unless you have access to those, you are not able to get the normal kinds of information that a prosecutor must seek."

Mr. Cox can't be faulted for the independence with which he conducted himself. He knew what he wanted and why he wanted it. He also knew what the obstacles were. The President has said that the Special Prosecutor will not have access to presidential papers, whatever those may be. Apparently, whatever they are, the definition expands day by day. Mr. Cox, again at his press conference, explained how this works:

"You will recall that the papers of many White House aides, Haldeman, Ehrlichman, Krogh, Young, Dean and others, were taken into custody, and they were in a special room. And many of their papers were taken out of the usual files and put in something special called Presidential Files."

So we have another veil to add to "national security," executive privilege, separation of powers, confidentiality of presidential conversations and the rest. It is "Presidential Files" or "Presidential Papers." The Congress has to judge whether it believes Mr. Cox's pursuit of this evidence was reasonable and necessary to the performance of the Special Prosecutor's duties. If it believes Mr. Cox

was reasonable, it has to decide whether Senator Saxbe and Mr. Jaworski agree with the course upon which Mr. Cox was embarked. It has the means at its disposal to do this. In the consideration of the legislation now pending to set up a new Special Prosecutor, both judiciary committees can call Mr. Cox and explore his views in these matters. They can then call Senator Saxbe and Mr. Jaworski and test the views of these two men against the legislators' own judgment of the correctness of the course Mr. Cox was pursuing. That, in our view, would be an essential first step toward redeeming the terrible damage Mr. Nixon has done to the investigative process that was set up to deal with evidence of wrongdoing in his administration—and thereby to restore public confidence in the workings of our system of justice.

ADMINISTRATION IMPORT OF DAIRY PRODUCTS SHORTSIGHTED AND HARMFUL TO FARMERS AND CONSUMERS

Mr. HUMPHREY. Mr. President, I predict that the decision by the Nixon administration to allow the importing of additional huge quantities of butter and butter oils into the United States is shortsighted, unjustified, and will ultimately result in higher prices for American consumers.

The American consumer may think he is getting a good deal now, because these foreign products are subsidized by the governments of the countries from which they come. But such marketing practices can only lead to the eventual destruction of the U.S. manufactured dairy product industry.

This means that U.S. consumers will then become highly dependent on foreign suppliers with the usual accompanying higher price structure, as we have seen in the instance of crude oil.

This increased importation of European subsidized butter and butter oils is a flagrant example of unfair competition to the American farmer.

It will, if continued, drive the American dairy farmer out of business or compel our Government to engage in extensive increases in subsidies of our own dairy producers. Neither is desirable.

Two weeks ago wholesale domestic butter prices dropped 12½ cents in a single day—one of the greatest drops on record.

There is no indication at this time that this price is about to strengthen. This alone should be sufficient evidence that butter is not in critically short supply in the United States.

Earlier this year 265 million pounds of nonfat dry milk and 64 million pounds of cheese were imported. Added to that is now nearly 80 million pounds of butter.

While the administration may try to convince the American consumer that these imports are being permitted to avoid supply shortages and higher prices, they will likely hide from these same consumers how these imports are destroying many U.S. dairy farmers.

The European Community, where most of these imports originate, pays out a 27-cents per pound export subsidy for every pound of butter it ships to the United States.

While U.S. dairy farmers are prepared to compete with foreign dairy producers in the U.S. market, they can hardly be expected to do so when their competitors are subsidized as heavily as European producers are presently.

The ultimate result of this policy will be to place the American consumer at the mercy of foreign exports. At the same time the number of dairy cows in America will be sharply reduced, thereby reducing fluid milk supplies and causing even sharper increases in prices for all milk products.

PRISONERS OF WAR IN THE MIDEAST

Mr. DOLE. Mr. President, the U.S. Congress has on prior occasions unanimously reaffirmed our support for the principles asserted in the Geneva Convention of 1949. Whatever our many and varied perceptions of the conflict in Vietnam may have been, we in the Congress have concurred vigorously in the humanitarian precepts of the convention. And now, whatever our feelings may be on the conflict in the Mideast, we must continue to focus our attention on the grave problem of prisoners of war. Until international conflicts are settled by means other than war, we must be concerned with the problems of returning men safely to their homes at the end of conflicts.

Under the provisions of the Geneva Convention of August 12, 1949, relative to the treatment of prisoners of war, and particularly article 70, annex IV, and article 122, every party to the conflict is obliged to give the International Committee of the Red Cross without any delay all the information required by that convention, regarding any prisoner held by its forces who has fallen into its power. Such information shall be immediately forwarded to the International Committee of the Red Cross by the most rapid means.

I do not believe it is asking too much of any nation or any political organization to abide by the humanitarian obligations which spring from fundamental human decency and go beyond politics or philosophy. We can all understand the agony, the uncertainty, and the suffering of parents, wives and children who long for any shred of evidence which might provide the basis for resolving the unknown fate of a son, husband or father.

On October 22, speaking to the Security Council in support of the ceasefire resolution, our Ambassador John Scali declared:

> I want to report to the Council that both the Soviet Union and the United States believe that there should be an immediate exchange of prisoners of war.

I call upon our own Government and the Soviet Union to honor that understanding, and to speak out forcefully and clearly on this question, and to use their considerable influence over the parties to the conflict to get their compliance with the requirements of the Geneva Convention.

I call upon all parties to the conflict to submit immediately all the required information to the International Committee of the Red Cross and to enable the representatives of the International Committee of the Red Cross to visit the prisoners at once and to exchange wounded prisoners and make the proper immediate arrangements to exchange all prisoners that they hold.

I have been informed that the representatives of the International Committee of the Red Cross in Israel regularly visit the Arab prisoners of war, those in camps, and also the wounded and sick in hospitals, and that they have been transmitting to the representatives of the International Committee of the Red Cross in Israel data concerning prisoners of war held by them. My information indicates that little information has been received from Syria or Egypt.

I believe the facts regarding the Mideast POW's underscores the need for action. Israel is holding over 7,000 prisoners of war from the recent fighting. Of these, over 6,000 are Egyptians and more than 300 are Syrians, with the remaining prisoners being Iraqis and Jordanians. The Arab POW's held by the Israelis include over 500 officers. The Israelis have 450 of their men "Missing in Action" and estimate that about 350 are POW's held by the Egyptians and 100 are held by the Syrians.

Clearly this is a most important and emotional issue for all parties to the conflict, and I hope most fervently that the POW question will be treated by all the powers to the conflict, as a humanitarian question and not as a political pawn.

LEAGUE OF WOMEN VOTERS STATEMENT ON PROPOSED OIL AND GAS DRILLING

Mr. BIDEN. Mr. President, there is presently considerable concern in my State over proposals to drill for oil and gas on the Atlantic Outer Continental Shelf. The Council on Environmental Quality has currently held a series of hearings on the subject, one of which was held in Philadelphia on October 11, 1973. The League of Women Voters of Delaware presented an excellent statement at this hearing. The statement raises a number of vital questions which are prevalent in Delaware today. Because of the present interest in this subject I ask unanimous consent that this statement be printed in the RECORD.

There being no objection, the statement was orderd to be printed in the RECORD, as follows:

TESTIMONY OF THE LEAGUE OF WOMEN VOTERS OF DELAWARE COUNCIL ON ENVIRONMENTAL QUALITY HEARINGS ON PROPOSED OIL AND GAS DRILLING ON THE ATLANTIC OUTER CONTINENTAL SHELF

The League of Women Voters of Delaware is pleased to have the opportunity to comment on the proposed oil and gas drilling on the Atlantic Outer Continental Shelf. The League has a strong position on the need for citizens to participate in decisions which will affect the environment in which they live. We certainly hope the Council for Environmental Quality will use public hearings such as this one again in the future.

As preparation for these hearings, Delaware's Governor Sherman W. Tribbitt held

a citizen's conference to bring the issues surrounding the possible off-shore drilling to the people of Delaware. This conference gave a good summary of the geological, environmental, legal, and development issues raised by off-shore oil development.

From the environmental standpoint, the League of Women Voters of Delaware opposes any deterioration of water quality in Delaware Bay. Any drilling would need proper safeguards so that leakage or spills would not enter the tidal marsh area. Delaware has already taken steps to protect the Delaware River estuary and its value both for recreation and as a fertile nursery ground for sea life, by passage of Coastal Zone and Wetlands control legislation. A major spill or drilling leak such as that in Santa Barbara, California would be much more damaging to the complex bay and marsh habitat than to open shoreline. Delaware should have a measure of control over such drilling since the effects of carelessness would be so great.

Because the bay is part of a region rather than belonging to Delaware alone, we also are concerned that a regional approach to be taken to regulation of drilling. We encourage the development of a Federal-State compact for the coastal areas, similar to the river basin commissions. Citizens in the whole region would be affected by regulation policies of any single state or by those of the Federal government acting alone.

Our final concern is that oil and gas are non-renewable resources. Should a national energy policy depend heavily on these for fuel when they will be needed in the future for other uses?

Thank you again for the opportunity to speak on behalf of the members of the Delaware League of Women Voters.

NEW WATCHDOG ISSUES INVITATION TO ASSESS NUCLEAR BREEDER PROGRAM

Mr. GRAVEL. Mr. President, an invitation has been issued to both scientists and laymen by the Natural Resources Defense Council, which is launching a major project to make the AEC's environmental impact statement on the nuclear breeder program into "a full, candid, and public reassessment of the Federal Government's present commitment to commercializing this new reactor."

NRDC recently won a lawsuit for the Scientists' Institute for Public Information; the decision requires the AEC to prepare an environmental impact statement on its huge program to commercialize the breeder reactor.

Now NRDC is trying to "mobilize the resources of the scientific community in an effort to subject the—AEC—impact statement to the most thoroughgoing scrutiny and analysis," and to assist "extensive public participation in this NEPA review."

NRDC points out that, under the National Environmental Policy Act, the AEC's impact statement must discuss possible alternatives to the breeder, such as solar, geothermal, and fusion energy; coal gasification; and energy conservation.

The declared intention of the NRDC project is "to prevent a rash and irrevocable Federal commitment to the liquid metal fast breeder."

NRDC is located at 1710 N Street NW., Washington, D.C. 20036; it is a public interest law group whose board of trustees includes Dr. Dean Abrahamson, Mrs. Louis Auchincloss, Dr. Rene Dubos, Dr. Joshua Lederberg, James Marshall, Anthony Mazzocchi, John B. Oakes, and Laurance Rockefeller.

To work on the breeder review project, Dr. Arthur Tamplin and Dr. Thomas Cochran have joined the NRDC Washington staff. They will coordinate their efforts with Gus Speth, the NRDC attorney who conducted the lawsuit.

TRIBUTE TO SENATOR HRUSKA

Mr. GRIFFIN. Mr. President, along with Senators EASTLAND, MCCLELLAN, CURTIS, and BARTLETT, I traveled to Omaha last weekend to attend a dinner honoring our colleague, the senior Senator from Nebraska, ROMAN L. HRUSKA.

The event, attended by nearly 1,000 persons, was the occasion for an outpouring of bipartisan appreciation for Senator HRUSKA's 21 years of service in the U.S. Congress. The eloquent remarks which Senator HRUSKA delivered before that gathering of fellow Nebraskans have meaning and significance for all of us. I ask unanimous consent that they be printed in the RECORD.

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

RESPONSE OF SENATOR ROMAN L. HRUSKA

Victoria and I are touched and grateful.

It is more than a little flattering to hear that Roman Hruska did this and Roman Hruska did that. I appreciate deeply the sincerity and kindness of those who have spoken so well of me. I am reminded, however, of a story which helps me to keep my feet on the ground. Many years ago a lawyer asked General George Goethals: "Are you the engineer who built the Panama Canal?" Goethals replied: "No sir, I am one of 2,232 engineers who worked together to build the Panama Canal." Likewise, Roman Hruska is but one of 535 Senators and Congressmen privileged to work together in the greatest representative body in the history of civilization.

Each member of Congress—those sitting now and those whose footsteps still echo in the halls of Congress—has had a part in making our noble idea of self-government real. Each has had an opportunity to make an imprint on the laws and life of our country.

How proud and privileged I have been to have served and worked with each of my distinguished colleagues who is with us tonight.

Many of the ventures my colleagues and I have been engaged in have aroused tension and controversy. After all, the concept of political freedom not only invites but demands that each man advance his opinions on how to secure the common good. The system invites forthright and determined initiative in the public arena, and a diversity of opinion quite naturally follows. But our Constitutional system is a great vehicle for balancing the passions of free men. It has consistently provided for the ultimate resolution of great issues. Only once in nearly 200 years has the fabric been rent—in the tragic conflict of the 1860's. In the long process of reconciliation that followed the Civil War, the system not only survived but was strengthened.

Today, our people and our government are experiencing a crisis that may seem catastrophic, tragic and precedent making. But future historians, looking over the broad sweep of our national history, will note what we, in our immersion in the struggles of the moment, may fail to discern.

My own study of American history tells me that there is precedent for nearly every aspect of our present troubles. Attempts to secure privileged records, accusations of conspiracy to obstruct justice, motions to impeach, the dismissal of executive branch appointees—if not exactly in the same framework we see today—are not unique events in our political experience.

In September 1833, President Andrew Jackson fired Secretary of the Treasury Duane; President Truman in 1951 fired Attorney General J. Howard McGrath and General Douglas MacArthur. Furthermore, President Coolidge appointed a special prosecutor to investigate the intrigues of the Teapot Dome scandal. And talk of impeachment has haunted many a Presidential mind.

Certainly we witness in all of those struggles a demonstration of the quality, the strength, and the stamina of our constitutional system. Conflicts within the system are rarely tidy and never tranquil. At times, they appear to be rather rough and coarse. But the noise and dust of human conflict, seemingly so crushing at the time, fade alongside the cumulative achievements of the decades and centuries. Thus it is that the enduring strength of our nation is in the system itself and not in the frail and imperfect man who operate within it. Indictments, trials, and the like are the stuff of headlines. But they are merely the surface, the rough edges, if you will, of the great historic process of molding evermore firmly our institutions of self-government.

Right now, as they have before in the last 200 years, the trumpeters of dismay are calling for instant and severe action. There is tension, excitement and confusion throughout our land. The tendency is to rush out and proclaim our indignation to the men to whom public trust has been granted and to demand immediate retribution.

But one of the strengths of our system is that it does not allow us to stampede across the pages of history; rather, it demands that we walk, deliberately and surely, hand in hand wtih prudence. The essence of the concept of due process in our Constitution can be summed up in two words: "Fair play." Twenty-one years ago I first swore to uphold that Constitution. If that means being unpopular at times with some segments of the people, with the press, or even with the highest leaders of government, then so it will be. Not that I will be dilatory or tarry too long, but that I will recognize that our system, with history on its side, compels me to be calm and to be guided by common sense.

It is easy, in times such as these, to grow impatient with a system that seems so ponderous, so slow to act. The space age has made us accustomed to swift movements. But I will not decry the safeguards built into our Constitution; rather, I applaud them. I derive sustenance from the Constitution and from the stanchion upon which it rests, the American people.

The American Constitution is the oldest and most successful charter of government in the world. It is mature from two centuries of abundant experience, yet vibrant with guidance for our affairs today. It is limited in specific directives, yet pregnant with potential interpretation. It is the ideal instrument for maintaining the representative government—that government under which the church, the family, the economy and the schools maintain their independence but still cooperate in the political arena. It propels America toward an orderly and rational resolution of its affairs without smothering its diverse institutions and creative initiative with a debilitating cloak of governmental intervention.

But despite the obvious wisdom of the founding fathers in framing the Constitution, that document could not have been preserved without the wisdom of the American people. This is a people who led persecution and repression in all areas of the world and adopted America as a haven of freedom; a people whose descendants have recognized the toil and suffering required not only to tame a continent, but to maintain and exercise their freedom; a people who, generation after generation, have viewed freedom as an exercise, a moving experience, a principle of action; a people who have valued and cultivated individual liberty and refused to see mankind as a helpless marionette, jostled here and there by the impersonal strings of circumstance.

I stand before you to testify to the opportunities this great nation offers to each of its citizens for building the institutions of freedom.

Many years ago in this city when I was going to the House of Representatives, a good friend and distinguished citizen said to me: "Roman, I envy you because you are going to Congress; not because you will sit in high places and people will be deferential to you, but because you will be sitting in an arena where you will have the opportunity to tip the scales one way or another in matters of great importance to our way of life."

Thanks to you, the citizens of this state, this has been my lot and my experience—to play a part in weighing and balancing the needs and desires of a free people. It has been a privilege beyond measure and I am deeply grateful to you for it.

2000 years ago a Greek philosopher, Seneca, observed: "Our ancestors have done much, but they have finished nothing."

Here in America our forefathers have done much; in our time we have added some measure of progress.

Yet, even here nothing is finished. Much remains to be done. It is for us and those who follow us to carry on.

May it be in the spirit and tradition of our Constitution with all of its glory that our Republic will continue in achieving its destiny.

Vicki and I join in saying thank you again. Good night and God Bless.

APPOINTMENT OF SENATOR SAXBE AS ATTORNEY GENERAL

Mr. METCALF. Mr. President, I want to join my Senate colleagues in extending congratulations to Senator SAXBE for his appointment as Attorney General. As one who regards the U.S. Senate as the top job in American Government I cannot understand why he deserts us to take a position in the Cabinet. However, since he has done so it must be said that I do believe that he will be an excellent Attorney General. He is a fine lawyer, his previous experience as Attorney General of Ohio qualifies him to head the Nation's largest law establishment. He is fiercely independent and articulate in his pronouncements. President Nixon could have made no better choice.

A NATIONAL AND INTERNATIONAL FOOD POLICY

Mr. HUMPHREY. Mr. President, Thomas Malthus' thesis, that man would breed himself into a corner of misery, was ridiculed for 150 years as the exaggerations of a "prophet of doom."

However, during the last decade scientists and Government officials have been carefully reexamining Malthus' theory that the ratio of people to resources will continue to decline rapidly with catastrophic results.

This year, as a result of food, energy, forest product, mineral, and other serious shortages, this relationship of people to resources has become a major public concern.

In each of these areas, a tremendous increase in planning for more efficient resource utilization is essential.

One area of vital importance to the continued existence of millions of people throughout the world is food supply. For years we have taken food supply for granted and have done very little, domestically or internationally, to plan and organize to meet the food needs of a growing world population. This failure must be corrected.

The United States must act now to develop a domestic food policy and to vigorously work with other nations in developing a world food policy.

The growing number of mouths to feed, the changes in diet resulting from rising affluence, the limited amount of arable land not in production, and severe shortages of world food reserves, all require that the world community develop food policies that will provide a minimum level of food security for all of the people of the world.

On October 24, I had the opportunity to discuss the urgent need to move "Toward a National and International Food Policy," at the International Conference of the Grain Trade.

I ask unanimous consent that my discussion of this subject be printed in the RECORD.

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

TOWARD A NATIONAL AND INTERNATIONAL FOOD POLICY

(By Senator HUBERT H. HUMPHREY)

In the year 1793, Thomas Malthus predicted that man would breed himself into a corner of misery by increasing his numbers beyond his ability to feed himself.

While historically this theory has been subjected to occasional debate, the advances of science and the general belief that the world's natural resources are unlimited have resulted in its being given little serious attention.

However, during the past decade, scholars, scientists, social planners and government leaders have begun a re-examination of the basic process underlining this theory—the ever shrinking ratio of people to resources. And while it may come as a shock to some of us, we, along with the other more affluent and developed nations of the world, are increasingly guilty of depleting the world's scarce resources.

The United States, for instance, with 6 percent of the world's population, accounts for about 40 percent of the world's annual consumption of natural resources.

In other words, as that famous philosopher "Pogo" once stated, "We have met the enemy, and they is us!"

Now you might very well ask, "What does all this have to do with agriculture and the world food situation?"

I'm here to tell you, "A lot."

The goal of controlling the continued expansion of world population still eludes us. The world's population continues to expand at a rate of about 2 percent per year. And added to this demand factor is yet another major claimant on the world's food resources—rising affluence.

In poor countries, the availability of grain per person average only 400 pounds per year, or about one pound per day. Practically all of this grain is consumed directly.

In the United States and Canada, on the other hand, per capita consumption of cereal grains is now approaching nearly 2,000 pounds per year, most of which is converted into meat, milk, and eggs.

What does this mean in terms of "input" requirements, the amounts of land, water, fertilizer and energy, seed, credit, transportation, and storage needed to satisfy such consumption habits?

Briefly stated, it means that the amount of such resources used to support an average North American are *nearly five times* those required to support the average Indian African, or South American.

The United States today supplies almost 50 percent of the world's wheat exports, 60 percent of the world's feed grain exports, and 90 percent of the world's soybean exports. While this means that our nation has an agricultural productive capacity far in excess of its own food needs, it also means that much of the world is directly dependent upon us for its food.

We must also remember that our nation is dependent upon other parts of the world for the input resources needed to produce all of that food.

In other words, food production and supply is a two-way street.

Any disruption or denial of needed agricultural inputs will result in food supply shortages—and today, given the fact that U.S. and world grain reserves are at their lowest levels in decades, anything adversely affecting food production in the near future, especially in the U.S., will have immediate and catastrophic effects in food deficit areas of the world.

If worse comes to worst in this regard, the American consumer can be protected—but not without a price.

The price to the American consumer under these circumstances would likely be some shortages and much higher grocery bills, but the price to many outside the U.S. could mean no food at all—starvation or death.

When Arab countries cut off petroleum supplies to the U.S., they are, in effect cutting food grain supplies that are available for export from this country to assist the needy and sometimes starving people of the world, including many millions of Africans today.

Notwithstanding any man-made or political threats to the achievement of expanded agricultural production this next year, let us examine what is in prospect, assuming normal weather conditions.

World grain and oilseed prospects point to record crops this year. Rice supplies are the tightest among major commodities at present and will likely remain so for the immediate future.

But now let's examine world consumption estimates for this next year.

While world grain production prospects point to record crops this next year, consumption is expected to exceed that record production, which will mean even further drawdowns on carryover or limited reserve stocks.

The world carryover or reserve stocks of all grains (wheat, coarse grains and rice) is estimated to be about 100 million metric tons, about one-month's supply.

On July 1 of this year, wheat stocks in the four major exporting countries—U.S., Canada, Australia and Argentina—were at the lowest level in two decades. Grain stocks in many other nations of the world also have been drawn down.

What all of this adds up to is that the world will be almost entirely at the mercy of next year's weather. Reserve stocks of grain during this next year will be too thin to protect against any major crop failure.

And let's not pass over the "weather" portion of this equation too quickly.

During hearings on the world food situation, which I chaired with Senator Huddleston last week in Washington, Dr. Reid A. Bryson, Director of the Institute of Environmental Studies at the University of Wisconsin, reminded us of the 20-year drought cycle to which the United States has historically been subjected.

While he gave no evidence, or in any way tried to convince us that our nation's Midwest and Great Plains regions would be subject to such conditions next year, he did remind us that the last major drought occurred in those regions during the early 1950's and that, in his judgment, some repeat of such conditions probably could be expected sometime during this decade.

His general analysis of his situation should serve as an ominous and serious warning to the world about the need to protect against such changing weather patterns through explicit food reserve policies in the future.

There is an additional observation. It takes 9 calories of energy input to produce 1 calorie for the American consumer. It takes 5 calories of energy input to produce every 1 calorie we export. Therefore, any substantial dislocation of the energy input (Arab oil) will sharply reduce our production and thereby deny the needy nations and peoples, particularly of Africa and Asia, the food they desperately need. If need be, we can, through export controls, have sufficient food for our own people.

Our nation and the other nations of the world must begin immediately to work toward national and international food and agricultural policies which recognize the interrelationship of all of these factors.

Specifically, here's what I believe must be done to deal effectively with these serious problems:

1. A more extensive and intensive effort must be undertaken by all countries to control continued population growth. This is needed not only in the developing nations where population growth rates are highest, but also in the more affluent nations where resource consumption has reached staggering levels.

2. Affluent nations must also temper their own consumption habits in the future, especially as they relate to excessive depletion of non-renewable resources.

3. A world conference to deal with the problems threatening the world food supply must be convened immediately. I have urged the President, in an amendment to the Foreign Assistance Act of 1973, to initiate a conference to study and report on such issues as barriers to increased world food production, the world availability of agricultural inputs such as fuel and fertilizer, and the requirements for humanitarian food assistance over the coming decade.

4. The countries of the world must give the highest priority to increasing the volume of farm output instead of directing their attention to ways to restrict production and markets by trade barriers, high consumer prices, and other such practices.

5. There must be immediate consultation among the exporting and importing nations of the world on the question of access and equitable sharing of available supplies of food, such consultation must also include the inputs required for food production.

It would be unconscionable for the developed countries to forget the crucial food requirements of the developing world when these poorer countries encounter periods of temporary shortages. Tight supplies may mean spot shortages and rising prices in this country, but in many countries of the developing world, food scarcity or sharp price increases mean death.

6. The developing countries must be provided with greater assistance in their efforts to meet their own food needs by expanding their production. The major thrust of the Foreign Aid Bill, which I recently managed on the Senate floor, is toward increasing food production in the developing countries by sharing the agricultural know-how which has made the American farmer the most productive in the world.

7. We must develop a system that offers the consumers of the U.S. and the world at least a minimum level of food security at reasonably stable prices.

Unless the world develops a system which insures the availability of stored reserves large enough to offset these periodic production swings, the consequences for the farmers and consumers of the world will become increasingly disastrous.

To do this, we must begin immediately to establish a system of domestic reserves to protect the American consumer from wild price escalation, to assure a stable income to the American farmer, and to maintain our credibility in the world as a dependable supplier of food and fiber.

Currently pending before the Senate is a bill (S. 2005) I introduced last May that would provide for an adequate level of domestic reserves of agricultural commodities—wheat, corn, and soybeans. It needs prompt attention, and it deserves the support of the Congress and the President.

The skyrocketing food prices of this past year should underline the need to provide some stability in the prices of essential food items. Farmers also should support it to protect their prices in times of overproduction.

But this alone isn't enough.

The United States must also participate in the establishment of an international system of strategic food reserves. In my amendment to the Foreign Assistance Act of 1973, the President is directed to cooperate fully with other nations to establish such a reserve system. This is something that I have been calling for in the Senate for nearly 20 years. Perhaps its day has finally come.

Such a reserve would provide a minimum level of security for the peoples of the world from the ravages of hunger and malnutrition such as those being experienced in Africa and Asia today.

There must be an equitable sharing of the cost of maintaining such a system between both the producer and consumer nations. Furthermore, these reserves should be strategically located in various parts of the world so they will be readily available when needed.

8. Finally, we must take the opportunity offered in the upcoming round of trade negotiations to tailor world agricultural policies toward increasing world farm output and expanding international agricultural trade.

Without generally accepted rules to guide national farm policies, we force governments to solve their own agricultural problems without regard to the external effects of such actions.

If the nations of the world are to meet the food needs of their people, three basic issues must be dealt with. They are:

Population control

Access to the resources required to produce food (fuel, transportation, storage, fertilizer, seed, land, water, credit), and

Improved management and conservation of such resources.

Unless the world's continued population expansion can be stopped or at least slowed down, the horrible proof of Malthus' theory may soon be at hand.

Unless our nation and the rest of the world soon learns the importance of sharing access to the essential resources required to produce food, major breakdowns in even current production levels will likely occur—petroleum today being a classic example and fertilizer another.

And unless both our country and the rest of the world do more to improve the management and conservation of the world's limited resources—especially the non-renewable type—many of these resources which are essential to food production will be tragically lost through waste or misallocation.

In short, unless we become better managers of our own destiny, mankind will surely collide with himself and the natural limits to his environment.

Food—commodities—has become the new currency. Today nations are trading in commodities which represent real wealth. We, as a major food producing nation, need to fully understand the important asset that is at our command—the productivity of the American farm and the excellent system that we have of processing and distribution. To be sure, it needs improvement but it ranks at the top of the list in comparison to other countries.

Food is a new form of power. Food is wealth. Food is an extra dimension in our diplomacy. There is no way that any country can have economic stability or that its currency can be sound if it suffers from severe scarcity of food and highly inflated food prices. In other words, the hope of international monetary stability will in the long run depend upon the availability of food, fiber, and energy.

If we are to avert serious international tensions that could erupt into catastrophic warfare, we must have an adequate supply of food and energy. We must also understand the interrelationship between food and fuel. When nations threaten to cut back on oil shipments to the United States, the whole world needs to be alerted to the implications that this move could have regarding adverse effects on U.S. agricultural production. And if American agricultural production is severely limited or restricted, then the entire world will suffer.

Why? Because the United States provides about one half of the world food exports, 70% of the world's feed grain exports, close to 80% of the world's soybean exports.

Given this great dependence that agriculture has on petroleum products, especially from the standpoint of its importance as a feed stock for fertilizer production, the implication on U.S. production goals is obvious. If U.S. production falls drastically, then the entire world will feel the consequences. There is a lesson of interdependence here. We live in a global village, and all of us need each other.

I have discussed with you today some of the issues which I believe must be addressed and actions that must be taken if the world is to enjoy a minimum level of food security in the years and decades ahead.

The stakes are too high to let food policies be established after crises are upon us. When that occurs, it is usually too late, and our options are too limited.

Our responsibilities to the producers and consumers of the world demand that we act now to move forward a clearly defined "National and International Food Policy."

THE SBA'S FIRST 20 YEARS

Mr. DOLE. Mr. President, this past summer the Small Business Administration observed the 20th anniversary of its establishment. The site chosen for the ceremonies, appropriately, was the Eisenhower Center at Abilene, Kans. Abilene, of course, was the boyhood home of Dwight D. Eisenhower, who as President of the United States signed into law the Small Business Act in 1953.

The day's events drew an impressive and enthusiastic group of Kansas citizens, dignitaries, and businessmen who knew firsthand what two decades of the SBA has meant to America's economic system.

The event was supervised and presided over by one of Kansas' most distinguished citizens, former Senator Harry Darby. A pioneering industrialist and civic leader, Senator Darby was a close personal friend of General Eisenhower's and is deservedly recognized as the driving force behind the creation of the Eisenhower Center and its development into one of the most outstanding educational and historical facilities in the country.

The entire occasion was a moving tribute to one of America's greatest public figures and to the system of free enterprise and individual initiative which built and sustains this Nation. The statements and observations made that day may be of interest to many, and I ask unanimous consent that the transcript of those ceremonies be printed in the RECORD.

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

NATIONAL SALUTE TO SMALL BUSINESS, THE DWIGHT D. EISENHOWER PRESIDENTIAL CENTER, ABILENE, KANS., JULY 30, 1973

Honorable Harry Darby: "Good Morning, Ladies and Gentlemen."

"Governor Docking and Mrs. Docking; Mr. Administrator, Tom Kleppe; Senator Dole; General Cassidy; General Duquemin and Mrs. Duquemin; General Fry and Mrs. Fry; Senator Carlson and Mrs. Carlson; Distinguished Guests all; Ladies and Gentlemen."

"I am gratified to see such a large crowd. Thank's very much for coming."

"I would like to ask you to stand for the National Anthem of our great country, as sung by our lovely vocalist, Mrs. Deryl K. Schuster, of Wichita. Mrs. Schuster is the wife of the Small Business Administration's Wichita District Director, which services this part of Kansas. Mrs. Schuster will be accompanied by the First Infantry Division Band, Fort Riley, Chief Warrant Officer Francis P. Harris, conducting."

"Please remain standing afterwards, Ladies and Gentlemen, for the Invocation by Chaplain Lieutenant Colonel Raymond P. Hoffman of Fort Riley."

Chaplain Hoffman: "Let us pray. Almighty God, our Heavenly Father, in whose hands are the living and the dead, we give Thee thank's for all those, Thy servants, who have laid down their lives in the service of our country, especially do we pray for Dwight David Eisenhower. Grant to them Thy mercy and the light of Thy presence, that the good work which Thou hast begun in them may be perfected in us. All of which we ask in hope and confidence that you are our God. Amen."

"Thank you, Chaplain, for that appropriate invocation, and thank you very much, Mrs. Schuster."

"As we gather here today for this event at this Eisenhower Center, we are all thinking of Dwight Eisenhower. From a Kansas farm boy to a Supreme Allied Commander in Europe to the Presidency of the United States, Dwight Eisenhower symbolized all that is good about America. He came from the humble beginnings right here in this neighborhood, where he was taught to revere God, to love his country, and to honor his fellow man. He grew up in this 34th State of the Union and was elected and re-elected to be the 34th President of the United States. He personified those enduring qualities that are universally admired and respected by all of us. We thank God for knowing him and for the privilege of living with him right here in Abilene as our neighbor and as our close personal friend, and we can be proud he wanted to come back home to Abilene to be with us. He was probably loved by more people in more parts of the world than anyone who has ever served in public life. We salute him again and again today, as one of the all-time greats in history."

"We have assembled here today on this platform one of the most distinguished groups of both men and woman ever put together. There are about 100 of them, representing every state and every territory of this nation. They are all civic, business and political leaders; distinguished men and women in the field of small business; doctors and lawyers in the professional field; Generals of the Army; Governors and former Governors; United States Senators and former United States Senators; Justices of the United States Courts, state courts and local courts; Congressmen; soldiers; statesmen; Presidents of state universities and colleges; and President Nixon's brother, Ed Nixon; obviously all are very important people. We are proud to have them showing their tremendous interest in the affairs of the United States Small Business Administration by being present on this occasion."

"Time doesn't permit, and more importantly, your comfort during this program, prohibits individual introductions. Weather conditions such as they are today justify our taking a position that maybe these introductions just might be 'too hot to handle' so to speak. I want to present all of them, so I'm asking them, each and every one of them, to please stand so that you can welcome them and applaud their presence at this National Eisenhower Shrine. Please stand, Ladies and Gentlemen. Thank you very much."

"We wish to call your attention to the fact that a number of items provided here for your comfort and pleasure, such as the umbrellas, have not been paid for at Government expense. They were obtained through private donations from the friends of Small Business."

"Right now, Ladies and Gentlemen, I want to present Governor Docking, but before I do that, I want to present his wife, the First Lady of the State of Kansas. She is very smart, charming and gracious, and I'm thinking now that there isn't anyone more important than a pretty girl, especially when she is the wife of the Governor of Kansas. My privilege, Ladies and Gentlemen, to present Mrs. Robert Docking."

"It's great to have our Governor here with us on this occasion. He has affection for his associates and his friends, and seems to master the art of popularity. The people of Kansas like his record in office. They have spoken about his record and elected him four times as their chief executive. He has served the longest term of any Governor of Kansas. He has long been a friend of Small Business. He is a small businessman himself, and obviously a very important one. He has served as a member of the Small Business Administration's Advisory Council in Kansas. He has supported every effort at this Eisenhower Center. His father, Governor George Docking, helped build it. They both have responded promptly when they were called upon to help. It is my privilege, Ladies and Gentlemen, to present the very capable and distinguished Governor of the Great State of Kansas, the Honorable Robert Docking."

Governor Docking: "Thank you very much. Thank you very much Senator Darby and Mrs. Darby, Senator Dole, Mr. Kleppe, distinguished Ladies and Gentlemen. It is with great personal interest and pride that I have the opportunity to participate in this program. We are here today for a tri-fold purpose: to observe the Small Business Administration's 20th anniversary, to pay tribute to the late President, Dwight D. Eisenhower, and to recognize the contributions of our nation's eight million small businesses.

Each of these three purposes of our gathering here today touch me and my family. When my father was Governor, he served under Senator Darby as Co-Chairman of the National Committee which worked for the creation of this Eisenhower Library and Center. On October 13, 1959, Dad attended the ground breaking for this great complex. I know and remember how very proud he was to be a friend of the President's and to be a part of this project's early development. It was under President Eisenhower's Administration that the Small Business Administration was created. As former Chairman of the Kansas Small Business Administration Advisory Board, I know of the many great assets of the SBA, how it was effectively worked to give a foothold to private business, to keep the Small Business community alive and to keep it thriving. For two decades the SBA has sought to fill the major needs of the nation's eight million small businesses. This period has spawned a dramatic surge of individual initiative in a competitive atmosphere where small businesses have become a dynamic force in our economic way of life. Recognizing that the needs of small business can be served best through the combined efforts of the public and private sectors, the SBA has placed new emphasis on administering its programs. The Agency has sought and achieved greater participation of all the business, academic, financial and management segments. This broadened concept has resulted in increased focus on assistance to low income and to other disadvantaged groups."

"I congratulate the SBA, whose role continues to be one of leadership in stimulating and coordinating all possible sources of assistance needed to develop new concerns and strengthening the competitive positions of those already in existence. As a small businessman, I know of SBA's importance, and I wish it continued success in its contributions to maintaining and strengthening the overall economy of the United States of America. On behalf of all Kansans, I welcome the many people who have joined us here today at this beautiful Eisenhower Center to pay fitting tribute to a great President and effective SBA program, and our nation's small businesses, which are indeed the backbone of our American economy. And it's Mrs. Docking's and my great pleasure to be here to share this occasion with all of you."

Senator Darby: "Thank you very much, Governor Docking. We appreciate your appropriate and cordial welcome."

"Ladies and Gentlemen, we have the 1973–74 distinguished Chairman of the National Advisory Council. This SBA's volunteer affiliate plays an important and vital role. The National Advisory Council was established in 1961. At present, the Chairman is President of the Bank of Beaufort, South Carolina. This National Advisory Council Chairman is the forthcoming President of the State Chamber of Commerce, so I'm very pleased to present the very capable and distinguished Chairman, the Honorable Elrid M. Moody. Mr. Moody."

Mr. Moody: "Senator Darby, Governor Docking, Senator Dole, Honorable Tom Kleppe, distinguished platform guests, Ladies and Gentlemen.

"It is with much pride and deep humility that I appear on the program today as Chairman of the National Advisory Council of the Small Business Administration, representing over 2,000 business and professional people throughout the country who give of their time and their talents to bring wide and varied experiences to counsel and recommend new areas of services and assistance to small businesses. This assistance is provided our small businessmen through the agency of the Small Business Administration. The Small Business Act of 1953 created the Advisory Council and defined its role. I would like to pay tribute to those Advisory Council members who, through the twenty-year history of the Small Business Administration, have dedicated their efforts to maintaining on a sound economically viable basis, the small business assistance throughout our nation.

The combined effort and talents of the Advisory Council and the Small Business Administration have enabled our small businessmen to compete successfully in the market place. The SBA provides not only financial assistance, but counseling, planning and management. Guidance and also vital services are provided small businessmen in this area through our council of advisors who have served unselfishly the small businessmen of our country.

"In summary, I would like to pay tribute to President Eisenhower and those who wrote the Act and enabled legislation whereby assistance has been provided through these two decades to our small businessmen; and I would like to use a story of birds to demonstrate the services as I see them in the way I visualize our role in service to our small businessman. Once there was a wise man who befriended the birds; loved and fed them, cared for them and administered to their injuries, sheltered them in winter and provided within his capabilities for their needs. There were a couple of youngsters who resided in the neighborhood. They knew of the wise man's fondness for birds, but doubted his wisdom, so they determined to put him to the test. They caught one of his birds, approached him when he was in the garden, and as they approached, they held their hands behind their backs. When they reached the wise old man, they paused and said: 'O wise man, in our hands we hold a bird. Is the bird alive or is he dead?' The wise man meditated for a few moments, then said: 'I know not whether the bird is alive or dead; I only know that whatever you will it, that the bird shall be.' With that statement the young men were astounded, for the wise old man knew that if he said that the bird was alive, they would squeeze the bird in their hands and take its life. If he said the bird was dead, they would open their hand and release the bird; and to you, Tom Kleppe, and your professional staff within the SBA and to those who legislate for the best interests of everyone in this nation, and to those who serve as advisors or in any other capacity, for the continuing best interest of small businesses, within your hands the future and the future of our nation rests."

"I challenge you to uphold the high ideals that we all can pay respect to today that were conceived twenty years ago, and to carry forward this torch of free enterprise."

Senator Darby: "Thank you very much, Mr. Moody, for those very appropriate remarks."

"Our next speaker today has several distinctions. He is a college drop-out, I'll start with that. He has made a hole-in-one. He has bowled a perfect (300) game. He has picked up money as a rodeo rider. He turned down a contract offer from the St. Louis baseball Cardinals. He is a self-made man and a highly successful businessman."

"At the age of 17 Thomas S. Kleppe was assistant manager of a grain elevator in rural North Dakota. Four years later, he was manager of a small country bank. By the time he had reached the age of 29 he was Vice President of the Gold Seal Company, a North Dakota manufacturer of bleaches and wax. In nine more years he was President and Treasurer of the firm. Before entering public service, he also was Vice President and Director of J. M. Dain & Company, a Minneapolis investment banking firm."

"In 1950, Tom Kleppe was elected Mayor of Bismarck, North Dakota, and in 1966 he was elected to the United States House of Representatives for the first two terms."

"On January 18th of 1971, President Nixon named him Administrator of the Small Business Administration, the Government's official spokesman and guardian of over eight million small businesses throughout the country. On this occasion, he brings personal greetings from President Nixon. So now at this time, I'm pleased to introduce this Administrator of the United States Small Business Administration; the very capable, the very distinguished, the Honorable Thomas Kleppe."

Mr. Kleppe: "Thank you very much, Senator Darby, Governor Docking and Mrs. Docking, Senator Dole, to all of you very distinguished people on this platform and, yes, all of you ladies and gentlemen, boys and girls, out in the audience."

"I approach this podium with a great feeling of depth of humility and thankfulness, one of appreciation, recognizing and knowing that you're here, that all these people up on this platform are here, not because of the Small Business Administration, but because we are here to say we respect and understand the health and the strength and the necessity of the small businessman in our total concept of America as we understand it today. That's what this is all about."

"And, Senator Darby, you got this off to a good start when you introduced all of us en masse. I noticed quite a few heads out here nodding like this. Thank God for Senator Darby's judgment that we are not going to introduce everybody. Now if we don't mess it up from that point on, I think the audience will give you an A-Plus; but all that does is lead me into a word of appreciation and thanks to you, Senator Darby, and all the rest of you SBA people, military people, community people, all of you, for the wonderful arrangements, circumstances prevalent here in this very auspicious moment in the celebration. I would be remiss if I did not mention Chief Warrant Officer Harris, who led this wonderful band here. He's already cleared the post. He's supposed to go to Korea, but out of dedication and wanting to be a part of this celebration today, here he is. We want you to know, Mr. Harris, how much we appreciate this. Thank you very, very much for that personal dedication.

I also would like to commend the efforts of Sen. Darby, his committee and the Host Region for this superb job in negotiating and expediting all the arrangements. Region VII's staff, headed by its most capable Regional Director C. I. Moyer, has my deepest admiration and respect for a marvelous job.

"This letter from President Nixon comes to me, and says: 'Dear Tom: It pleased me greatly that you have agreed to be my personal representative to the special event at the Dwight David Eisenhower Presidential Center marking the 20th anniversary of the U.S. Small Business Administration. I have, as you well know, a strong personal belief in the importance of small business. I grew up in a small business family and it was a great source of stability and satisfaction in my life. It is also the life blood of America. Small business is proud of the freedom of opportunity which is our national creed. It expresses the freedom of every American to achieve something in his own way. From the beginnings of our nation, small business has provided us with some of our best ideas and inventions, and it has considerably accelerated the growth of our industry and science. Today, small business remains one of the strongest forces in the country. It is the livelihood for half of our population. When I first took office I made a commitment; that this administration would encourage, develop and reserve small business. I urged all federal departments and the Congress to work towards those ends. Small Business Administration deserves special recognition for its innovative leadership in this task. Its financial assistance to small business today is more than three times what it was when I entered office. More than one half of all its business loan funding during the 20-year history we are observing, has been made during my administration. This is a record in which I take great pride, as I express my appreciation to those who have made it possible. The deeds of the small business community remain as significant today as they were twenty years ago when President Eisenhower signed the SBA act into law. On this historic milestone, I re-affirm my pledge to give SBA programs our fullest cooperation and support. Sincerely, Richard Nixon.' I proudly present that letter to you."

"I know first hand the dedication of the President to small business. I've had the great privilege and the honor of being the Administrator for two and one-half years and in going to the President and going to Congress with that which we believe will carry out the principles and the purposes for which we were created. That's us really. And the reason it's a thrill, ladies and gentlemen, is so obvious. It's obvious to me, anyway. Because in all of your or my Government, there is no department or no agency that identifies itself so acutely with private enterprise which built this nation, as does SBA and its programs.

That's why, as a businessman, I thoroughly enjoy this. And the spirit of the 4,000 of our employees in 83 offices around this land in carrying that out and trying to do our job better to help that small businessman create more jobs and improve the quality of jobs that are already there, that's America. That's what Government is for. Not to tell you how to do it, or what to do, or to control you at every step of the road, but to take that segment of our private sector that we call the banks, and work with them, providing funds and assistance to small businesses that otherwise isn't available. That's the thrill of running the Small Business Administration; that's the thrill of the spirit of 4,000 people. And I want to publicly tell you what kind of bureaucrats they are. You all know and you've all heard about bureaucrats. Well, when you find a bureaucrat out in the field the important thing to do is to promote him and move him to Washington, so you can cover him up so everybody can't see him. We went the other way, ladies and gentlemen. We've moved people from Washington out to the field, because that's where the work is. We've sent 170 people out and we've got another 40 or 50 to come out. Their visibility is high in your community. We want it to be high because we want them to address themselves to the important problems of assisting small business. That's a thrill."

"And now, having said that, I have some more remarks here, and I have them in order and I'd like to present some of them to you, because today, on the 20th anniversary of our administration, our agency, we do offer a richly deserved national salute to the men and women who work all the time for the benefit of eight million small businesses across this land."

"Knowing fully that it is not within our powers to express adequately our gratitude for the many contributions they have made to the nation's economic strength, but here today are you and us, gathered together in a solemn ceremony here in a very auspicious setting, the Eisenhower Presidential Center, to celebrate our 20th birthday; and this is our 20th birthday."

"And so, it is with a deep sense of gratitude and thankfulness, and a profound respect for the 34th President of our United States who is enshrined on these grounds, we are indeed grateful for the opportunity to participate and to make this the kind of occasion that it is. And in keeping with the dignity which marked General Ike's life, even in his greatest moments of triumph, we planned this ceremony to eulogize the contributions that he made to the small business world; not only that, but also to commemorate twenty years of service by this agency to the small business community."

"This couldn't have happened any other place in America, except right here on this 13-acre tract of land which once heard the

thunder of thousands upon thousands of Texas Longhorn cattle that came up here to the end of the Chisholm trail. That's interesting to me because of my heritage of North Dakota and the identity with cattle and that industry, knowing about Abilene, Kansas, long before I really knew much about General Ike."

"It's quite a thrill to be here in this situation, on this location for this purpose. It was right here in this heartland of America that Dwight David Eisenhower formed the roots of a very rare leadership in our land which later grew to world renown and, as has already been said, endeared him to the world. This man has received some awards that no other foreigner in any of these countries have ever received. And yet it was here on this prairie that he played, where he hoed the family garden plot where the Eisenhower Museum now stands, that he learned some of the disciplines of small business when he worked as an ice-puller at the Belle Springs Creamery still located only a few blocks north of his home."

"Perhaps not unexpectedly, it was from this land of rawboned frontier lore that he made his bid for a United States Army career which was to eventually lead him to be Supreme Commander of the allied forces in World War II. Likewise, it was from this frontier territory that Wild Bill Hickok came from that General Ike launched his campaign for the Presidency of the United States."

"In modern times can you and I think of anybody that possibly could have been nominated by either major political party in this country and been elected President, as was the situation with General Ike in 1952."

"Finally, it was in the small picturesque chapel at the western end of these grounds that he was placed to rest in immortal greatness."

"And so, we ask, what more appropriate place than right here at the Eisenhower Presidential Center could have been selected for this occasion, because it was President Eisenhower who signed the bill that created the Small Business Administration twenty years ago today. I don't know what might have crossed his mind at that time, but we do know that he had a great sense of history. So in that frame of reference, I think that it would not be unreasonable that he had a few fond memories of the role that he played in small business by his own life experiences right here. It was at the creamery that he got his first job, and he lived in a God-fearing town where small businessmen provided the kind of leadership so important and so necessary. But perhaps his fondest thought of all on that July day twenty years ago, was his recollection of how total mobilization of the nation's small business sector during World War II helped turn the tide of freedom into victory and win the peace in Europe."

"And, I can't help but think just two weeks ago, ladies and gentlemen, I sat in the castle in the home of the grandson of the old Iron Chancellor of Germany, Otto Von Bismarck; his grandson, Prince Von Bismarck, his grandfather, the name-sake of our city in North Dakota where I came from. His grandson, the Prince and Princess came to Bismarck and my wife and I hosted them at a party, and we have exchanged Christmas cards ever since. Two weeks ago my wife and I were there; we were invited out to their estate for a dinner and they told me all about the destruction of their castle. Three days before the end of World War II the bombs struck, the fires burned. A thought went through my mind. Do you know who bombed that? We did. Whether it was an English plane or an American plane, I don't know. But we bombed it—the Allies. And yet here I was, sitting in a home, being thanked from a member of the German government, saying thank you to America for what they did in reconstructing their country after World War II. No animosities. One of appreciation and thanks. It was a strange feeling, and yet that's the attitude I found in Europe of the peoples of the world about America—much greater pro-America than you will read in the papers. Yet I found with some of our American representatives in the embassies, pessimism, negativism, and in my old salesman's spirit, I tried to give them a pep talk about American patriotism. Oh yes, I used the platform of small business to do it, but several of them thanked me for it because they said we needed it. Well, I'm not necessarily here to give you a pep talk, but as I look at those red, white and blue umbrellas and I hear 'Mine eyes have seen the glory' coming out of that chapel and I see the military people around here, I tell you it stirs the heart. It stirs the heart of America. And to think that we here in the Small Business Community, government or otherwise, can identify with that which built this country, and will sustain this country, I don't care what kind of pressures within or without, we've got something to hold on to."

"And so thank you, ladies and gentlemen, for being a part of saying thanks to the support and strength that all of us must give to the small business community."

"Well, just one example of the wisdom of President Ike, in my judgment, was when he was President, we selected an excerpt from a speech he made on October 27, 1958, and we have committed it to a plaque for permanent installation in the Eisenhower Library. These are the words cast in bronze on that plaque, and I quote:

"Jobs are best provided by sensible, progressive programs which generate and hold confidence, and encourage steady growth all across the land."

"A good example is our help to small businessmen. We made the Small Business Administration a permanent organization. We opened new methods of easing the financial problems of these concerns. We made it easier for small businesses to work with the government. We assured them a full opportunity for a larger share of government contracts."

"It seems to be that President Ike said it all, and we are proud to have that committed to a plaque, which will stay permanently. We think there's a deep sense of pride in those words, and we're happy to be a part of it."

"Now just a word or two about the Small Business Administration during its first year of operation, and it pleases me that Wendell Barnes is here. He was Administrator for five years; he has the longest tenure of any Administrator in the history of the Agency. I proudly come in second at this moment. If the President doesn't catch up with me tomorrow morning, I may make it a few more days. In any event, we did $35 million the first year, but this year of 1974, we are projecting to do $2.6 billion. And we are going to do that to a segment of our population that does 43 percent of our gross national product; more importantly, they hire about 52 percent of our total labor force."

"In epitomizing the small businessman, we've got two people up here that I want to introduce to you, to stand up and to be acknowledged: The Small Businessman of the Year and the National Small Business Subcontractor of the Year. The Small Businessman of the Year, Byron Godberson, from Ida Grove, Iowa, and Mr. Harold Guller, from St. Louis, Missouri. That's what it's all about. They are the symbols and may I tell you if you learned more and knew more about them, you'd know that they are like shining symbols.

"I would like to call your attention to an important phrase that I hang my hat on and that is that we should not forget that the place where the concept of free enterprise has its greatest value and its greatest potential productivity is not in the marketplace. It's in the minds of a free people because if we've got a free people working in the small business community, we've got a vibrancy that can never be destroyed. Boldly engraved in bronze on one of the pylons at the eastern end of these grounds are the following words: "Sustained by faith in the cherished ideals of true democracy each American works at his daily task at plow or forge or machine or desk knowing this nation will forever stand, one and indivisible in devotion to the cause of liberty for all mankind." Yes, it is true, as President "Ike" so aptly declared, that the men and women of small business are the heart of the economy. They serve as a constant reminder of freedom and, used properly, it still remains the key to all meaningful human progress. That's why we salute them here today. And now, ladies and gentlemen, it gives me great pleasure to call upon Dwight Ink, Deputy Administrator of the General Services Administration, to accept the plaque which we present here to the Eisenhower Library and which will be a permanent part. I have already read the words to you, and it pleases me at this time to make this presentation, and with that I say thank you, thank you, thank you."

(Mr. Ink): "Thank you, Tom, Chairman Darby, and guests. I had the privilege of serving in the Eisenhower administration, and I know first hand of his belief in the importance of the free enterprise system and the vital role of small business in that system. I have never thought there was a full appreciation of the sense of experimentation and progress which existed during the Eisenhower years. The Small Business Administration was one of these important innovative steps which was made to succeed and which has since made a significant imprint on the American scene. Tom, on behalf of Art Sampson and the General Services Administration, I am most pleased to accept this plaque for placement in the Eisenhower museum for all to see."

(Senator Darby): "Thank you, Mr. Kleppe and Mr. Ink, for your fine talks. And of course this plaque will long be a tribute to commemorate this occasion. Our next speaker, ladies and gentlemen, is our United States Senator, Bob Dole. He was raised in an egg and cream station in western Kansas. Dole attended Kansas University Law School on an athletic scholarship and later attended the University of Arizona. He graduated from Washburn University Magna Cum Laude. He served five and one-half years in the Tenth Mountain Division, United States Army in World War II. He was wounded twice and discharged from the service as a Captain in the Infantry, and of course he was discharged with honors and decorations. At 26, he was elected to the Kansas Legislature, while attending law school, and was the youngest Representative in our State Legislature at that time. From 1953 to 1961, he served four terms as Russell County Attorney and 4 terms as the First District Congressman from Kansas. He has served in the United States Senate since 1968. He was Republican National Committee Chairman from 1971 to 1973. He was Advisory for the United States Delegation to the United Nations Food and Agricultural Conference in Rome, Italy, in 1965. Senator Dole has served the interests of the small business "community through his great efforts on the United States Senate's select committee on Small Business, which make him a most appropriate speaker for today's event . . . now and at this time, I'm privileged to present the very capable and distinguished United States Senator from Kansas, the Honorable Bob Dole."

(Senator Dole): "Thank you very much, Senator Darby, distinguished guests, Governor and Mrs. Docking, and Senator and Mrs. Carlson, Tom Kleppe, Governor and Mrs.

Avery, and all the other distinguished guests here—particularly those who are in the sun. And I agree with Tom Kleppe; this is a rather unusual day for Kansas—much cooler than we sometimes have—and I'm happy that Tom Kleppe could be here, but people came to be toasted, not roasted, Tom, so I think with the indulgence of the press, I'll stand behind my remarks as far back as I can get and I'll summarize what I intended to say.

"But I do want to welcome Tom Kleppe to Kansas. We were colleagues in the Congress, both from great wheat producing states. It's just that ours is more in demand. And so we're very happy to have him here today.

"I want to say first of all that I think we are indebted to Harry Darby for his great efforts when General Eisenhower and President Eisenhower was alive and since that time the great efforts he has made on behalf of all Kansans to preserve and protect and to emphasize the great leadership of Dwight D. Eisenhower. And I think very frankly as we talk about small business we can talk about other things that as Americans we take for granted. Tom Kleppe made reference to the military and the others and the music played and the patriotism in mid-America. We are in the heartland of America. We do take many things for granted. Some may take peace for granted. But I am convinced when the history of this country is written, two great American presidents will go down in history as the peacemakers. First of all will be our native Kansan, and our great friend and great leader, the late President Eisenhower, and "secondly our present President, President Richard Nixon.

"Sometimes in the flurry of the moment or the week or the month, we overlook great leadership, and I am certain that Ed Nixon recognizes the great number of friends that President Nixon has in mid-America and throughout America. And Ed, I hope you carry that message back to our great President, who did want to be here as has been indicated, but with a 10-day bout with pneumonia, it did upset his schedule. So instead, he sent Kleppe, and fortunately Kleppe's health is very good . . . his lungs are good . . . and I listened carefully and I was hoping to get on before the train. But if they're bringing boxcars, I'll take credit for the boxcars!

"But like Tom Kleppe I worked long and hard on a speech about small business. I don't think that railroad represents the small business I had in mind. But very sincerely, small business is in its purist form the free enterprise system. Bill Avery knows. He was a member of the House Select Committee on Small Business. Senator Carlson knows as a member of the Senate at that time. The late Senator Schoeppel knew because he was on the Senate Select Committee on Small Business when they drafted the first Small Business Act some 20 years ago. Yes, it was under the leadership of Dwight D. Eisenhower, and yes, it had strong bipartisan support in the Congress, Democrats and Republicans, and yes, it had some resistance—some resistance in the banking community—others who felt this agency might in effect take over, might be another Federal bureaucracy. But under the leadership of Administrators like Mr. Barnes that Mr. Kleppe referred to, and I say in all sincerity under the leadership of men like Tom Kleppe, who's been on the job two and one-half years, the Small Business Administration is making progress. It is a cooperative agency. They are working closely with small business and with banks across America to build America and to build the free enterprise system. And that's what it's all about. And when we lose our faith in America in free enterprise and in small business, we've lost a lot.

"Because as Tom Kleppe alluded, the growth of the Small Business Administration in the past 20 years is outstanding. In fact, to some it may be unbelievable. But I know Tom Kleppe . . . I know his staff, and I agree with him when he says they're sending people to the field, not to Washington. They're going where the action is. But I think we remember that most every big business today was once a small business. I think it's well to point out the emphasis now is on those businesses which provide services rather than production. The Small Business Law itself says that they have a mandate. They are charged and directed to aid, counsel, assist, and protect the interests of small business concerns. And I think they've done that. And as a present member of the Senate Committee on Small Business, as Senator Darby alluded to, and under the Chairmanship of one of the great members of Congress, Senator Alan Bible of Nevada, you have friends in the Congress . . . yes, friends on both sides of the aisle. And I think the Committee along with the SBA itself has come a long way. And we're charged with overseeing the activities of SBA. But as Tom Kleppe knows, very few times in the history of SBA have there been any strong differences of opinion.

"I would only say in closing that even though 95% of all U.S. businesses are defined as small, the remaining 5%—or big business—accounts for 63% of the Gross National Product. And today the hundred biggest industrial corporations control approximately one-half the nation's manufacturing assets. So thus, economically speaking, small business is a minority, and as such, it has special problems contending with bigness, lack of credit, unfair trade practices, tax burdens, new technology, government paper work, and compliance with a growing number of safety, health, consumer, and environmental laws. But the problems of the day were no less severe, perhaps different than they were 20 years ago. But we have seen after 20 years what can happen with the proper stimulus and with the great direction and initiative of a man like Dwight David Eisenhower. And from the beginning, the SBA has delivered. That's been the code word. That's been the key word for SBA. So last year in this fiscal year that ended in June, 249,000 loans were made for a total of $3.7 billion. And that's a far cry from the $63 million in the first year of SBA history. So again, I'm very pleased to be here, pleased to have a small part in paying tribute, yes, to a great American, but to a great agency that lives and grows and endures because of its leadership and because of its inspiration. And I thank you all for coming."

(Senator Darby): "Thank you very much, Senator Dole. I just want to say a word to let you know that we all appreciate the efforts of all those who have helped on this ceremony. There have been many that we would especially like to mention: those here at the Center, the Kansas National Guard, the Kansas Highway Patrol, the Commanding Officer and his men at Fort Riley, General Cassidy, General Duquemin, Jeff Hillelson and his associates at General Services Administration in Kansas City and at the Washington level, and the law enforcement and public services under the jurisdiction of Governor Docking and Attorney General Miller, the press, radio, and TV. Obviously we could not have this successful occasion without their help. So I believe I can say for all of us now today that this program has been a marvelous observance of the 20th anniversary of the United States Small Business Administration and a great tribute to former President Dwight D. Eisenhower.

"Now, ladies and gentlemen, we will begin the procession to the Place of Meditation for the next segment of our program. We invite all of you to join in this procession following those we have here on the platform. Thanks for coming."

FIVE BILLION DOLLARS FOR THE BREEDER, AND LIPSERVICE FOR SOLAR ENERGY

Mr. GRAVEL. Mr. President, for a long time I have been saying that the main obstacles to widespread use of solar and geothermal energy are political, not technical. The energy industry and the administration just do not want solar and geothermal power yet.

They are planning a fossil-fuel and fission future for the rest of this century, with only lipservice funding for solar and geothermal energy. Out of a Federal energy development budget in fiscal year 1974 of about $870 million, approximately $15 million is for solar energy, and according to the September 28, 1973, issue of Science magazine, perhaps $12 million for geothermal power.

In fiscal year 1973, although Congress directed the National Science Foundation to spend "not less than" $19.5 million for energy research and technology programs "including but not limited to solar, geothermal, and other nonconventional energy sources," the NSF spent only $4.2 million on solar energy, its "most promising" energy source.

Since nonconventional sources of safe, ecologically attractive energy are plentiful enough to meet all our demands for both fuel and electricity, I think this go-slow policy is unforgivable.

NOBEL LAUREATE ENDORSES SOLAR ENERGY

I would like to quote Sir George Porter of Britain, Nobel Prize winner in chemistry, who predicted on August 21, 1973: that solar energy will solve the world's energy crisis. He also said; according to the Herald Tribune in Paris:

> I have no doubt that we will be successful in harnessing the sun's energy. . . . If sunbeams were weapons of war, we would have had solar energy centuries ago.

His remark is similar to a statement in 1972 by Leon Gaucher of Fishkill, N.Y., who is an energy consultant to Texaco and others:

> Had it not been for an abundance of fossil fuels—coal, oil and natural gas—we might today have a "Solar Energy Economy" just as effective and efficient as our "Fossil Fuel Economy".

The late, great chemist, Dr. Farrington Daniels, was trying to tell us the same thing:

> Solar energy is amply adequate for all the conceivable energy needs of the world. It is harmless and it is certain to work . . . Surely solar energy will be important within 20 years, and if enough financial support should become available, the time could be considerably less.

That is a lot more than can be said for nuclear breeder reactors, to which the Government plans to commit 5 billion tax dollars, according to the October 5, 1973 issue of Science magazine.

Mr. President, I ask unanimous consent that major excerpts from the Science magazine articles entitled "Energy R. & D.: Slicing the Promised Pie," and "One Breeder for the Price of Two?" be printed in the RECORD.

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

[From Science magazine, Sept. 28, 1973]

ENERGY R. & D.: SLICING THE PROMISED PIE

(By Robert Gillette)

If the White House takes the advice it requested from Atomic Energy Commission chairman Dixy Lee Ray, federal support of nonnuclear energy R & D will rise by more than 40 percent or $94 million this year, over and above the $220 million originally requested from Congress. Among a number of underfed and long-neglected areas of energy technology due for an increase, geothermal power would receive nearly triple its current level of $4 million in federal funds; money for energy conservation studies would nearly double; magnetohydrodynamic (MHD) power generation would receive a major boost; and a small kitty would be set aside for turning "urban wastes" into alcohol fuel.

Nuclear energy would receive a small bonus—$7 million for gas-cooled reactors to serve as backup technology for the liquid metal fast breeder reactor—but the lion's share of the added money, just over $50 million, would go into coal-related projects, mainly to accelerate the development of gasification and liquefaction technology.

This, at least, is the substance of recommendations contained in a report from the AEC chairman, and currently under review by the White House Office of Management and Budget (OMB). The report, which Ray spent most of the Labor Day weekend polishing before dispatching it to the OMB, is in turn an outgrowth of President Nixon's promise of 29 June to devote an extra $100 million to energy research in the current fiscal year. With the stricture that half the money or more be dedicated to coal, the President left it to the AEC chairman to suggest how the remainder should be divided, and to supply a report by 1 September.

The task was an unusual one for any AEC chairman, but it was only a prelude to a much larger Presidential assignment: To examine (under the general supervision of the White House energy policy office) the present state of government-supported and private energy R & D, to devise a $10 billion 5-year "integrated energy research and development program for the nation," and to have at least the 1975 part of the master plan ready by 1 December.

In his first energy message of the year, last April, Nixon paid abundant homage to research, but said nothing about spending more on R & D than the $772 million contained in his fiscal 1974 budget request to Congress, released at the end of January. This was a sizable increase, roughly 20 percent above the 1973 figure, but evidently was not enough to pacify influential elements of Congress and the energy industry.

What happened between April and June? The year's first and much-criticized energy message dealt mainly with economic aspects of the nation's energy problems, perhaps as a reflection of the fact that its principal author was an economist (James E. Akins, then a State Department authority on international fuels policy, now President Nixon's ambassador-designate to Saudi Arabia). The all-but-defunct White House Office of Science and Technology was invited to contribute essentially nothing to the energy statement, and, although the White House had an embryonic energy policy staff, there was little time for it to incorporate any substantial new initiatives.

"We hadn't been in business very long," a staffer in the energy policy office, now under the direction of former Colorado governor John Love, said recently. "We really weren't on top of things by then."

A less charitable diagnosis current in government circles is that higher authority in the White House suffered an acute and uncomplicated spasm of embarrassment from reaction to the first message. "In all candor, it was not well received," says one highly placed administration official. The way I put it together, all the criticism about lip service to research really stung. They had to show they meant business, that they were really doing something."

That decided—whatever the motivations—two formidable problems remained even after the President released his second message on 29 June: Where to find an extra $100 million, and where to spend it.

Solving the first problem, it now appears, will require either some budgetary sleight-of-hand, some painful sacrifices in other programs, or a discreet raising of the self-imposed $269 billion budget ceiling—or possibly a combination of all three. In public at least, the President has been adamant about holding the lid on spending. Moreover, as he quite pointedly stated in his June message, "These vital [energy] programs must and can be funded within that ceiling."

The implication, it is now clear, was that energy's gain would be someone else's loss; whose loss he didn't say, for the simple reason that no one knew. Two months later, knowledgeable White House officials produced conflicting and rather cryptic answers on this point. On the one hand, a staff assistant in the energy policy office expressed doubt that other research programs would be cut for the benefit of energy R. & D. Speculating that some money would be shuffled from other areas of the budget and that some would simply be added on, he noted that Congress had already authorized some tens of millions of dollars for coal, nuclear, and other specific energy programs that the Administration had not requested. "Our position," he said, "will be to examine these add-ons, and where they are consistent with Administration desires, we will not oppose them."

On the other hand, when asked whether, for instance, a biomedical researcher might reasonably worry about his money being siphoned off for a coal gasification plant, an OMB official would only say that "we haven't explicitly identified program areas" from which the new energy money might be drawn.

There seems to be general agreement on two points, however: The additional $100 million really is an addition to the $772 million previously requested, and will not be conjured by mirrors from within the larger amount as some in government had feared. ("There's not going to be any monkey business here," one White House staffer insisted.) And, what with the first quarter of fiscal 1974 already past, no more than about half the $100 million will actually be spent this year, with the balance spent next year.

The Administration's second problem—where to spend the money—was dropped in the lap of Dixy Lee Ray, though she was already thoroughly preoccupied with the concerns of the AEC. The desire of the White House to produce an immediate "impact" on energy programs by spending the money in fiscal 1974, and the fact that fiscal 1974 was already well under way, conspired to severely limit the amount of time and thought that could be invested in planning the disbursement of the $100 million. Nevertheless, Ray plunged ahead. By mid-July she had recruited two staff assistants, and together they organized an advisory panel of representatives from ten federal agencies with major energy programs. Formal solicitations for ideas went out from Ray's office at the end of July, leaving federal agencies only about 2 weeks to shake the dust off whatever R & D proposals happened to be handy and submit them for screening. From some 320 projects worth $400 million. Ray and the panel winnowed out $100 million in winners just in time to meet the Labor Day deadline.

The consensus of those involved in this frenzied process seems to be that Ray did succeed in injecting an element of considered thought into what had been little more than a hip-fire decision by the White House. Moreover, these was a laudable ambience of openness to it all. Other federal agencies took an active part, the AEC appears to have received no special consideration, and the appropriate committees of Congress were consulted. "I don't mean to damn with faint praise," said one Congressional aide, "but she made a gallant effort."

Inevitably, though, this rush to judgment has left a good deal of grumbling in its wake. There was time only to resuscitate 6-month-or year-old proposals that the OMB had previously spurned, and to pump up the size of existing federal programs. Universities and industry had no chance to compete directly for a slice of the $100 million. OMB was said to be unhappy that Ray's report was not more explicit about what the money would buy in the way of useful new energy technology. Some agencies were apparently overlooked in the screening process; among them was the General Services Administration, which is looking for new ways to reduce the government's consumption of energy. Other agencies were unhappy with what they regarded as an unnecessarily narrow definition of "energy R & D," as applied to the summer sweepstakes. A number of proposals to examine the environmental and health effects of energy production, for example, were declared ineligible.

In response, Ray says that the limits of time, and the demand that the money be spent this year, made it impossible to look beyond the federal establishment in this initial effort. "Our instructions were not 'go thou into the countryside and survey the world,'" she said in a recent interview. "Unless this is understood, there will be criticism."

As for what should and should not be called energy R & D, she commented that:

"You'd be surprised, when something becomes popular, how many things people want to include in energy research . . . enormous mapping programs of the entire United States, impacts on human health, long-range genetic effects, and so on. Certainly there is a relation with energy, but it is hard to call such things R & D and to fit them into the requirement that the money be spent in fiscal 1974."

More than once in the interview during which her two gray dogs lay congenially nearby on the rug of her office at Germantown, Maryland, Ray emphasized that the September report was to be considered an entirely separate undertaking from the one due in December. It was not, she insisted, a "mini-preview" of the $10 billion master plan.

Precisely how this is to be assembled in the next 2 months still seems uncertain, however, and there are signs of wheel-spinning at the AEC. No doubt the AEC staff or one of the national laboratories could whip up a presentable shopping list, but, for the sake of credibility, Ray is anxious to produce something more thoughtful and ecumenical than that. "This cannot be an AEC document," she said at one point. "The agency is not being asked; the President asked the chairman for her advice."

A large advisory apparatus and public hearings have been rejected as too cumbersome and time consuming, although a tentative stab was made in that direction. A panel of consultants, including Alvin Weinberg, the director of Oak Ridge National Laboratory, convened for several days in early September but now appears to have slipped into limbo.

Fortunately, a great deal of homework for the December report has already been done—ironically enough—by the now-defunct OST. In a little noticed sentence in the President's energy message of June 1971 (written by the OST), the OST instructed itself to survey the world of energy R & D and suggest where

federal money might be most productively invested. A year later, the result was a foot-high stack of 12 reports from 11 panels organized under the aegis of the Federal Council for Science and Technology, an interagency group which the President's science adviser headed. "Just about every technological opportunity you can imagine was covered," says one of the project's initiators.

Only one of the 12 reports (on solar energy) has been published, but others provided the justification for higher funding of energy R & D in fiscal 1974.

Along with its function as the government's ultimate font of science advice, the OST's reports were bequeathed to the National Science Foundation, which is busy updating them. The NSF is at least as interested as the AEC in asserting primacy in the planning of energy R & D, but Ray is nevertheless banking on the newly revised reports being available.

In the meantime, the processes of national research planning—at least so far as energy is concerned—remain rather in disarray during this interregnum between the fall of OST and the rise of something else. As one student of energy affairs in Washington expresses it, "the first agency to put together a convincing R & D program will have a leg up on all the others." What may emerge in the way of a grand design for research is anyone's guess, but Presidential promises aside, the betting is against any major new initiatives before fiscal 1976.

[From Science magazine, October 5, 1973]

ONE BREEDER FOR THE PRICE OF TWO?

(By Robert Gillette)

The Atomic Energy Commission has estimated that development of a commercially attractive liquid metal fast breeder reactor (LMFBR), designated by President Nixon as the nation's "highest priority" energy R&D project, could end up costing twice the $2.5 billion the AEC said it would cost just 18 months ago.

The new, unofficial price of $5.1 billion appears to reflect a more realistic calculation of expenditures—including direct subsidies to utilities—necessary to bring the breeder to a point of wide commercial acceptance by the mid-1980's. The figure may also indicate an urge in the AEC to embark on an even more ambitious R&D program now that the White House has promised to set aside a $10 billion bonanza for energy research and development over the next 5 years.

The LMFBR's tentative new price emerged recently from the Federal Power Commission's advisory task force on energy conversion R&D. The task force, in turn, is part of a larger technical advisory committee the FPC organized last December to survey broadly the "needs and consequences" of energy R & D. While this might seem a bit far afield of the FPC's duties as a regulatory agency, one of the commission's responsibilities is to encourage the development of new sources of energy, and it therefore considers such inquiries to be within its ken.

Officially, at least, the $5.1 cost estimate was the product of deliberations by the energy conversion task force, a heterogeneous group spanning a spectrum from federal energy authorities to utility executives, and including one environmentalist, Thomas B Cochran, a physicist with the Natural Resources Defense Council in Washington, D.C Cochran and other members of the task force however, say the new cost estimate can be attributed entirely to the AEC, and thus would seem to accurately represent its intentions. Indeed, the $5.1 billion estimate was presented to the group for the first time in a 13 September briefing by the task force's chairman, Merrill J. Whitman, an AEC official. As assistant director of program analysis, Whitman is centrally involved in long-range projections of the AEC's R & D costs.

Attempts to reach Whitman by telephone, for an elaboration of his estimate, were unsuccessful. An AEC spokesman, however, while not disputing the accuracy of the figure, said that it "cannot be compared" to the $2.5 billion estimate used in a published cost-benefit analysis of the LMFBR last year* because the new number had been derived from "certain bases that were different from those used by the AEC in the past."

The 1972 estimate of $2.5 billion (which assumed commercial introduction of the LMFBR in 1986) included only those R & D costs incurred directly in the breeder program, according to the spokesman. In contrast, he said, Whitman's estimate includes another $1 billion for "general" R & D that would indirectly benefit the LMFBR. There are also additional allowances in the $5.1 billion figure for inflation and the "increased cost of hardware and high performance fuel." In short, it appears that building the breeder will cost a lot more than the AEC has previously believed or brought itself to admit.

It is worth noting at this point that the LMFBR program has already rung up some extraordinary cost overruns, particularly at the AEC's Hanford, Washington, site. Here, the total cost of a new experimental sodium-cooled reactor called the Fast Flux Test Facility (FFTF) has been rising during construction from an initial estimate (in 1968) of $87.5 million to a current estimate of around $200 million. The FFTF project has also cost another $300 million or so for related hardware and R & D, and there is reason to believe that, by the time the project is completed next year, the grand total for the FFTF may top $600 million.

Whitman's calculations of breeder program costs also allow $200 million for a second "demonstration" breeder reactor plant, although Congress and the White House have authorized construction of only one such plant—a 350- to 400-megawatt facility to be built near Oak Ridge, Tennessee, at a cost of $700 million (of which utilities have pledged to pay $240 million).

Finally, tucked away in the $5.1 billion price is $90 million that would be spent in direct assistance to utilities, to help them buy their first four commercial breeder power plants. Up until now, the AEC has not openly broached the possibility of directly subsidizing the first such plants, although the General Electric Corporation, among others, reportedly has indicated that subsidies might be essential to the ultimate commercial success of the LMFBR.

In any case, the practice of paying potential customers to buy a strange new product has ample precedent. During the late 1950's and the early 1960's, the AEC spent tens of millions of dollars in direct assistance to utilities to induce them to buy the early light-water nuclear power plants. As an added inducement, General Electric, Westinghouse, and other vendors found it necessary to drastically underprice their first nuclear plants and recoup their losses by raising the prices later.

Reactor vendors, unlikely to stand still for a similar financial beating on their first breeder plants, may thus be counting on some generous assistance from the federal government, above and beyond the gift of LMFBR technology itself.

*Cost-Benefit Analysis of the U.S. Breeder Reactor Program, WASH-1184 (Atomic Energy Commission, Washington, D.C., January 1972).

FATHER HESBURGH—ON RESPONSIBILITY

Mr. HUMPHREY. Mr. President, Father Theodore Hesburgh, the distinguished president of the University of Notre Dame, is noted for the fact that he teaches by the personal example he sets and because his practices have been his preachings. The leadership he has given has been the leadership of example. When Father Hesburgh cites others for leadership we can be certain that they deserve the credit he gives them.

Wherever one who is in public life turns today—be that person a local official or a national official—one senses the national concern about the integrity of all officials which has been caused by the actions of a very few. As one who has worked in local as well as National Government for close to three decades I know that most public officials are honest, hard working, and dedicated to the public welfare. Beyond this most public officials have the highest respect for the law.

Recently Father Hesburgh cited four members of the Prince Georges County Board of Education in nearby Maryland "for their integrity, humanity, courage, and respect for the law."

I ask unanimous consent that Father Hesburgh's letter be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibit 1.)

Mr. HUMPHREY. Mr. President, all public officials take the same oath of office. It requires that we faithfully execute our office, carry out all laws, and preserve, protect, and defend the Constitution of the United States.

In citing the conduct of four school board members, Father Hesburgh succinctly makes the point that is far too often overlooked in situations such as those faced by local school boards: they are not lawmakers. His main point goes to the real issue that concerns many Americans today—the disciplined response that all of our public officials have to their responsibilities. In the field of education one of the top topics is discipline. Father Hesburgh observes with exact correctness that—

> The key to the learning process that is education is discipline of mind, of character and of deportment.

There is much in America that we can be proud of. We have many local officials of whom the people they serve can be justifiably proud. Our neighbors in Maryland can be proud that they have public officials who set the example in "their integrity, humanity, and respect for the law."

Any citizen who has been thus commended by Father Hesburgh can be proud of his or her achievements. I want to join in adding my commendation to Father Hesburgh for focusing on the positive and constructive accomplishments and dedication of four local officials in Prince Georges County, Md.—Mrs. Ruth S. Wolf, Mrs. Joanne T. Goldsmith, Mr. Jesse J. Warr, Jr., and Mr. Righton S. Robertson.

EXHIBIT 1

UNIVERSITY OF NOTRE DAME,
Notre Dame, Ind., September 26, 1973.

Mr. RAYMOND J. MCDONOUGH,
Chairman, Prince Georges County Committee, Marlow Heights, Md.

DEAR MR. MCDONOUGH: I was most encouraged to receive the report on the continued forward progress in the Prince Georges County Public Schools.

We are a nation whose people do, in the

main, observe our laws and do what is right. When the dire predictions of last year in Prince Georges are measured against what actually happened this truth becomes self-evident.

Local leadership was most important and this was the ingredient in shortest supply as many simply remained silent.

School Boards have as their first responsibility carrying out the law. They are not lawmakers. The key to the learning process that is education is discipline of mind, of character, and of deportment. School Board members Ruth S. Wolf, Joanne T. Goldsmith, Jesse J. Warr, Jr., and Righton S. Robertson thus deserve special credit for the way they publicly met their obligation to children and education. Their example was a key factor in the peaceful progress that resulted. They have my warm respect and admiration for their integrity, humanity, courage, and respect for the law. Please convey to each of them my sincere regards.

A school—any institution—be it large or small, educational or otherwise, can move forward only if its leadership sets the example of disciplined response to its obligations. In education, discipline in the classroom will follow the tone set by the Board.

Sincerely yours,

Rev. THEODORE M. HESBURGH, C.S.C.,
President.

DEDICATION OF REGIONAL WASTE WATER TREATMENT FACILITY, KENT COUNTY, DEL.

Mr. McCLELLAN. Mr. President, recently the junior Senator from Delaware (Mr. ROTH) had the pleasure of dedicating Delaware's first regional waste water treatment facility. Senator ROTH pointed out that the dedication of this plant not only marks a new day in Kent County, Del., it demonstrates for others how the Federal Government and a State joined hands and successfully developed a farsighted waste water treatment system.

The able Senator from Delaware, my good friend, described it in these words:

First, it inaugurated the regional waste water treatment system in Delaware. This system connects all the former sewage systems into one pipeline which goes to one plant. This single plant accomplishes, with the most modern technology available, the work of numerous smaller and less efficient sewage facilities. In fact, only one river in the entire county has effluent flowing into it, and that effluent is 98% pure. No longer are effluents flowing into the other rivers in the County.

The Senator added:

Second, unlike many projects in which the Federal Government becomes involved, this project actually cost less than the amount appropriated for it. The County Engineer, Walter Fritz, and the State did a commendable job.

Finally, the plant is exceptional in another respect, and that is, that it is designed for expansion, but even taking that under consideration, the present facility won't reach its maximum capacity for another 8 years, which will be 10 million gallons per day. It can easily be expanded to 35 million gallons per day. The pipeline in the ground should be adequate for another 50 years. If one part of the system malfunctions, the waste water can be shifted to a duplicate system.

Mr. President, the people of Delaware, and especially Kent County, should be commended for their foresight, planning, and work to clean up the State's waters and preserve the State's natural resources. Senator ROTH should be commended, too, for calling this event to our attention.

I ask for unanimous consent that Senator ROTH's remarks from the dedication be inserted into the RECORD.

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

STATEMENT OF SENATOR WILLIAM V. ROTH, JR.

Governor Tribbitt, distinguished guests, ladies and gentlemen: I'm honored to be here and participate in a small way on this important occasion.

The Governor talking about sewage in his opening remarks, reminds me of some of the remarks some of my so-called friends on the Senate floor said when I told them that I was coming here to this dedication. They allowed that probably this was an appropriate place for me to speak, because perhaps my remarks could be cleaned up. In any event, it is a most important occasion for this region.

I think that for all too long, bodies of water have been viewed as natural depositories for human and industrial waste. Quick flowing streams and rivers, even slower moving tidal bodies, were thought to be self-flushing or self-cleaning. Despite the fish kills, despite the odors, and despite the ill health resulting from this attitude, it really was not until recent times that we have made a major effort to stop this degradation. This has been true of our bays and oceans as well. It was only last year that the Congress of the United States acted to halt dumping of waste materials in the ocean when it passed the Marine Protection, Research, and Sanctuaries Act of 1972, which I was pleased to help co-sponsor. I might say this is a very important piece of legislation to our State of Delaware.

The Kent County Regional Sewage Treatment Plant has been many years in coming; it goes back to the inception of legislation to clean up waste water, through the various committee hearings; appropriation processes, applications; and months of planning.

But even more important is the actual physical plant here and building. I'd like to, as a member of the Finance Committee, congratulate our County Engineer for—it's rare that you hear about a project where they spend less than had been appropriated for it. In Washington, we always try to do the opposite and have overruns. So I think you should be very proud, Mr. Fritz, of your accomplishment in doing such a fine job. I think those of us who have looked at our rivers lately would all agree that its completion comes none too soon. Unlike many states that are suffering from highly contaminated effluents flowing into their waters—and doing nothing about it—Delaware is moving ahead quickly and efficiently to preserve our environment and our State's natural resources.

The Kent County Regional Sewage Treatment Plant has been, as has been pointed out, a joint effort of the State and local governments with the Federal government. Of the $12.5 million that has been made available, the Federal government has made available something like 55%, or more than $6 million. Of course, the State has invested 25%, and the County has absorbed the remainder.

Combining modern technology with commendable foresight, the designers and planners have developed a facility that will reach its maximum capacity in ten years, and that will be a voluminous ten million gallons per day. I think it's important that the pumping system is capable of pumping twenty million gallons per day; the pipeline is estimated to be large enough to satisfy the needs of the County for the next fifty years. I think this is sound planning. The plant itself can easily be enlarged to a potential 35 million gallons per day capacity.

Perhaps the most outstanding feature of this waste water treatment system is the fact that it satisfies the needs of a rapidly developing region, thus making it our first Regional Sewage Treatment Plant in the State of Delaware. By connecting almost every sewage treatment facility in the County with this plant, the County will have only one river into which the treated effluent will flow. No longer will effluents flow into the Smyrna River, the St. Jones River, or the Mispillion. I have been told that the St. Jones River, for example, is responding to this relief, showing signs of rejuvenation with several forms of marine life returning to the river that had been literally chased from its natural habitat by human and industrial wastes.

Finally, I would just like to say it has been, of course, gratifying to be involved with the enactment of this legislation, but particularly be involved with my good friend and colleague Cale Boggs, who really has been one of the outstanding leaders in Washington of the major pieces of environmental legislation that has made this project possible.

Although this plant has been operational since last January, I think today marks an end to an era of careless waste treatment practices, an end to unmonitored waste treatment, an end to overflows and raw sewage making its way into our streams. More positively, this day launches the regional sewage concept in Delaware, a return to clean bodies of water, and superlative planning.

I thank you.

A USEFUL AND ESSENTIAL UNITED NATIONS

Mr. JAVITS. Mr. President, in addition to the vital role played by the United Nations in the containment and cessation of the recent outbreak of hostilities in the Middle East and the crucial role the United Nations has played in so many other world crisis situations, in recent years there has been an ongoing debate as to whether the United Nations is more than a debating society. In my judgment, the U.N. has proved its worth many times over by its essential peacekeeping role and the settlement of disputes in areas such as Cyprus, Korea, the Congo, and other areas. Furthermore, the United Nations has sponsored the Declaration of Human Rights and numerous international conventions, such as the conventions dealing with genocide, forced labor, and slavery, all of which serve to protect the undeniable human rights and civil liberties of all peoples.

In an article published in the September 1973 Free Mind—a publication of the American Humanist Association—Mr. Jesse Gordon has succinctly described why, in his judgment, the United Nations is the useful and essential world organization that it, in fact, is. I recommend this article, "AHA and the United Nations," for the information of all Senators, and I ask unanimous consent that it be printed in the RECORD.

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

AHA AND THE UNITED NATIONS

(By Jesse Gordon)

When delegates from 50 nations met at San Francisco in the spring of 1945, World

War II was not yet over, but a determination to establish an international organization to keep the peace was paramount in the minds of the delegates. After two months of intense negotiations, the language of the Charter of the United Nations was agreed upon.

Twenty-eight years have passed since the nations of the world pledged themselves "to save succeeding generations from the scourge of war."

In judging the political performance of the UN and in making the organization the scapegoat for the difficulties of its members, a number of important considerations are often conveniently forgotten. The first of these is the origin of the UN. The UN was *not* set up by small or medium powers themselves under the shock and experience of two devastating world wars. Kurt Waldheim, the secretary-general of the UN, states: "The UN was set up by the great powers to avoid in the future the mistakes, weaknesses and misunderstandings which, twice in less than 30 years, had led them into total war. We ignore this historical fact at our peril."

The American Humanist Association is active among the hundreds of non-governmental organizations sponsoring the UN.

The A.H.A. realizes there is an urgent need for greater understanding and support of the United Nations by the millions of citizens who are the constituents of non-governmental organizations. The A.H.A. is represented in the NGO group by Mrs. Henrietta Rogoff with Mr. Jesse Gordon, alternate.

In 1945, the UN came into existence accompanied by the usual flowery speeches. It was seen as "the great hope of humanity," "the hope of the world," and "the last, great hope for peace."

Has the UN fulfilled the "hope" that so many people placed in it as "The last great hope of humanity?" Or, is it just a useless debating society?

First of all the UN has contended with a world of many revolutions—peaceful and otherwise. The original membership of the UN was 51; it now numbers 135, with the two Germanys recently joining. The UN has many achievements to its credit. It can count among its successes, in the political area, the negotiated settlement of disputes affecting Indonesia, Kashmir, and West New Guinea, among others. The Middle East "question" has, of course, been before the UN almost continuously since 1947. It can be shown that UN presence in the area has prevented many incidents from developing into a wider war.

One might ask the question: What might have happened in the Congo and neighboring states in 1960 if it had not been for the UN peacekeeping force there? Critics point to Soviet intervention in Hungary and Czechoslovakia and the impotence of the UN to act in those situations.

It all comes down to big power politics and political objectives. The U.S. role in Indochina could similarly be examined for violations of the U.N. character.

What are the principles of the charter?

The charter is based on seven main principles:

1) The equality and sovereignty of all member states.

2) Fulfillment "in good faith" by all members of obligations assumed under the charter.

3) Peaceful settlements of disputes.

4) Renunciation of the threat or use of force.

5) Cooperation with the UN in any action it takes.

6) Encouragement of non-member states to abide by its principles.

7) Non-intervention by the UN in the internal affairs of any state.

The Charter also calls for freedom of religion. Many faiths, each with a different conception of God, are represented at the UN. A moment of silence opens and closes each General Assembly session, and there is a Meditation Room at UN headquarters which is open at all times. There is no mention of God in the Charter just as there is none in the U.S. Constitution.

The UN Charter pledges all members to cooperate for the promotion of human rights. Although the authority of the United Nations is limited to debate, study, publicity, and recommendation, it has exerted immeasurable influence on behalf of human rights.

In 1948 the General Assembly adopted the Universal Declaration of Human Rights. Its clauses on the civil, political, economic, and social rights of human beings have influenced the written constitutions of a number of new nations. Its provisions have been incorporated in several important peace treaties.

The General Assembly has also produced draft conventions—treaties—in the human rights field. Some forbid particular offenses such as genocide, forced labor, and slavery. Others set standards in particular areas such as political rights of women. Such conventions must be ratified by the individual UN members in accordance with their constitutional processes. In addition, the Assembly has produced two comprehensive human rights covenants, one on civil and political rights and one on economic and social rights, both ratified by more than 30 governments.

For many years UN experts have offered advisory services to governments on human rights questions. Various UN-sponsored international seminars on human rights have been held. The UN has also served as a central point to which aggrieved groups may complain of specific human rights violations. But there is disagreement as to how the UN should handle such complaints. One proposal would establish a UN office, that of High Commissioner for Human Rights, to receive inquiries and complaints from both governments and private parties and to advise and conciliate at their request. The High Commissioner would have no power to overrule a government, but his views would carry moral authority.

OFFSHORE OIL DRILLING

Mr. BIDEN. Mr. President, the move to expedite drilling for oil off the North Atlantic coast is underway. Hearings by the Council for Environmental Quality have already begun and local hearings for the Delaware area will be held shortly. The pressure for such drilling is, of course, increased by our immediate concerns about energy shortages. I am really disturbed that efforts will be made to shove us headlong into such a program, just as efforts have been made to push us toward construction of deep water ports.

It is for this reason that I was particularly interested in an article entitled "California Urged To Keep Oil Curb" which appeared in the New York Times on September 23, 1972. In the article Santa Barbara city and county officials are represented as objecting to the lifting of a moratorium imposed after a disastrous spill in 1969. It appears to have been the feeling of many of those testifying on the subject before the California State Land Commission that adequate techniques are still not available to prevent or contain oil spills.

I think that we on the east coast should take seriously the bitter lessons learned elsewhere and proceed cautiously and prudently in any venture involving offshore drilling. For the information of the Senate I request unanimous consent that the text of the entire article be printed in the RECORD.

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

CALIFORNIA URGED TO KEEP OIL CURB—OFFSHORE OPERATIONS OPPOSED WHILE SUIT IS PENDING

SANTA BARBARA, CALIF., September 22—California should not allow more oil drilling in the Santa Barbara Channel as long as the state is unable to collect damages from the oil industry as a result of the 1969 channel oil eruption, the State Lands Commission was told this week.

The Santa Barbara city and county authorities presented that argument at the commission's hearing on the drilling issue here, registering strong objections to oil and gas industry requests to the state to lift its moratorium on new drilling in tidelands off Santa Barbara. The State Lands Commission had imposed the ban after the disastrous 1969 oil spill at a drilling site leased by the Union Oil Company from the Federal Government some 5 miles offshore and adjacent to state parcels.

The commission headed by State Controller Houston Flournoy, a candidate for Governor, has scheduled a meeting in Sacramento Nov. 29 presumably to announce its decision after studying transcripts of testimony.

COMPROMISE REPORTED

The city and county of Santa Barbara as well as the state Attorney General's office have turned down Union Oil's $2.5-million compromise offer to three governmental entities in response to the combined $500-million suit originally filed. The case is still in United States District Court in Los Angeles.

Spokesmen for 15 major oil companies involved in production called upon the commission to end the moratorium so the industry could help meet the current energy crisis.

The Western Oil and Gas Association and the Independent Oil and Gas Producers of California contended that the industry now had full safety and cleanup capability to augment stiff new state offshore regulations.

The Coast Guard oil strike team for the Pacific Coast has trained personnel to deal with oil spills and is currently testing new oil containment and recovery systems regarded as "highly promising," said Lieut. Comdr. John Wieckert, whose office is on Yerba Buena Island in the San Francisco area.

The hearing also produced testimony from the Sierra Club, the Audubon Society, GOO (Get Oil Out) Inc., of Santa Barbara, and other environmentally-minded groups calling for continuance of the moratorium. Supporting them were State Senator Robert Lagomarsino, Republican of Ventura, and Assemblyman W. Don MacGillivray, Republican of Santa Barbara.

The gist of their testimony and that of other opponents of renewed oil drilling in the channel was that the industry had not conclusively proved with tests in severe weather on the high seas that it had equipment to contain and corral major oil spills without considerable damage to the marine environment.

PRESIDENTIAL PRECEDENT FOR WITHHOLDING EVIDENCE

Mr. PROXMIRE. Mr. President, in the course of President Nixon's press conference last week, a question was raised concerning the use of executive privilege

and the President's right to withhold Presidential documents and tapes.

In responding to that question, President Nixon referred to a precedent involving a subpena which was served on President Thomas Jefferson during the treason trial of Aaron Burr. President Nixon said:

> You remember the famous case involving Thomas Jefferson where Chief Justice Marshall, then sitting as a trial judge, subpoenaed a letter which Jefferson had written which Marshall thought or felt was necessary evidence in the trial of Aaron Burr. Jefferson refused to do so, but it did not result in a suit. What happened was, of course, a compromise in which a summary of the contents of the letter which was relevant to the trial was produced by Jefferson . . .

The President relied on this to support his effort to withhold the subpenaed Watergate tapes, and to justify his offer to turn over a summary of the tapes to Watergate Special Prosecutor Archibald Cox.

Mr. President, in the past few days I have done a little research to determine just what did occur when President Thomas Jefferson was subpenaed. My research has convinced me that President Nixon was somewhat mistaken in his recitations of the facts, and that the case actually provides a precedent for the opposite conclusion—that the President may be compelled to submit tapes and documents to the court for examination.

The history of the Burr case is as follows:

In 1807, Aaron Burr was brought to trial in Richmond for treason. The treason charge grew out of allegations that Burr was seeking to sever lands west of the Allegheny mountains, and was planning an attack on Mexico. One of his partners in the scheme was General Wilkinson.

At some point in the scheme, Wilkinson and Burr parted ways, and Wilkinson wrote to President Jefferson about the scheme. Prior to Burr's trial, Jefferson sent a message to Congress, in which he outlined Burr's plan, relying heavily on Wilkinson's correspondence.

At the treason trial itself, Burr sought to subpena a number of Presidential papers and documents, in order to prepare his defense.

One of the subpenaed documents was a letter written by General Wilkinson to Jefferson, dated October 21, 1806. President Jefferson left it to the U.S. attorney, George Hay, "to withhold communication of any parts of the letter which are not directly material for the purposes of justice."

Hay, in turn, told John Marshall, who was serving as presiding judge, that he would be willing to disclose the complete letter to the court, with the court to decide what material portions should be passed on to defendant Burr. In returning the subpena, Hay said that in his opinion, such parts of the letter should be excised as are:

> Not material for the purposes of justice, for the defense of the accused, or pertinent to the issue now about to be joined. . . . The accuracy of this opinion I am willing to refer to the judgment of the court, by submitting the original letter to its inspection.

Thus the Government counsel tendered the entire letter to the court for its examination. In his ruling, John Marshall stated that:

> The President of the United States may be subpoenaed, and examined as a witness, and required to produce any paper in his possession. . . .

Marshall agreed with Hay that the court should decide what portions of the letter should be turned over to the defendant, and stated that the case must be extremely strong to warrant showing private Presidential communications to the defendant. He concluded by ruling that the letter should be:

> Fully shown to the court before its production could be insisted on.

Thus, Marshall made it very clear that it is for the courts, and not for the President, to determine what must be turned over to the other party, and what may be kept confidential. Marshall also made it clear that what is eventually made available to the other side must be a verbatim excerpt, and not a mere summary.

Thus, it appears that in relying on this precedent, President Nixon was wrong on several counts:

President Nixon said a summary of the contents was produced by Jefferson. In fact, the entire letter was made available by Hay to the court. In this respect, the Burr precedent is even stronger than the court of appeals ruling in the Nixon against Cox case—the court in the present case permitted President Nixon to delete the national security and foreign affairs matters himself; Marshall's ruling would have required those excisions to be made by the court.

Jefferson never refused to cooperate, as President Nixon suggested. Jefferson acted through his U.S. attorney, and tendered the entire Wilkinson letter. Furthermore, Jefferson offered to be personally examined on this subject by a court officer.

The Wilkinson letter was written to Jefferson, not by Jefferson, as President Nixon indicated.

According to the Library of Congress, there is one other instance in which a sitting President of the United States has been subjected to a subpena. That was in 1818, when President James Monroe was subpenaed in the course of a court-martial involving a William Barton. Barton needed a statement from Monroe to substantiate his defense involving an appointment to a naval hospital, and had Monroe subpenaed.

Monroe went to his Attorney General for an opinion. The Attorney General advised Monroe to reply that although his duties prevented his coming to Philadelphia, he would comply with the subpena by responding to interrogatories. These were sent from Philadelphia, and Monroe responded.

Mr. President, I hope this will set the record straight. The President of the United States, like any other citizen, is subject to the rule of law. This appears to have been one of the painful lessons to be learned from the Watergate affair. Let us hope that as this case continues to unfold, this administration will reestablish obedience to the law as its No. 1 priority.

THE DANGERS OF ENERGY DEPENDENCY

Mr. JACKSON. Mr. President, I think it is now obvious to all Americans that unless we move without delay in crucial energy programs, the Nation is going to be in serious trouble. After years of nonchalance, the American people are finally coming to grips with a problem to which there is no easy solution.

In this connection, I want to call the Senate's attention to a recent address by my good friend and able colleague Senator RIBICOFF. Speaking to a special seminar on energy held in New York on October 29, Senator RIBICOFF pointed out that "if the United States is to remain a world power, it must never permit itself to be in a position where vital American interests must be sacrificed because of dependence on foreign energy sources." Everything we have been hearing about the international petroleum situation confirms the correctness of Senator RIBICOFF's point.

Mr. President, I ask unanimous consent that the full text of Senator RIBICOFF's remarks be printed in the RECORD.

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

SPEECH BY SENATOR RIBICOFF

Much of the current public discussion over our nation's so-called "energy crisis" has generated neither light—nor heat. In the attempt to score points in the brand new game of petro-politics, basic truths have often been conveniently overlooked, and the nation's energy picture distorted.

We have indeed encountered certain energy problems, but these are mainly in distribution. The fact is there is no lack of energy resources in the world today. What is lacking in this country, however, is an overall energy policy to deal with today's difficulties and tomorrow's potential shortages.

So there is no real energy crisis today. This might come later—and unless we act now—it most certainly will.

Certain trends already are clear. Our nation's rising demand for energy has driven up costs and created a growing reliance on foreign source oil and natural gas. This should not have come as a great surprise. It had been predicted for some years now. But bad news is never popular, and no one paid much heed to the Cassandras. In the meantime our nation's energy spree continued.

The United States is the only nation to attempt industrial development with the assumption of unlimited cheap energy and natural resources. As a result of this, we have developed an energy appetite that is not only gluttonous, but looks like a bottomless pit. With only 6% of the world's population, we consume today over one-third of its energy and over one-half of all the gasoline produced.

American industry has for years used energy consumption as a method of increasing productivity. We have even made our automobile engines bigger to support devices designed to rid the air of pollutants.

The average U.S. automobile gets 13.5 miles to the gallon—or almost double the gasoline required to move its Japanese or European counterpart the same distance.

European and Japanese industrial operations usually operate with an energy consumption of 10 to 20 percent less than that required to do the same job by American industry.

What has happened since World War II is that the United States has become hooked on oil—with the oil companies acting as pushers. With this kind of extravagant consumption pattern, and the rest of the world's

appetite for energy, problems were bound to crop up—and they have.

The rest of the world tolerated this situation as long as the United States was self-sufficient in energy resources and was using its own abundant raw materials. But now, because of our growing dependence on oil, we are being forced to purchase more of it overseas. This has raised the most serious questions about the value of the American dollar, the impact on our national security, and the role of the United States as a world power.

The most outstanding feature of our nation's energy consumption pattern is that we have increasingly turned to oil. If the growth in demand continues this will mean dependence on foreign oil.

The very real dangers of such dependence have become apparent during the most recent Middle East conflict. The governments of Western Europe have been forced to pursue a more pro-Arab policy because of their heavy dependence on Middle East oil.

During my recent trip to Europe to study oil and energy problems, I had discussed this very situation with European oil and government officials. Last year Western Europe used oil for 63 percent of its total energy consumption. Two-thirds of this came from the Middle East with almost all the rest coming from Africa. Three countries, all involved in the latest fighting—Libya, Saudia Arabia, and Kuwait—provided more than one-half of Western Europe supplies.

When France sells its latest Mirage fighter bombers to Libya; when England places an embargo on the shipment of tank spare parts to Israel; and when Germany refuses to permit its territory or airspace to be used by American planes airlifting equipment to Israel—we have examples of petropolitics at work.

If the United States is to remain a world power, it must never permit itself to be in this same position. We should all be thankful that this country has not yet reached the stage where vital American interests must be sacrificed because of dependence on Arab oil.

Our own domestic production of oil is now averaging at about 11 million barrels per day of a total of more than 17 million barrels consumed. If our ravenous demand keeps climbing, our needs in 1980 will be 25 million barrels per day—with about half of it coming from abroad.

The problem is more than finding the money to pay for it.

In the midst of the most recent run on the dollar, the Senate Subcommittee on International Trade, which I chair, sought answers from top government officials as to who benefited from the attack on the dollar. While no definitive analysis was forthcoming, the movement of Arab oil money during this crisis was acknowledged.

It is obvious that with the United States paying out $7.5 billion for oil imports this year alone, and with many more billions flowing from elsewhere into the coffers of Saudi Arabia, Kuwait and Libya, the potential for chaos in the entire international monetary system is apparent. This year alone, Saudi Arabia will receive $6 billion in oil revenue with $40 billion predicted by 1980. Saudi Arabia, Kuwait and the Persian Gulf States over the next 12 years will collect the staggering total of $227 billion—and this figure is based on an estimate before the most recent price hikes. By 1985 it is forecast that Arab reserves of gold and foreign exchanges will rise to over $100 billion. How and where this money is spent poses a challenge to all industrialized nations and to the economic health of the world community.

The threat this poses to our economic well-being and foreign policies cannot be overlooked. Not only are there the obvious problems of our balance of payments and our strategic interests in the Middle East, but there is also the danger of destructive competition with Western Europe and Japan for foreign oil. Already, our government's initial attempts to reach some agreement on sharing oil supplies in times of emergency have not been met with great enthusiasm by Europe and Japan.

I have long maintained that ecopolitics is replacing geo-politics in the affairs of nations. With the prospect of the whole world actively competing for the same resources, and the exporting nations playing one nation off against the other, it is fair to say that petro-politics will become the most vital element of ecopolitics.

To date, the success of the OPEC nations in forcing foreign oil companies to meet their demands with regard to price, ownership, control and participation in down-stream activities, has not been matched by cooperation and coordination on the part of the consuming nations. It is simply not in the interest of the United States to leave such important decisions up to our oil companies alone. At the same time it should be recognized that we cannot place the entire burden of developing alternative energy sources on the private sector.

Public attention so far has been focused on oil since most Americans equate the energy crisis with shortages of petroleum products. They have already seen gasoline stations closed or rationing gas last summer. In New England consumers are faced with higher prices for No. 2 heating oil and have been warned of the possibility of shortages this winter. While oil is the immediate problem—it does not provide a longer term solution. Oil reserves are finite and two-thirds of the total proven reserves are in the Middle East. It is through the development of sources of energy other than oil, that the oil problem itself will be solved.

The search for alternative energy sources must be the cornerstone of our nation's energy policy. Today our nation has no clearly defined energy policy, and no clear priorities have been set for research and development. We have had a number of Presidential messages on this subject, but few specific and no appreciable new funding of R & D projects. There has also been no clear signal of what exactly is expected of American industry and the American people.

If we are to escape from a dangerous dependence on foreign-source oil, there are two broad goals which must be pursued simultaneously.

We must lower our demand curve by effective conservation measures and we must increase domestic energy production by the application of new technology and the acceleration of proven methods.

With regard to the first objective, a recent Treasury Department study outlined eight emergency measures that would save two million barrels of oil a day. This figure represents 12% of present U.S. consumption, and is also twice as much as we import from Arab countries.

These are the measures outlined:

1. Reducing speed limits to 50 miles per hour for passenger cars—150,000 barrels a day would be saved.

2. Increasing load factors on commercial aircraft from 50% to 70% by consolidating and reducing flights—50,000 barrels a day saved.

3. Setting home thermostats two degrees lower than average—50,000 barrels a day saved.

4. Conservation measures in industry—500,000 barrels a day saved.

5. Limiting hot water laundering of clothes—300,000 barrels a day saved.

6. Mandatory car tune-ups every six months—200,000 barrels a day saved.

7. Conservation measures in commercial buildings—200,000 barrels a day saved.

8. Increasing car pools for job commuting—from 1.3 average to 2.3 average per car—200,000 barrels a day saved.

If by measures such as these we can keep the nation's growth rate of energy consumption to around 3% instead of the current 4½% annual increase, we can begin to escape from the energy crunch. Realistically, we cannot do away with all oil imports by 1985—but we can limit these imports to around 10% of our total requirements—or about 5 million barrels a day.

A report issued by the Office of Emergency Preparedness said that by 1980, the country would reduce its energy demand by the equivalent of 7.3 million barrels of oil a day and save an estimated $10.7 billion in outlays for imported oil, thus benefiting its balance of payments problems as well.

In examining alternative sources it is prudent to first look at areas where the requisite technology already exists. Because of this the most we can expect from nuclear power by 1985 is 10% of our nation's consumption. Nuclear fusion, hydrogen power and solar energy are still decades away. Natural gas, with only 11 years of proven reserves can only be counted on for 15% of total consumption in 1985. Oil from shale will be important by then, but aside from serious disposal and water problems, this involves the development of new technology.

The key then to a realistic energy policy is coal. This is certainly not revelation to an audience like this. But in the space age such an old-fashioned solution will surprise many Americans. Increased coal production, with emphasis on gasification and liquefaction of coal must be the main element in any effective program.

First, more coal should be used to generate electricity. This can happen almost immediately. While this raises the sulphur problem, there are already in existence processes to remove sulphur from stack gas. For the near future there is great hope in magneto-hydrodynamic power generation—MHD—whereby energy from coal is converted directly into electrical energy. More important, however, than the burning of coal itself is its conversion to gas and at a lower priority to oil. The advantages are obvious. Gas is cleaner, more adaptable, easily transported—and environmentally the most acceptable.

Options for processing coal include conversion to low-BTU gas, high-BTU pipeline-quality gas, oil, or various combinations. The great advantages of gas justify concentration on this choice. But a massive crash program is needed to move this forward.

The Congress has already taken the lead here, and has support to develop its own competence in planning energy research projects. The major initiative in the Senate is a measure introduced by Senator Jackson, which I have cosponsored. It seeks to commit this nation to a goal of energy self-sufficiency by 1983 and to buck-up the ten-year commitment with $20 billion. This bill calls for the creation of five quasi-public corporations to develop energy technologies, including one for coal gasification and one for coal liquefaction.

Along with Senator Jackson I have been chairing hearings on the Administration's proposal to create a Department of Energy and Natural Resources. But before we can reorganize, we have to know where we are going and how much we are willing to spend to get there. We also must come to grips with the conflict between greater self-sufficiency in energy and preservation of the environment.

A fourfold increase in the use of coal inevitably leads to problems connected with strip mining. I know you will be hearing more about this later today, but it should be noted that a large part of the nation's coal reserves are located on public lands, putting the federal government in a position

to set the conditions for mining operations. Strip mining as you can imagine is not a wildly popular idea with citizens and groups concerned about the preservation of the environment.

It is clear that there must be provisions for restoration of the land after the coal is extracted, disposing of solid waste from the land after the coal is extracted, disposing of solid waste from the mining process, and creating a satisfactory land surface. Similarly, new coal gasification plants must incorporate controls to avoid air and water pollution.

But with a maximum of goodwill and understanding, and with an involved federal government—solutions should not be beyond human ingenuity.

The investment needed to go forward with plans to have coal meet 50 percent of our energy needs by 1985 would be substantial—some $15 billion by reasonable estimate. But I would rather see this nation make such an investment instead of spending this sum to buy Middle East oil.

PUBLIC FINANCING OF ELECTIONS

Mr. BIDEN. Mr. President, on September 21, 1973, I testified before the Senate Rules Committee on the subject of public financing of Federal elections.

In my formal remarks, I took the view that:

I do not believe the old ways of campaign financing are sufficient. In fact, they are deficient. The time has come for all good men of both major parties to come to the aid of the system by changing it.

Slowly, Mr. Chairman, I have become convinced that efforts to place ceilings on overall campaign expenditures, to prohibit certain groups from contributing funds, to restrict the size of campiagn contributions—these and other devices, however well-intentioned and well-designed—are not fully effective.

Mr. President, I ask unanimous consent that the full text of my formal statement be printed in the RECORD.

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

Thank you for providing me with a few minutes of your time in order that I may share my views with you about public financing of election campaigns for Federal office. I wish particularly to thank Senator Cannon for his willingness to put this important issue on the agenda of the Committee on Rules and Administration of which he is chairman.

I sense that there is an increasing number of Senators, both Republicans and Democrats, who have come to support the concept of public financing. In late July of this year Senators Kennedy and Scott offered a bipartisan amendment to S. 372, the campaign financing bill then before the Senate, that would have established a system of public financing for elections. The amendment, although tabled garnered 38 votes—10 Republicans and 28 Democrats.

I wonder what J. P. Morgan, the financier, would have said had he witnessed the discussion about the Kennedy-Scott Amendment? Mr. Morgan, you may remember, once complained about President Theodore Roosevelt, who had advocated public financing:

"If Roosevelt had his way, we'd all do business with glass pockets."

And that's exactly the point.

As the New York Times recently pointed out:

"Since political campaigns are indispensable to self-government and since campaign cost have to be paid by some source, the central question is not how to break the nexus between politics and money. Rather, it is how to make that connection clean and open."

In other words, politics needs those "glass pockets" that Mr. Morgan complained about more than half-a-century ago.

Aside from the issue of public financing, I suggest that a majority of the Congress and the American people believe as a minimum that there should be full disclosure of campaign finances—both contributions and expenditures.

But this, in itself, seems to be insufficient.

Full disclosure—"Glass Pockets"—does not touch a condition which is best described as a "Tyranny of the Incumbency." It is too difficult for challengers to overcome incumbency.

I'm now an incumbent myself. Nevertheless, I do *not* believe the old ways of campaign financing are sufficient. In fact, they are deficient. The time has come for all good men of both major parties to come to the aid of the system by changing it.

There is also the matter of rising costs.

The 1984 of presidential elections will come about when there are no candidates available who can each raise the trillion-dollars to finance the campaigns.

What this adds up to is that the political system is in trouble because, as someone has said for us. Democracy is less a form of government than a system that assures we shall be governed no better than we deserve.

The hazard is not necessarily that the voters will rise and vote us all out of office within the next few years. A clear and present danger is that the voters may turn away from the ballot box—after all the 1972 presidential voter turnout, percentage wise, was the lowest in this country.

The real danger, then, is that the dismayed American voter may act like Mark Twain's cat which sat down on a hot stove lid—the cat never will sit down on a hot stove lid again, but also the cat will never sit down again.

My wife, who was less of a politican than I, used to have an expression she used. She said: "You should not burden your elected officials with too much responsibility." I think she was a true Jeffersonian.

Slowly, Mr. Chairman, I have become convinced that efforts to place ceilings on overall campaign expenditures, to prohibit certain groups from contributing funds, to restrict the size of campaign contributions—these and other devices, however well-intentioned and well-designed, are not fully effective.

Disclosure and ceilings have merit, but the ingenuity of political operators outranks that of an Einstein in finding ways of funneling private funds of undisclosed, if not dubious origins, into campaign coffers.

Public-subsidy would allow candidates—incumbents and challengers alike—to compete more on the basis of merit than on the size of the pocketbook—free from potentially corroding dependence on personal or family fortune or the gifts of special interest backers—be they those of business, organized labor or conservative or liberal interests.

I think that when we ask men and women to go out and raise the hundreds of thousands of dollars that is necessary to run for public office in this nation, we are putting them in a position of being exposed to great temptation. Not personal financial gain, but great temptation to maybe not say what they think all the time, maybe not take the positions they support all the time.

I suggest an additional benefit may accrue from adoption of public-subsidy campaign financing. I believe it would hasten the day when we in the Congress enact tax-reform for the American people. Revision of the Federal tax code as to make it fairer is made more difficult, in my opinion, because those wealthy who benefit by existing tax shelters also make large campaign contributions.

As for specifics, Mr. Chairman, let me say that there is an "objective solidarity" among supporters of public-financing of Federal elections that this concept should be enacted into law. I hope we do not fall out among ourselves as specific legislation comes before us. I think we should try for a workable bill, even one that simply makes a modest beginning and even if it permits a measure of private financing of small contributions not in cash. A central reporting system, with a single treasurer, should be established. Adequate provision for public financing of "independent" and minor party candidates should be provided. Some modification of the franking privilege should be instituted—either extending it to challengers in the period between a primary and a general or suspending it during that period for incumbents. At this time, I am most reluctant to compel commercial radio and television stations to provide adequate time for political candidates.

I can well understand the frustration at the unresponsiveness of many individually licensed stations to recognize their public responsibility in this area. Furthermore, I well know the high proportion of expenditures allocated to "media," largely broadcasting. I would prefer to have broadcasting stations respond ungrudgingly on their own: some are. Let's give them an additional opportunity before enacting any compulsory legisaltion compelling them to allocate time for candidates in both primary and general elections.

I think that with good-will, and less concern for obtaining personal recognition, we supporters of public-financing can achieve our objective.

Public financing—public subsidy—is the swiftest and surest way to purge our election system of the corruption that, whatever the safeguards, money inevitably brings.

In an essay of Thomas Carlyle is found a statement I offer in conclusion, Mr. Chairman:

"Our grand business is not to see what lies dimly in the distance—but to do what clearly lies at hand."

THE SCARLET LETTER

Mr. PROXMIRE. Mr. President, the Philadelphia Inquirer on September 9, 1973, carried a most informative article by Mike Leary regarding the serious problems involved in maintaining a good credit rating. Because of today's myriad credit economy, thousands of individuals will encounter difficulty at one time or another in keeping their credit records straight.

One of the cases related by Mr. Leary deals with Robert Meisner, a New York businessman whose auto insurance application was denied because a member of his family was considered unacceptable for credit. According to the information maintained in a credit file on Mr. Meisner, his son had long hair and was suspected of using drugs. Mr. Meisner was one of the more fortunate ones. He finally received auto insurance coverage, but only after considerable effort on his part as to the veracity of the information contained in his credit file. The "intelligence" concerning his son, however, remains a matter of this man's record, on display like a scarlet letter to any inquirer.

Recently, my Subcommittee on Consumer Credit completed 1 week of oversight hearings on the Fair Credit Reporting Act, which has provided some measure of protection against an in-

accurate credit report. The information developed during these hearings clearly points out the urgency for more comprehensive regulation.

Mr. President, I ask unanimous consent to print Mr. Leary's article in the RECORD.

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

CREDIT IS A RISKY BUSINESS—IT IS HARD TO CLEAR YOUR NAME

(By Mike Leary)

About a year ago, the Nationwide Insurance Co. turned down Robert Meisner's auto insurance application because a credit company reported that his son was "a long-haired hippie . . . suspected of drug use."

Meisner, a suburban New York City businessman, eventually succeeded—with much difficulty—in persuading Nationwide that the information was of doubtful accuracy.

He got his insurance, but he wasn't able to get the adverse information out of his credit file, where it still ticks away like a time bomb. The reason: the firm that dug up the allegations—the Retail Credit Co., a giant, Atlanta-based investigative firm with branches in Philadelphia and dozens of other American cities—stuck to its charges after rechecking them with its anonymous informants.

Retail Credit's executive vice president, Franklin Brutzman, shrugs off the case as "an isolated example, surely not representative."

But to critics of the way in which credit bureaus currently operate, the case is but one of an apparently large number of cases in which individuals are victimized by the potential for error in the complex field of keeping track of the credit records of millions of consumers.

The critics, which include some consumer agencies, the American Civil Liberties Union, and even some people within the credit bureau business, contend that the consumer needs opportunities to correct wrong or misleading information that comes into his file.

Few persons are advocating that credit bureaus be abolished. The service they provide is essential in an affluent, highly mobile society in which individuals expect to walk into a bank and receive a loan from a loan officer they may never have met before, or to send a postcard away to request a credit card, or to walk in off the street and buy insurance.

Insurance companies, credit card concerns, retail stores, and other businesses pay over $450 million to obtain credit information on potential customers from the nation's some 3,000 credit bureaus. By one estimate the bureaus churn out 135 million files a year on Americans who are buying something, somewhere on credit.

Credit Bureaus like the Philadelphia Credit Bureau at 1211 Chestnut St., simply gather information on how faithfully an individual has paid his bills. Other concerns, like Retail Credit, prepare detailed background reports, including comments on an individual's personal life culled from acquaintances and associates.

Throughout, the individual is dependent on the accuracy, good judgment, and integrity of the credit bureau to literally protect his good name. And, as the Meisner case indicates, there can be cases in which the capabilities of the credit bureau are open to question, and where the citizen's recourse is limited.

"This (the Meisner case) is just the tip of the iceberg" says Ira Glasser, an American Civil Liberties Union attorney in New York. "We run into dozens of similar cases each year, but I suspect many more aren't reported because many people don't realize they have some rights under the law."

What rights individuals do have are embodied in the Fair Credit Reporting Act of 1971, pushed through after sometimes stormy hearings conducted by Wisconsin Sen. William Proxmire. Under terms of the law, Meisner was, for example, able to have his file read to him orally, and to have placed in the file a notation saying that he disputed the allegations about his son.

But some persons, like Harvard law professor Arthur Miller, think such rights give too little power to the consumer. "The act simply doesn't go far enough . . . it's full of loopholes," says Miller, who helped prepare a recent Department of Health, Education and Welfare report that contained strong criticism of automated personal data systems.

To use Meisner as an example again. He wasn't able to obtain a written copy on his dossier, or learn who provided the adverse information. And he wasn't notified of his rejection by the insurance company until it was fait accompli.

Beyond that, the act says only that credit information must be provided to parties with a legitimate business interest in the files, a broad definition. It doesn't prevent straight financial case histories—like the tidy bill-paying records compiled by the Philadelphia Credit Bureau—from being combined with the subjective, investigative reports Retail Credit also prepare.

There is no provision in the law for licensing credit bureaus, and there is nothing to stop bureaus from acting as bill collection agencies, as many do, including the Philadelphia Credit Bureau.

The act skirts questions about the desirability of maintaining such files at all—particularly the investigative reports that delve into such personal areas as drinking and driving habits, and, in some instances, report on sexual activities and political beliefs.

All of these factors add up to what J. Taylor DeWeese, a Philadelphia attorney who was a colleague of Miller's on the HEW panel, describes as "an information imbalance."

"The information-gathering agencies," he says, "are continually obtaining more and more material on the individual who knows less and less about the agencies all the time."

Narrowing this gap means treading on tricky terrain. As Robert Nicholas, director of the Philadelphia office of the state Bureau of Consumer Protection puts it: "Credit bureaus have some rights, too."

A department store, for instance, has an interest in knowing whether a potential credit customer has left a trail of unpaid bills elsewhere. And an auto insurance company would shy away from covering someone who was a problem drinker.

Right now, credit grantors can routinely obtain such records in writing, but consumers can't. This is partly, suggests Anthony C. Capaldi, who manages the Philadelphia Credit Bureau, because of a fear that persons with bad credit ratings would alter written reports to fraudulently—obtain credit.

(Critics—like Proxmire aide Kenneth McClean—scoff at this argument, saying consumers who aren't able to obtain written records can never be certain "whether . . . all of the information is being disclosed.")

Even if written records were available—as they are in the Canadian province of Quebec—there would still be a problem with the investigative reports, which rely heavily on anonymous sources.

Brutzman argues that without confidentiality, 'people wouldn't talk and information would dry up . . . we have to protect our sources just like the press has to protect theirs."

No one has ever conducted a systematic study into the accuracy of such records—their vast numbers (Retail Credit, alone, has 50 million files) is an awesome deterrent.

Miller points to an informal study conducted by a consumer protection group in Tulsa, Okla., in which members checked their own credit ratings: "The error rate was 40 percent. One man, for instance, found he had an excellent credit rating because he was a heavy and frequent borrower and always paid off his loans promptly. In fact, he never had borrowed any money at all."

Investigative files are even more susceptible to error, suggests Glasser, because "They institutionalize gossip, some of it malicious, a lot of it not substantiated. In fact, I've never run across a file of this type that's been completely accurate."

An Inquirer reporter who checked his own file at the Retail Credit Co.'s Philadelphia office uncovered several errors. It said, for instance, that he'd spent a year in Australia, when he hadn't (his brother had); it said that he'd attended the University of Wisconsin when he'd gone to Notre Dame and Columbia; it estimated that his income was 40 percent less than it actually was.

When such errors do crop up, notes Nicholas, "the burden is generally on the consumer to correct them."

William Cain, now manager of Dun and Bradstreet's Scranton office, learned that to his dismay.

Earlier this year, Cain then living in Philadelphia, had his Lit Brothers credit card stolen by a thief who rang up $400 in bad bills on it, Cain wasn't forced to make good on the fradulent purchases, but—by mistake—a negative notation turned up in Philadelphia Credit Bureau files.

After he was turned down for a credit application at Sears, Cain uncovered the error and got Lit's to admit it. But it took more than two months to get his rating restored—and in the meantime he was turned down at Sears a second time.

"It was unbelievable," he says of the incident. "The credit bureau just wouldn't believe me when I told them they'd made a mistake."

Capaldi, manager of the Philadelphia Bureau, for his part, says "such things happen. We're human, and we make mistakes."

For Cain, the error was a relatively minor—although frustrating—problem. But, notes McClean, because "an individual does not learn of an adverse report under the law until he has actually been turned down for either insurance, employment or credit . . . in many cases it may be too late to do anything about it, particularly if he has applied for a job.

"He finds he has lost the job, he goes down to the credit bureau, he gets the report corrected, but in the meantime, someone else has the job, so it doesn't do him much good."

Under current law, there is at least a mechanism to wipe out such errors, or failing that, to dispute them with a contradictory statement.

While the consumer may have difficulty finding out what exactly is in his file, almost anyone who claims to be doing business with him can get the information or request. The only restraint on the dissemination of the material is that which the credit bureaus impose on themselves.

Says Gerald C. Davey, former president of the Credit Data Corp., one of the nation's largest commercial credit agencies, "There isn't anyone who can't find some sort of legitimate business concern and get access to the files."

Indeed, CBS correspondent Mike Wallace once created a bogus corporation, then picked names out of the phone book at random in 20 different American cities. Using a fake letterhead, he asked for credit information on each of the persons from their local credit bureaus. In 50 percent of the cases, he obtained it.

Capaldi says such a thing "couldn't happen" in Philadelphia, noting a company has to be affiliated with the credit bureau before it gets information. But he admits credit rat-

ings are often read over the telephone, and persons who know a store's coded identifying number could "theoretically" obtain information under false pretenses.

Another potential danger, contends Davey, is that "people who have no business looking at credit files get to see them routinely. I feel very strongly that credit reports should only go to credit grantors—and no one else."

Yet Retail Credit frequently submits both character and credit reports to employers. As Brutzman told a reporter: "If you were the publisher of The Inquirer, wouldn't you want to know how someone you were going to hire paid his bills?"

A similar "conflict of information" situation, as Davey describes it, exists when a credit bureau also acts as a collection agency.

The Philadelphia Credit Bureau's collection arm, for instance, sends out notices which warn consumers that delinquent bills must be paid in seven days, or "this information will be entered on your credit record."

It's a practice Capaldi sees "nothing wrong with—we're a reputable agency and if a consumer disputes a bill, we * * *

But Otis Littleton, executive director of the Consumer Protection Committee of the state House of Representatives, disagrees.

"There is an implied threat in that sort of notice," he says, noting that his committee is now drafting a bill to outlaw the practice.

"Why should an individual have to cope with that sort of pressure? It's simply unfair."

That, says Glasser, is the crucial point: "Look at the Meisner case—is it fair that that nonsense about his son is going to follow him around for the rest of his life? Why do insurance companies need such information in the first place?"

"You know," observes Nicholas, "the unfortunate thing about the whole situation is that all of commercial law that deals with sources of information, free flow of credit, (and) ethical conduct, was never developed with the consumer in mind.

"Right now, credit bureaus too often reflect the businessman's interests, but with a few changes here and there, they could very easily serve the consumer."

HARVEY EDWARDS

Mr. SPARKMAN. Mr. President, at the end of October, Harvey Edwards of Tuscaloosa, Ala., retired as chairman of the Druid City Hospital Board of Trustees. He has served that hospital for many years and was during all of those years a great strength and a great manager. He devoted his time and effort without stint to that work.

I have known Harvey Edwards since he was a high school student in the same high school that I attended with him in Hartselle, Ala. He was 1 year ahead of me. Upon graduation he went to the University of Alabama in Tuscaloosa and a year later I followed him to the university. He was a great help to me as a freshman and throughout the years that we were there together. I have never known a better man and a better citizen. I congratulate Harvey Edwards upon his long years of great service and I wish for him and Mrs. Edwards great happiness in the retirement which they have so justly earned.

The Tuscaloosa News printed a very nice review of his activities and his service throughout the years; also, an editorial entitled "Harvey Edwards Has Served Community Well." The Birmingham Post Herald likewise carried a laudatory news item regarding his retirement. I ask unanimous consent to have all of these articles printed in the RECORD as a part of my remarks.

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

EDWARDS TO RETIRE FROM DCH BOARD

(By Anne Plott)

H. A. Edwards Sr., a 26-year veteran of the Druid City Hospital Board of Trustees and chairman of the board since 1953, will step down when his current term expires at the end of this month.

"I love people and I love Tuscaloosa and the people here," Edwards said of his service on the board before attending a meeting Monday night of the newly created Druid City Hospital Foundation. "It has been one of the greatest joys I ever had. It pays better than anything I ever did."

The 80-year-old chairman was not talking of a cash payment. Hospital board members serve without pay.

Edwards later spoke to a banquet audience combining a meeting of the foundation and the hospital's continuing golden anniversary celebration, and it was then when he announced he was stepping down.

At the meeting, Herbert D. Warner, chairman of the board of the Warner Foundation, and Joe Duckworth, chairman of the board of Duckworth-Morris Agency Inc. and chairman of the board emeritus of First Federal Savings and Loan Association, were named as the Druid City Hospital Foundation's first two fellows.

Both Warner and Duckworth are former members of the hospital's board of trustees. A fellow with the foundation has no fixed duties but may be consulted by foundation officials on matters of policy.

Warner's son Jack, who is president of Gulf States Paper Corp., presented the plaques for the two fellowships. Jack Warner is vice president of the Druid City Hospital Foundation.

Charles Snyder, president of the foundation, said that one of the new non-profit corporation's duties will be to aid hospital expansion by soliciting and administering gifts, bequests and donations to the hospital.

The first phases of Druid City Hospital's massive $20 million expansion program are now under construction, hospital administrator D. O. McClusky told the meeting.

Before Edwards made his announcement, his son, H. A. Edwards Jr., had unveiled a color portrait of the board chairman, which McClusky said would hang "in a position of honor in the board room at Druid City Hospital."

The portrait was a gift from hospital employes.

"He was first appointed to the board in 1947 and has served as its chairman since 1953," McClusky told the banquet meeting, which included hospital trustees, former trustees, members of the medical staff of the hospital, members of Druid City's medical clinic board and others.

"In all those years, he missed only one meeting and that is a remarkable record," McClusky said. "It is true that he did attend two meetings in a wheelchair because he was in the hospital himself, but he was there."

"I know I speak for all of them when I say that he will be deeply missed," Snyder said after Edwards' announcement. Snyder also is a hospital trustee.

"We know it is because of pressures of health and not because of any lessened desire to serve his community," Snyder added.

Edwards talked of the progress made at Druid City over the years since the hospital was located in the facilities of the old U.S. Army Hospital at Northington before the building on the present site was completed.

"It's come a long way since we moved out to Northington," he said. "So much has happened and so many crises passed—apparently successfully."

McClusky later told the group that work is now under way on Druid City's new infant intensive-care unit, on expansion of the emergency room and site work at the rear of the hospital which will result in a new entrance on McFarland Boulevard.

"There are only two hospitals which have more beds than we do, and only one in the state admitted most patients than we did last year," he said.

"I'm glad to say to you tonight that we have a Druid City Hospital that stands out well in comparison with others," Edwards said.

In addition to his hospital board service, Edwards also served 10 years on the Tuscaloosa Planning Commission.

Edward's long career has been studded with many honors for civic and professional service.

In 1966, he was named Tuscaloosa's Citizen of the Year by the Tuscaloosa Civitan Club. In 1971, the Tuscaloosa County Homebuilders Association presented him with the organization's Community Builder Award.

Edwards also was named Realtor of the Year by the Tuscaloosa Real Estate Board in 1962. His church, Calvary Baptist, in 1968 made him a "life deacon" in recognition of his long service in that office.

Edwards' life is almost a model for a story of a poor boy who makes good. He was born in a two-room tenant dwelling in the Morgan County community of Lawrence's Cove.

At 14, he quit school to support his family. But Edwards returned to school when he was 16 and then worked his way through Hartselle High School as a janitor.

He graduated from high school in 1916 with an average of 97 in a class of 13 members. That summer, with $100 in cash, he moved his family to Tuscaloosa where he entered the University of Alabama.

Dr. George Denny, then University president, gave him a job at the school's power plant shoveling coal for the furnaces. Sen. John Sparkman was a member of Edward's crew at the University's power, water and electrical plant at Comer Hall.

He left the job in 1918 for military service. But he returned in 1919 and graduated with an AB degree that year. He worked for a chemical company at Holt for a short time and then returned to the University for his law degree in 1920.

Later that year he entered the life insurance business.

In 1921 after completing some special courses at the University, Edwards went to work for the Veterans Administration in Washington. He later worked for the VA in Illinois, Wisconsin and Michigan.

He returned to Tuscaloosa in 1923 entering the general insurance business. Edwards expanded his business to include real estate in 1928. In 1929, he organized the H. A. Edwards Insurance Agency Inc. and has served as its president ever since.

Edwards is a member of the Tuscaloosa Civitan Club and served as its president in 1947. He is also a member of the American Legion, the Tuscaloosa Chamber of Commerce, the Woodmen of the World and the Masons.

HARVEY EDWARDS HAS SERVED COMMUNITY WELL

H. A. Edwards Sr., will retire as chairman of the Druid City Hospital Board of Trustees at the end of the month. This community and this section of the state owe this man a debt of gratitude for his long, faithful and fruitful service.

Edwards has served as a hospital trustee for 26 years and has been chairman of the board for the past 20. This has been a period

during which Druid City Hospital has made tremendous strides toward providing adequate care and treatment for patients of this community and others from West Alabama. It has been a time when the hospital has faced problems—in service, in facilities.

Druid City Hospital today stands as a fitting memorial to Harvey Edwards dedication and determination. He has not been alone in providing leadership for the institution, but he has always been in the forefront in determination to provide this community with the best possible hospital and staff.

Druid City now is embarking on a new expansion program. This is part of a continuing effort to improve facilities, to keep pace with needs and medical technology. That has been the hallmark of the period during which Edwards has been Druid City's board chairman.

Planning and looking to future needs have been uppermost in the direction of the hospital board from the time the institution moved from the University campus to the former Northington General Hospital and then on to its present location in modern facilities.

Certainly Harvey Edwards has earned well-deserved relief from his duties as board chairman of the hospital. And he retires from that position assured that his long service has been appreciated by hospital staff and employes, by his fellow board members and by this community.

DRUID CITY HOSPITAL BOARD CHAIRMAN RESIGNS

TUSCALOOSA.—After 26 years on the board of trustees at Druid City Hospital, the past 20 of them as chairman, H. A. Edwards has resigned.

Edwards was appointed to the board in 1947 and was elected chairman in 1953. In his 26 years on the board, Edwards missed only one meeting, according to hospital administrator D. O. McCloskey.

The resignation announcement came at a banquet celebrating the 50th anniversary of the hospital. An oil portrait of Edwards, a gift from hospital employes, was unveiled and will be hung in the hospital board room.

Also at the meeting, Herbert D. Warner, chairman of the Warner Foundation, and Joe Duckworth, chairman of the board of the Duckworth-Morris Agency, were named as the first two fellows of the newly formed Druid City Hospital Foundation.

The foundation was formed to help the hospital seek bequests and grants for an announced $20 million expansion program.

McCloskey said that progress was being made on the first phase of the expansion, an intensive care unit for infants. He said West Alabama has one of the highest infant mortality rates in the Southeast.

LAND USE POLICY ACT

Mr. ABOUREZK. Mr. President, on June 21 of this year the Senate passed the Land Use Policy and Assistance Act (S. 268). I believe this is a good act. It is badly needed but also widely misunderstood.

It has been claimed by some that the National Land Use Policy Act would challenge the basic rights of property owners. That is simply not true. The purpose, and the effect of this act would be to provide financial assistance through grants to State and local governments to improve existing land use controls and to make them more democratic.

The fact of the matter is that this act may be the last, best chance we have to preserve and invigorate local land use decisionmaking and to insure that basic property rights are not infringed by Washington bureaucrats.

I support this bill precisely because I believe that State and local government, working together, can provide a better design for tomorrow—a design which embodies all legitimate values and goals, local, regional, and national.

We must take this chance while we still have the opportunity. The alternative is continuing land use crises that could well lead to the usual solution to national problems: Federal control.

To further explain this bill. Senator MCGOVERN and I have worked out a fact sheet showing the necessity for this bill and describing what the bill does and does not do. It also includes some editorial comments on the importance of this legislation.

Mr. President, I ask unanimous consent that this fact sheet be printed in the RECORD.

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

FACT SHEET ON S. 268, LAND USE POLICY AND PLANNING ASSISTANCE ACT OF 1973

Everything, it seems, is growing: population, size of urban areas, transportation, energy and food consumption, and industrial capacity.

Land area, on the other hand, does not grow; the Nation will remain its present size.

But each of these growth categories requires more and more land, creating more and more conflicts over the use of finite land area.

These conflicts have brought about a clear need for better land use planning and decision-making.

Every change in land use requires a decision: farming or strip mining of coal; corporate or family ownership of farmland; recreation and wildlife or highway construction; factory or power plant or parkland.

At issue is whether decisions as to the best use of land will continue to be made on a helter-skelter basis, with little regard as to how they affect people, or whether they may be made in an efficient, systematic manner.

Congress, after years of study, has developed a proposed method of land use planning and decision-making. It is in the form of a bill, the Land Use Policy and Planning Assistance Act (S. 268), which passed the Senate by a vote of 64–21 on June 21, 1973.

Inevitably, land use decisions will be made. S. 268 addresses the question: who will make them?

People at the local and state levels, and not the Federal government, should make these decisions. That is the intent of S. 268, which has passed the Senate and is now before the House of Representatives. The Federal government should properly assist in funding an effort in each state, and in making decisions of a national concern—but decisions that are legitimately those of the local and state bodies must remain in the hands of the people. S. 268 does not permit Federal interference with these decisions, but strengthens their ability to make decisions stick, by insuring that adequate funds are available. Congress provides a general framework for funding and action—but it would be strongly to the benefit of the people of South Dakota that they take the initiative to plan wisely for future land use.

That there is a need to make these decisions over our land now can be shown by a short review of some of the statistics looming ahead.

Within thirty years, if present trends continue, an additional 28 thousand square miles of presently undeveloped land (18 million acres) will be needed for urban growth. What we call urban sprawl will then constitute an area roughly equal to the combined size of New Hampshire, Vermont, Massachusetts, and Rhode Island. New urban growth will demand an increased area the size of the state of New Jersey each decade.

By 1990 the Department of Transportation estimates that we will have built another 18,000 miles of freeways within urban areas alone. These and other uses will be competing with farm and recreational uses for land. The electric power industry estimates that it will need three million acres of new right-of-way for transmission lines and more than 140,000 acres for 200 new generating plants. During this period of rapid growth, farmers and ranches will be asked to supply enough food not only for our own fast-growing population, but perhaps for other parts of the world, all while urban areas spread into what once was farmland; it is essential to maintain prime farmland for these production requirements.

WHAT S. 268 DOES

(1) Provides that local land use decisions be made by local government.

(2) Requires States to exercise rights and responsibilities over land use planning and policy decisions of "more than local concern."

(3) Requires States to maintain a process of planning and a "balanced" State land use program which takes into account needs of environment (recreation, social services, and essential economic activities—transportation, energy, housing, and agriculture.

(4) Authorizes appropriations to the States to develop land use data inventories, improve the size and competence of professional staffs, establish appropriate planning agencies, and develop State land use programs.

(5) Gives the States wide latitude in determining the method of implementing the Act and reasserts all local land use powers under State guidelines such as in flood plain and power plant siting laws.

(6) Authorizes appropriations to the States to coordinate land use planning in interstate regions, and encourages coordination of Federal planning and management of Federal lands with State and local planning of non-Federal lands.

(7) Authorizes appropriations to Indian tribes to develop land use programs for reservations and other tribal lands.

WHAT S. 268 DOES NOT DO

(1) Does not alter private property rights, which are guaranteed by the Constitution. Subsection 203(f) reads:

"Nothing in this Act shall be construed as enhancing or diminishing the rights of owners of property as provided by the Constitution of the United States or the constitution of the State in which the property is located."

(2) Does not alter any landowner's rights to seek judicial redress for land taking. The Act does not change constitutional or statutory provisions for police power or eminent domain. The right of a landowner to petition a court for a determination of whether a particular exercise of State police power diminishing the use of land requires compensation is guaranteed in every State.

(3) Does not mandate State zoning, but reasserts local zoning powers. States are encouraged to develop programs not by zoning or by producing a master plan, but by reinforcing local government authority and providing guidelines for the exercise of that authority.

(4) Does not require or allow "federal planning" or "federal zoning." Zoning power is based on State police power; the Federal government does not have authority to zone State or privately owned lands.

(5) Does not permit wide-ranging Federal

review of State and local decisions concerning the use of State and local lands. Federal review is to focus on procedures to develop, and the State's ability to implement, State land use programs, not the substance of those programs.

(6) Does not require State planning over all land within a State. Rather it focuses on five categories of critical areas and uses of clearly more than local concern:

A. Areas of critical environmental concern (shorelines, flood plains, historic areas).

B. Key facilities (airports, major highway interchanges, power plants).

C. Large-scale development (industrial parks).

D. Public facilities or utilities of regional benefit.

E. Land sales or development projects.

(7) Does not tell a State how much or what specific land must be included in the State land use program. The extent of and type of land use to be included in the critical areas and uses of more than local concern depends on how the State defines those five areas or uses.

EDITORIAL COMMENTS

Sound land planning use needed now

(Watertown, S.D.—Public Opinion—August 21, 1973)

For years visionaries have proclaimed the need for a national, uniform land use policy in the interests of environmental preservation and human requirements. The need has grown as population has grown and as that population has moved about in the world's most mobile nation.

Land use planning has become a national project, in later years extending into the states. The issue was given strong local flavor recently with a meeting in Watertown of the Special S.D. Legislative Committee on Land Use.

Among those testifying at the committee's meeting was Allen Burke, editor and director of public relations for the S.D. Farmers Union. Burke, emphasizing the growingly acute need for a consistent, inclusive policy oriented—in South Dakota's case—toward agriculture, had this to say:

"Regulation and control of land in the interests of people is essential if real progress is to be made in achieving a quality of life for all Americans. It is essential because control of the land is the key to insuring that all future development is in harmony with sound ecological principles.

"The land use and environmental problems of the present, serious as they are, look relatively insignificant when compared with the problems we will have in 10, 20 or 30 years if we fail to develop the institutional and legal capacity to deal with the land use problems that exist now and that will developed in the future."

At this point, Burke offered some startling projections to document the broadening need for land use planning:

By 1975, the nation's park and recreation areas, many of which are already crowded and overcrowded, will receive twice as many visits as they do today and perhaps 10 times as many by the year 2000.

By 1978, the nation must construct 26 million new housing units. This is equivalent to building two and a half cities the size of the San Francisco-Oakland metropolitan area every year.

Each decade, new urban growth will absorb 5 million acres, an area equivalent to the state of New Jersey.

Demands for electrical energy will double every 10 years. By 1990, demands will have increased by 284 per cent.

The cause for alarm here rests largely in the fact that little has been done to plan for and deal with the problem of accommodating future growth in a manner compatible with a quality environment. Says Burke, "We have instead settled for haphazard growth generated and controlled by individual and local economic considerations with complete disregard for social and environmental problems created by the projects concerned."

It is not at all difficult to identify relatively nearby examples bearing out this statement. Multiply them by a nation-full and the enormity of the problem, with the concurrent need for sound land use planning now, becomes instantly obvious.

Land use laws

(National Catholic Rural Life Conference Newsletter, September 1973)

The National Catholic Rural Life Conference Directors in 1948 at their annual convention passed a resolution on Land Use. 1948, mind you! Twenty-five years ago.

The resolution stated: "We urge the establishment of a National Land Policy which will carry out the mandates of natural law in the matter of access to natural resources by human beings. Agricultural science, social advancement and Christian charity and justice must be considered as basic guides in the formation of a national land policy.

Preservation and development of the family-type farm and to make it productive of the greatest possible spiritual and temporal good for the family, the community and the world."

Today, land use and land policy is the "in thing." Legislators, ecologists, environmentalists, students and Mr. A. C. are high on Land Use. In fact the first broad Federal land use control law in our history, according to reports, is almost a certainty by the end of 1973. The U.S. Senate has already written and passed its version of the new law in bill S. 268. The House of Representatives has begun to write its version, with passage predicted by October.

A land use law for our country is long overdue. Why the delay? The hem-hawing? As the NCRLC resolution indicates, the issue has been around a long time. If you search library shelves, you can find study upon study on land use which is gathering dust. The Senate had passed its version last year but was allowed to die. Why the delay?

For one thing, the issue is very complex. For another, most people because of self-interest—in religious circles we call it greed—did not take it seriously.

The size of our nation and the difference in land topography alone presents a formidable obstacle for national legislation. The jurisdictional rights of federal, state and local government regarding land use present a bewildering maze. Private ownership controls about ¾ of the land and carries many "no trespassing" signs.

Should penalties be attached to the law? What values of land use should be stressed in the legislation? All makes for complexity.

However, I think a more important aspect is the matter of greed. The 1948 NCRLC resolution said, "Agricultural science, social advancement and Christian charity and justice must be considered as basic guides in the formation of national land policy." At present our main concern is based on ag. science. We want to survive. "Social advancement and Christian charity and justice" are still lagging down the road. They can hardly be considered guiding lights even in 1973 Land Use legislation.

The generalities in terminology of the proposed legislation are hardly conducive for quick fulfillment of the law. Let's hope that this "greed" will not catch up with us—as has our national cheap food policy—before we have changed our mind and mended our ways. The proposed legislation has many good qualities and is needed. However, all citizens have a stake in Land Use laws. Don't sit idly by, especially you family land owners, and let some one else write the laws for you. A land use policy indicates that advisory committees may be part of the law. Insist that "plain dirt" farmers get on these committees. Follow the guiding principles of "social advancement and Christian charity and justice." They are still valid and always will be.

U.S. LEADERSHIP IN HUMAN RIGHTS HAS BEEN UNDERMINED BY SENATE INACTION ON THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, the birth of the United States was announced by a profound human rights document—the Declaration of Independence. Since that time the United States has been a champion among nations in the field of human rights.

Indeed, it was effective American leadership at the San Francisco Conference in 1945 that resulted in a strong human rights section in the Charter of the United Nations. Our delegates recognized that the denial of human rights and human dignity creates a prime source of potential conflict and a threat to international peace.

A quarter century ago the United States also lent its leadership to the drafting of the Genocide Convention, which was the first human rights document to be endorsed by the U.N. General Assembly. Today, the United States stands alone with the Union of South Africa among the charter members of the United Nations which have failed to ratify this convention.

The responsibility for this failure rests with this Chamber. This inaction has proven an embarrassment to our diplomats and allies and a delight to our enemies.

Mr. President, the cause of human rights and the promotion of international peace are interlocked. It is imperative that the United States attempt to regain its leadership role in this area. We must renew our dedication to the principles which Thomas Jefferson so eloquently laid down two centuries ago.

I call upon my colleagues, Mr. President, to join with me in attempting to ratify this convention during the current Congress.

A. GRANT FORDYCE

Mr. PELL. Mr. President, I believe that the way a man, after his death, continues to live on this earth is by the merits of his own ideas which affect the course of succeeding generations' lives and which live on in other men's lives, thoughts, and actions.

Monuments constructed, educational institutions, recreational facilities, the bricks and mortar which bear special names, these are tangible reminders which signal man's achievements and are recorded in history.

But it is the ideas and beliefs of the individual which give abiding meaning to these reminders.

It is in this regard that I was particularly privileged to join in honoring this past weekend Mr. A. Grant Fordyce. Mr. Fordyce's collection of architectural books was given by his widow to the Rhode Island School of Design.

Mr. Fordyce was a founder and senior

partner in the firm of Fordyce & Hambly Associates, New York. Among his many projects were the Forrestal Building in Washington, D.C., the Loula D. Lasker memorial swimming pool and the skating rink in New York's Central Park, and the master plan for the gymnasium and recreation center for the New York State University at Plattsburgh.

The honors bestowed on Mr. Fordyce are well deserved. They represent a lasting recognition of his abilities, but we should also remember the originality of his ideas and the breadth of his many interests, and I would stress in my tribute to him these qualities and their inspirational values which will live on for a long, long time.

FAMILY HEALTH MAGAZINE NUTRITION AWARD

Mr. McGOVERN. Mr. President, the Family Health magazine recently held its second annual Nutrition Advertising Awards luncheon.

Family Health was created in 1969 to fill a growing need by millions of Americans for more information on how to stay healthy, look better, feel well—and live their lives to the fullest. To that end, the publishers brought together a distinguished board of editorial advisers and sought out leading experts, medical journalists, and respected magazine writers to chronicle the so-called Age of Health in accurate, nontechnical language.

In a relatively short period, the magazine has achieved an impressive record in accomplishing its goals. Subscribed to by a million families, it is read by almost 4 million persons monthly. Its advertising columns carry consumer information from major corporations in food, drug, beauty, and personal products. Its editorial content has won seven prestigious awards from such groups as the American Medical Association, the American Dental Association, the National Society for Medical Research, the American Association of Anesthesiologists, the American Optometric Association, and the Arthritis Foundation. These awards reflect not only the quality but the diversity of Family Health's editorial approach, the first medium to bridge the communications gap between the consumer and the professional in medicine and research.

In establishing its own award—the Family Health Awards for Nutritional Advertising—the magazine has added another dimension to its unique publishing concept. For with these awards, it hopes to encourage the business community to join in communicating information which will help the American family enjoy all the health-enhancing benefits that modern foods can offer.

This year's award winners were:

Award for Excellence, Best Print Advertisement, Oils, Fats & Dressings Category: Advertiser—Standard Brands, Incorporated, Agency—Ted Bates & Company, Inc.

Award for Merit, Best Print Advertisement, Cereal & Bread Products Category: Advertiser—Kellogg Company (Special K), Agency—Leo Burnett Company, Inc.

Award for Merit, Best TV Commercial, Cereal & Bread Products Category: Advertiser—Kellogg Company, Agency—Leo Burnett Company, Inc.

Award for Excellence, Best TV Commercial, Fruits & Vegetables Category: Advertiser—National Potato Promotion Board, Agency—Botsford Ketchum Inc.

Award for Merit, Best Print Advertisement, Fruits & Vegetables Category: Advertiser—National Potato Promotion Board, Agency: Botsford Ketchum, Inc.

Award for Excellence, Best TV Commercial, Meat, Fish & Dairy Category: Advertiser—Oscar Mayer & Company, Agency: J. Walter Thompson Company.

Award for Excellence, Best Radio Commercial, Meat, Fish & Dairy Category: Advertiser—Geo. A. Hormel & Company, Agency: BBDO/Minneapolis.

Award for Excellence, Best Print Advertisement, Meat, Fish & Dairy Categotry: Advertiser—Geo. A. Hormel & Company, Agency—BBDO/Minneapolis.

Award for Merit, Best Print Advertisement, Supermarket Advertising Category: Advertiser—Nash Finch Co., Piggly Wiggly Div.

The keynote speaker at this year's luncheon was Dr. Charles Edwards, Assistant Secretary for Health, HEW. I believe Dr. Edwards' speech was of great importance to those concerned about good nutrition and good health. For that reason, I ask unanimous consent that it be printed in full in the RECORD.

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

NUTRITIONAL LABELING AND PUBLIC HEALTH

(By Charles C. Edwards, M.D.)

I am deeply honored to receive *Family Health's* Special Gold Medal Award. But I would hasten to point out that, while I have been chosen to accept this recognition, the credit for the important strides now being made in nutritional labeling of foods belongs not to a handful of individuals, but to thousands of dedicated people throughout this country.

Jim Grant, Virgil Wodicka, Ogden Johnson, and I had the opportunity to help plan and guide a program that is, I think, one of the most important in the history of the Food and Drug Administration, the food industry, and the entire field of public health.

But our efforts would have yielded nothing without the contribution of countless individuals—in government, in science and industry, and in the consumer movement—who helped shape this program and give it substance.

The Nation's debt to those individuals is beyond measure.

A process has been set in motion in this country that will give the American people the opportunity to do something that has never before been possible—to select and use foods on the basis of their nutritional value.

To those of us who can remember a time when virtually everyone took it for granted that Americans were the best fed people in the world, our new awareness of nutritional deficiencies, and of the need to take firm measures to correct them, comes as something of a shock.

Yet there is no question that we have been living in a kind of fool's paradise—equating quantity with quality, and trusting in the idea that dramatic changes in food technology were producing not just greater convenience, but better nutrition.

I don't need to tell you that this change from complacency to enlightened concern did not happen overnight. Nor does any one factor account for it.

In my judgment, many things contributed to the change toward greater public concern about food, nutrition, and health.

For one thing, the scientific community has made substantial progress toward clarifying the vital connection between nutrition and human health. On top of our traditional understanding of problems such as iron deficiency anemia and the classic illnesses associated with inadequate vitamin intake, we are today much more aware of subtile and often tragic health problems associated with poor nutrition.

Reduced height and weight, especially in young children; physical and mental impairment of newborn infants whose mothers lack proper diets during pregnancy; reduced performance in school and on the job—these and many other problems have been scientifically shown to be associated with inadequate nutrition.

Furthermore, it is now clear that the United States is by no means immune to the health hazards associated with poor diet. Surveys by the Public Health Service and the Department of Agriculture clearly document the existence of improper nutrition and the health risks associated with it.

We spend billions of dollars every year to deal with health problems that could be prevented—through better nutrition, prevention of accidents, and more effective health education all across the board. I personally believe that sound preventive health measures are likely to do more to improve the health of the American people than scores of categorical health programs aimed at solving specific disease problems.

But as I think you know, it took more than scientific insight and common sense to bring nutrition to the forefront of national attention and concern.

It took the relentless and dedicated efforts of people like Dr. Jean Mayer, who recognized not just the problems, but what would be required to solve them, and who had the courage to speak out, even if it meant stepping on important toes.

Surely, the White House Conference on Food, Nutrition and Health, under the leadership of Dr. Mayer and Jim Grant, was a milestone on the road toward facing up to our Nation's nutritional problems. But I think they would agree that it might well have been just another conference were it not for the fact that the people of this country are no longer as complacent as they once were.

Whether you call it consumerism or enlightened self-interest, the fact is that more and more Americans are insisting that they have a right to know the difference between promotional ballyhoo and legitimate nutritional claims. They are convinced, just as we in government are, that the need for sound nutrition is far too important to be left to chance, or the glib assurance of product promotion.

The steps we have taken in nutritional labeling are intended specifically to give the American people the opportunity to know that when nutritional claims are being made for a food product, those claims are valid.

In my opinion, the nutritional labeling program is a remarkably important accomplishment. And the credit belongs, as I said, to many people—not the least of whom are those people in the communications media who helped make the public aware of a problem that had long been swept under the rug.

But I don't want to overestimate the importance of what we have managed to do so far.

I will tell you flatly that this achievement will amount to nothing if we, as a Nation, fail to complete the work that has been started.

The nutrition movement—if I can call it that—has had a history of important advances that never quite had the impact they could have had on the quality of the American diet.

Thirty or forty years ago, scientific interest in human nutrition was remarkably high, and the scientific literature was full

of important new discoveries. Yet this scientific information did little to alert the general public about nutritional shortcomings. Indeed, it is now clear that at a time when knowledge in the nutrition field was increasing, the nutritional status of millions of Americans was going down.

Now we are moving into a new phase in this history. But whether it will be a period of advance, stagnation, or decline depends not on the promulgation of Federal regulations on food labeling, but on the degree to which the American people use the information available to them, and use it wisely.

If that is to happen, more than the content of food labels will have to change.

The private sector will have to recognize that its public responsibility goes far beyond providing jobs, paying taxes, and returning earnings to stockholders. If the free enterprise system is to survive in this country, industry will have to accept its full share of responsibility for protecting the health and welfare of the American people.

Nowhere is that responsibility more critical than in the processing and marketing of the Nation's food supply.

The whole level of consumer understanding of food and nutrition will have to rise, and rise substantially. Surveys have shown that the American people know dangerously little about nutrition and what constitutes a balanced diet.

Plainly, we in the Federal Government have to take on our share of the responsibility for educating the public about food and nutrition. As some of you may know, the Department of Health, Education, and Welfare, the Department of Agriculture, and the Grocery Manufacturers Association, with the full assistance and support of the Advertising Council, are about to launch a national campaign to get basic facts about food and nutrition to the American people.

The campaign theme is simple, and the message is clear:

"Food is more than something to eat."

I have seen some of the materials that are going into this campaign—especially an attractive and highly informative publication that will be offered free to the public. It amounts to a basic primer on food and nutrition, and it contains the very kind of information people need to have in order to assure themselves and their families an adequate, nutritious diet.

We hope to have this campaign under way later this Fall, and we are naturally very optimistic about it.

But no matter how effective this individual effort turns out to be, much more will have to be done by government, and by those who are directly involved in food processing, marketing, and advertising.

Some old, entrenched notions about what makes people buy one food product instead of another will simply have to go by the board. Empty calories will be increasingly hard to sell in the months and years ahead. With increasing public awareness—to say nothing of high food costs—the buying public will demand not just convenience, but quality for its food dollar.

In a field as competitive as the food industry, those companies that meet—and even anticipate—the public demand for better nutrition will certainly come out ahead. The food industry spends over a billion dollars a year for advertising and promotion, most of it, frankly, for products that contribute relatively little in the way of nourishment.

I don't have the precise figures in front of me, but I am sure that there is an inverse relationship between the nutritional value of products and the amount of money spent to advertise them. And what is more, a great deal of this advertising is aimed at children. To me, that is not just questionable behavior, it is a serious neglect of public responsibility on the part of the food and advertising industries.

What I am saying is that the products have to change, and so does the way they are presented to the American people.

Certainly the primary function of food advertising is to get people to buy the product. But the way to do that, in my judgment, will be to present the public full and accurate information on what that product has to offer in the way of nutritional content.

The concept that nutrition won't sell is disappearing. A whole new generation of young adults simply won't buy promotional puffery, or the product behind it. They too need to learn something about what constitutes good nutrition, but they don't have any patience for hollow advertising claims, and neither will their children.

I didn't intend to launch into a diatribe. Furthermore, I am sure the changes I am talking about are well known to everyone here. Family Health magazine is making a significant contribution to this process of change both in its own pages, and in its recognition of the efforts of advertisers to make nutrition information a part of food promotion.

But in closing, let me point out something that maybe most of you have not fully appreciated.

In the years to come, when a system of national health insurance is fully established in this country, Federal tax dollars will be paying an increasing share of the cost of health care. It doesn't take any sophisticated calculation to figure out that the healthier the American people are, the less it will cost to provide decent care for those in need.

In my judgment, better nutrition has to be an integral part of our national effort to meet the health needs of the American people, first and foremost by seeing to it that people know how to protect their own health by selecting and using the right foods.

To the extent that nutritional labeling will help make that possible, I would say it is an important first step. But we have to be prepared to take many more steps. And when I say "we," I mean government, industry, educators, and everyone else who has a responsibility to the American consumer.

Americans can be and ought to be what we once thought we were—the best fed people in the world.

It's going to be just a bit harder than we imagined to live up to that claim. But it can be done. Perhaps now we are on the way toward doing it.

SUPPORT FOR S. 1739

Mr. CANNON. Mr. President, on September 26 the distinguished junior Senator from Florida (Mr. CHILES) made a statement on the floor in opposition to S. 1739. His argument was that this legislation would adversely affect "the availability of scheduled service to the people of the smaller communities" in Florida and other States. Although this argument has been made repeatedly by the opponents of this bill, I was especially surprised and disappointed to hear such a statement made by my esteemed friend from Florida. I can only conclude, Mr. President, that someone has failed to give the Senator the facts.

Since Florida is one of the Nation's most popular vacation spots, it is one of the States which would benefit most from the enactment of S. 1739. The purpose of this bill, after all, is to make it possible for people of modest means to take vacation trips to places like Miami or Fort Lauderdale or St. Petersburg by means of low-cost inclusive tour charters. The people who would use this new form of charter service would not be the same people who now come to Florida on scheduled airlines. On the contrary, experience both in this country and abroad has shown again and again that the vast majority of people who travel by charter would not fly at all if charter service is not available. Mr. President, I fail to see how legislation which would bring more tourists to Florida could injure that State or its citizens in any way.

In fact, it is interesting to note that Florida is one of the few States which is already benefiting from the kind of ITC service which S. 1739 would make more broadly available to all Americans. Although there is very little ITC traffic within the United States, because of the regulatory restrictions which S. 1739 is intended to remove, there is considerable ITC traffic from Canada to the United States, because the Canadian regulations are much more liberal than U.S. regulations. Canadian airlines have been allowed to operate ITC's in the United States in accordance with Canadian rather than U.S. regulations. As a result, there is already a sizable flow of ITC traffic from Canada to Florida. In 1972, 13,592 Canadians came to Florida on inclusive tour charters, and in the first quarter of 1973 alone the number was 19,188. Does Senator CHILES believe that this influx of Canadian tourists is hurting Florida? Does he see any evidence that it is reducing the availability of scheduled service to the people of Florida? I doubt it.

The spurt in charter traffic led by ITC's has not been adverse to scheduled aviation between Canada and the United States.

Scheduled traffic in major Canadian-United States vacation markets has maintained healthy growth—while charters also have grown—and scheduled traffic dominates these markets. In 1972, there was a 30 percent increase in Montreal/Toronto-Miami and Toronto-Miami and Toronto-Tampa scheduled traffic, while charter traffic grew 41 percent, but on a much smaller numerical base. One year's growth of passengers—72,000—was more than 5 times the entire charter market growth. Thus, once again, the statistical evidence belies the argument that expanded ITC service would somehow injure the existing scheduled transportation system.

Until recently, the Canadian regulations required ITC flights to the continental United States—including flights to Florida—to include at least two stops. On the other hand, one-stop ITC's were permitted to other points, including Hawaii and the Caribbean. As a result, the amount of Canadian ITC traffic to Hawaii and the Caribbean was far greater than the ITC traffic to Florida. I wonder whether Senator CHILES feels that the interests of his State were served by the fact that many more Canadians took ITC trips to Hawaii than to Florida. I certainly hope not, because Canada has now changed its regulations, and begin-

ning this winter one-stop ITC's will be permitted to Florida and the rest of the continental United States as well. Thus, Canadian citizens will soon begin to enjoy precisely the kind of low-cost ITC service which S. 1739 would make available to U.S. citizens.

Mr. President, none of the supporters of S. 1739 want to weaken or undermine the system of scheduled airline service which now exists in this country. We fully recognize the importance of that system. But there is simply no basis for the argument that the introduction of one-stop inclusive tour charters would hurt the scheduled airline system, particularly in light of the restrictions imposed in the bill and the committee report; on the contrary, the scheduled airlines as well as the charter airlines would benefit from this legislation.

One-stop ITC's have existed for many years in Europe, without any injury to scheduled service. The Canadian Government has recognized this, and has authorized the same kind of service for Canadians. The people of the United States deserve to have what Europeans have had for years, and what Canadians are now about to receive as well. I urge my friend from Florida, and all other Senators, to study the facts, and not to be taken in by the false propaganda which is being spread by those who are trying to kill this legislation. I am sure that anyone who studies the issue fairly and dispassionately will agree with me that S. 1739 is in the public interest, and should be enacted into law.

IMMEDIATE EXCHANGE OF PRISONERS NECESSARY IN THE MIDDLE EAST

Mr. WILLIAMS. Mr. President, since last week when the United Nations Security Council, at the urging of the United States and the Soviet Union, called for a cease-fire in the Middle East, there has been a continuing serious and inexcusable violation of the Geneva Convention by Syria and Egypt.

Under the provisions of the Geneva Convention, every party to a conflict is obliged to give the International Committee of the Red Cross without any delay all information required by that committee, regarding any prisoner who has fallen into its hands. Such information is to be immediately forwarded to the International Committee of the Red Cross.

Israel has been transmitting to the representatives of the International Committee of the Red Cross in Israel, all such required data concerning prisoners of war held by them. However, no information whatsoever has been received from Syrian and negligible information regarding only a few prisoners has been received from Egypt.

It is imperative that Egypt and Syria immediately submit all required information to the International Committee of the Red Cross.

Furthermore, it is necessary for all parties to enable the representatives of the International Committee of the Red Cross to visit the prisoners at once.

Such representatives in Israel are regularly visiting the Arab prisoners of war, those in camps, and also the wounded and sick in hospital.

Mr. President, on October 22, speaking to the Security Council in support of the cease-fire resolution, United States Ambassador John Scali declared:

I want to report to the Council that both the Soviet Union and the U.S. believe that there should be an immediate exchange of prisoners of war.

The Soviet Union must honor that understanding. It must use its considerable influence over the Egyptians and Syrians to secure their compliance with the requirements of the Geneva Convention. And we in the United States must do all in our power to bring to bear the voice of American conviction in this matter.

All parties should at once exchange wounded prisoners and make the proper immediate arrangements to exchange all prisoners that they hold.

A NATURE ETHIC

Mr. PROXMIRE. Mr. President, last month Arthur Godfrey delivered a speech at Bethel College in Indiana which I believe should be read by my colleagues. Mr. Godfrey has been renowned for decades as one of America's great TV and radio personalities, but in recent years he has devoted much of his effort to advancing the cause of conservation and environmental protection.

His speech at Bethel College, entitled "A Nature Ethic," sums up his feelings about the environment, and what must be done to protect it.

He points out that man is the only species on earth whose population growth rate is greater than zero. He notes that even in the United States, where the growth rate of population has dropped to 1 percent, this rate will mean a population of close to 300 million by the year 2000. How, he asks, will we have sufficient arable acreage, sufficient hospitals and schools, sufficient energy, sufficient recreational areas—when these commodities are in short supply for our present population?

Mr. Godfrey has a unique capacity for reducing things to the bare essentials—and doing so in a way that they can be readily understood by all of us.

Mr. President, I ask unanimous consent that Mr. Godfrey's address entitled "A Nature Ethic" be printed in the RECORD.

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

A NATURE ETHIC

(Address by Arthur M. Godfrey)

Over the entrance to the National Archives building in Washington, are carved in the marble the words: "The Past is Prologue."

Often, as I stumble along down the home stretch of this "fixed" race with the Grim Reaper, I find myself wondering where I went wrong. It is now obvious, in retrospect, that I might have done some things much better. For instance, I might profitably have been a keener student of history.

I don't mean the ridiculous trivia taught in the class room in my youth. I'm thinking of the history of *Earth* as revealed by the geologists, anthropologists and astronomers.

Biologists, too, and limnologists and oceanographers. In a word, really, not history at all except where it helps us to understand ecology.

Ecology. Let's not go any farther tonight with our theme, a Nature Ethic, until we are sure we understand the meaning of that word ecology, because therein lies the key to what is, in my view, the only possible solution to our dilemma.

Ecology is not commodity. It doesn't mean air or water pollution or population growth. Like the word biology, or any other ology, it is simply the name of a science.

Ecology, however, is the most complex of all the sciences because by definition it encompasses all of them.

Ecology is the science which treats of the interlocking relationship that ipso facto exists between all organisms. Ecology is, therefore, so complex that no one, even within a life-span of a hundred years, could hope to master it.

Hence, no person, however learned, can ever really be more than an avid *student* ecologist. No one person even *begins* to know *all* the answers; in fact, the student is soon dismayed to find that the more one searches for the truth, the more one realizes how very little is actually known. The cosmos is awesomely complex; especially the biosphere in which we earthlings live.

The Biosphere? That includes the soils, the waters and the air above them in which the myriad plants, mammals, fish, birds and insects are supported in their life cycles.

If one wishes to affect a little intellectual snobbery, one refers to all this as the flora and fauna and their environment, the lithosphere, hydrosphere and atmosphere. That makes it all seem very simple, doesn't it?

The rub is that every one of these organisms is at least partially dependent upon several of the others—and *all* are inescapably at the mercy of the composition of the air, water or soil, or even all three, in which they exist.

The larger and stronger subsist on the smaller and/or weaker.

It isn't that they're emotional enemies: nobody's really mad at anybody. It's just that everybody gets hungry and the fauna that eat the flora, are in turn eaten by larger fauna who don't like spinach.

Now every organism in nature seems to be subject to two fundamental laws which though they contradict each other, will not be denied. First, the survival of species through propagation and, second, the inexorable law of zero population growth.

Mother Nature will not permit any species to multiply beyond the capacity of its environment. And she inevitably enforces this law even when the species is protected from all predators and is provided with plenty of food.

This was irrefutably proven in recent years by an experiment conducted in Florida. Two pairs of mice—two males and two females—were placed in a "perfect" environment—air conditioned, plenty of water and food supplied at all times and no predators. No unseemly noises, no disturbances of any kind: a *rodential* paradise, as it were.

Well, since mice are mammals and mammals will be mammals, those little critters lived the life of Reilly. One would have thought the creator was speaking to them in Genesis 26, 27 and 28. They really multiplied and took dominion and just like man, they ignored the admonition to replenish.

Before the end of a year, their numbers had increased from four to 2100 some odd.

Along the way the males fought greedily for territory and females, as is the nature of things, and everybody begat themselves silly. How does that old rhyme go: "The world is

so full of a number of things, I'm sure we should all be as happy as kings!"

And then, curiously, without a snake or an apple in sight, their little Garden of Eden became a horror chamber. The females refused to copulate, the males quit fighting for territory, the young males even lost interest in the young females—utter boredom and hopeless despair took over. They began to die off and by something like eighteen months from the day the experiment began, the last mouse expired.

I say again: it is quite apparent that Mother Nature will not tolerate a greater than zero population growth once the capacity of the environment is reached.

As those mice showed, and as the lemmings every so often demonstrate, even if there's plenty of food and water, eventually a species which becomes too numerous drives itself nuts! If they don't die of a bad case of ennui, they panic into a suicidal stampede.

Now, let's keep those two laws in mind and examine some other species.

How about rabbits: time was when the cotton-tail was the main dish on the daily menu of owls, hawks, eagles (Golden Eagles), coyotes, wolves, foxes, pumas and lynx and all the lesser wild cats not to mention alligators, occasionally a lucky bear, and both indigent and immigrant human beings.

Despite all of this voracious yen for his savory flesh, the rabbit has always kept everlastingly at it—wham, wham, thank you, ma'am—in the effort to keep his growth rate *up* to zero.

But what we call civilization long ago drove 99% of the so-called *natural* predators out of most of the eastern states in one way or another. Pesticides, traps, poisoned bait, bullets, yes, all those things—but mostly it was just man and his suffocating despoilment of the habitat.

He scorched and denuded, eroded and stripped, dammed and channelled, "reclaimed" and "developed" and it just naturally became a noisy, messy, unfriendly environment to which most of the carnivores could not adapt. The coyote (may his tribe increase) resourceful, intelligent, clever and courageous, alone seems able not only to adapt but to outsmart most of his human enemies. He has recently been reported on the increase in some eastern states, which is good news, indeed.

He will find plenty of mice, rats, squirrels and rabbits—all his favorite food.

But with all of the greater carnivores gone from the eastern U.S., why are we not overrun with rabbits? Why is their growth rate still zero?

Lack of food? No, indeed. Human hunters? Heck, no. There are millions of so-called "sportsmen" out there every open season, but they don't take 1% of the rabbit population because most of them are lousy shots.

What, then? That zero population *growth* law—nothing else. Mother Nature is beautiful but ruthless—when the rabbits get too numerous, she cuts them back, with tularemia, rabies, infertility what not.

How do I know? Well, up until about a decade ago I sincerely believed, for example, that when I shot into a covey of quail (of which there were four on our 2600 acres in Virginia) I was actually doing the species a big favor. All my so-called "Sportsmen" friends, and all the sports and hunting magazines, advised this for years on the theory that we thus "break up" and scatter a covey and prevent in-breeding, which is detrimental and eventually brings on an irrevocable decline in the population. What an ill-founded old wives tale that turned out to be.

I used to go out shooting wood chucks every week-end. Not to eat, like the delicious quail, but just to keep the population down because I was convinced that otherwise they would soon so pepper the fields with their dens that it would be unsafe to ride the horses—or even just pasture them and the cattle. They would be sure to step in a groundhog hole and break a leg. For these reasons I used to shoot over a hundred or so every year and invite my hunting friends to participate in the "sport."

Once or twice I went coon hunting with a neighbor who had some well-trained dogs for the purpose. Why shoot raccoons? Well, it was "beautiful" to hear the "music" of the hounds when they had one treed—and, besides, they reputedly raided quail nests and were bad for game birds.

Believe me, that coon hunting is really some "sport". The procedure is to drive out into the woods with some friends and a jug, turn the hounds loose and "jist set thar" sipping white lightning and wait for the baying of the hounds. When Ol' Bess sounds her bugle it means she has one safely up a tree. Now the "sportsmen" drive as close to the spot as possible, so as not to have to walk too much, up to the base of the tree around which the dogs are circling—two, three or four of them—each twice the size of the coon—daring him to come down and be torn apart. If anyone in the party wants the pelt, the owner will call off his dogs and leash them,—whilst shining a powerful flashlight into the racoon's eyes.

Everyone will be trembling with excitement (aged coon hunters have been known to drop dead of heart failure under these dangerous conditions!) and he who wants the pelt will aim his .220 or .30-30 just under those blinded, shining eyes and knock him down. If the coon is lucky, the shot will be fatal. If not he crawls off into the brush and the dogs are turned loose to find him and finish him off. Often the coon will tear a few chunks out of one or more of the hounds before giving up the ghost, thus serving to intensify the hatred of the hunters, who then vow to come out again and get a couple more as soon as the dogs heal up.

I think about the second time I did that I sickened at the very thought and cut it out.

Shortly afterward, I was "still-hunting" for deer one lovely fall evening, sitting motionless on an old chestnut stump. I could hear some quail talking to each other not far off, so I began to call them by imitating a lost female seeking contact with her covey. By golly, I fooled 'em even with as poor an impression as I just rendered. Soon I heard them rustling through the leaves close by, so I quit calling, to watch. Some of them jumped up on the top rail of an old fence nearby, where a squirrel was munching an acorn. Their presence annoyed him, apparently, because he took a swipe at the closest bird and made him move down the log a little ways.

It was now almost dark and it was difficult for me to see the birds clearly against the brown background under those trees. But sharper eyes than mine were watching those quail, too, somewhere behind me. Suddenly, like a flash of lightning, a big red-tailed hawk swooped past my left shoulder and the birds and the squirrel vanished—but one was too late. Before it could move, the hawk had him in his right talons and was off to a lofty perch to enjoy his dinner.

I had seen the food-chain at work in the bush in Africa, but that was the first time I had ever been treated to the sight of a raptor performing so close at hand. Those quail were less than ten feet away when the hawk struck.

It so happened that the following winter was unusually severe for that part of the country. Over 70 inches of snow fell between Thanksgiving and spring and we had to use the horses to get hay and grain to stranded live-stock. Often, looking down from the saddle, I'd follow a fox track and find telltale feathers and bloodstains on the snow under the poor cover afforded by the widely-spaced branches of the bushes three and four feet off the ground on top of the snow. Many rabbit tracks also ended in bright red-stained fatal rendezvous in the snow—sometimes with no tracks of a pursuer except the marks of beating wings as the raptor fought for altitude and air-speed with his heavy cargo.

Now and then I'd spot a frozen feathered carcass. After that, I'd carry a sack of shelled corn across my horse's withers and throw handfuls into likely cover.

Gradually it became clear to me that the wild creatures had enemies enough without me and my shotguns and rifles. I reasoned empirically, of course, that nature provided plenty of natural controls for population growth in the smaller species. So I quit shooting for a couple of years to see what would happen.

Yes, you've probably guessed it: there are still only four coveys of quail on my place—big, strong, healthy, happy birds—and I haven't shot into them nor permitted anyone else to, for nearly a decade. The in-breeding myth is just that: an anthropocentric fable.

My present herds of bison, elk and European red deer are all big, sturdy descendants of a handful of ancestors in each species. Since I have no wolves, or bears, or pumas, or coyotes, I have to be the controlling predator.

But I haven't shot a woodchuck for years and there are no more holes around today in each field than there were when I used to kill them by the score. The same goes for squirrels and rabbits and raccoons. Nature's law is infallible—population growth rate is zero—period!—except where the *natural* predators have been wiped out. For instance we have ten times more deer now than when only Indians lived here. Why? The deep forests are gone, and there is now plenty of browse, and the only predator is man and he is mostly a lousy shot. Most of them are smaller deer now than formerly because ignorant, arrogant man took all the big ones for trophies. Natural predators take only the weak and the sick and the helpless young, leaving the sturdy to survive for reproduction. We follow that same logic in our beef herds and horses. I also do the same with the game animals and birds.

So I do shoot deer now and then when the browse gets thin and there are obviously too many deer. How does one know when there are too many deer? One stumbles over the carcasses of those who didn't make it through the winter because of starvation. If the deer are beginning to look gaunt and dull-colored, there is obviously something wrong and Mother Nature, in her ruthless wisdom, is cutting back. Her philosophy is that only the fittest shall survive.

I also shoot starlings and sparrows and pheasants without hesitation. They were all imported here from abroad by well-intentioned, badly-mistaken bird-lovers. These shanghaied interlopers have spread like disease throughout the continental United States and are giving native birds a hard time.

On my farm I have observed Mother Nature's well planned territorial distribution at first hand. For instance, there is but one pair of red-tailed hawks living in my woods. They raise one or two young every year and they all disappear somewhere for awhile and then only the parents return. No room for the others, mebbe?

There are two, possibly three fox dens, that's all. The vixen feeds the cubs, teaches them to hunt and they're gone. I can't be sure, of course, but I think the parents stick around for more than one season. They should know by now that they're not going to be hurt on my place. But I shouldn't say that. Now *I'm* being anthropocentric.

These observations and hundreds of others, coupled with the firm resolve to *try* to eschew

anthropocentricism like the plague gave rise to my personal philosophy once stated so beautifully by the late Aldo Leopold: "man is just a fellow creature in the odyssey of evolution."

All organisms are inextricably bound together in an indissoluble relationship that can be ignored only at great peril; not only to the human race, but to many of the other mammals and birds and fishes, as well. Such is the enormity of the impact of modern man upon the biosphere, that when he goes he'll surely take with him whatever species have not already become extinct.

The insects will probably be the sole survivors with mebbe some algae, fungi and plankton with which the whole ball of wax started several billions of years ago.

Mark you: I am of the firm belief that this catastrophic climax *can* be avoided *if* the nature ethic I will describe can be universally adopted in time. I am also convinced there is no alternative.

Now, I have brought with me a few copies of an anthology I edited back in 1969 which will give to anyone interested some of the sources of the documentation I have obtained for my ideas. Please believe me, I'm not just plugging *my* book. I want you to buy it because I have directed that royalties be paid to the Environmental Policy Center in Washington which, to the shame of all of us, is desperately in need of financial support. The young people who comprise the EPC are probably the most highly respected and, hence, the most effective conservation lobbyists in Washington.

I hope you'll glance through my book if only to use the bibliography. Actually, that's what it is: a collection of excerpts from well-documented works of competent, highly-regarded men of science who know what they're writing about. I hope that your appetites will thus be whetted to buy some of those books. A properly informed electorate will be able to act in time, I believe.

We have learned a few things already. For instance, we've known for years now that unburned hydro-carbons combined with nitric oxides, lots of sunlight and mountain-locked air inversions cause photoelectric smog, as in Los Angeles, Phoenix, Honolulu (for goodness' sake!) and many other places.

What have we done about it? Well, for openers, we've loaded up the decadent, long obsolescent internal combustion engine with pollution controls which have at least doubled the fuel consumption. We're really worse off now than heretofore, what with the fuel shortages and all. And I read an ad only yesterday in which one of the oil companies complained that we're faced with energy shortages because environmentalists won't let them build their damned pipelines and dig more wells off-shore. It appears that they're not looking for more sources of natural gas (which is practically pollutant free when burned) because the government won't let them raise prices on it and make it more profitable for them. Tsk! Tsk! Shame on us nasty old defenders of the ecosphere!

They also say we'll have to depend upon oil imports which may be curtailed and high-sulphur coal, the latter because environmentalists are trying to stop strip mining.

Now it so happens that I am privileged to serve these days as Honorary Chairman of The Coalition Against Strip-Mining.

The lovely lady who does all the hard work for the group is Louise Dunlap of the EPC. She is probably the best informed and most highly-respected antagonist of strip-mining in Washington. She has made great progress in both Houses of the Congress in keeping the various committees concerned properly informed.

Nobody likes statistics but here are just a few you must mark. Strip-mining, no matter what anyone says, destroys good land. It could be restored and there's a lot of talk about how well they're doing it. But if you'll come with me in my little Beechcraft Baron, I'll fly you over some country and you tell *me* where you see any evidence of restoration. Ask the poor souls who live in the areas that are being stripped! But don't ask those who are in the employ of the mining interests: they're making money and they'll tell you it's great. They couldn't care less what happens to the land.

The horrible thing is that it is absolutely unnecessary to strip-mine low sulphur coal. It is preferable to the miners because its easier and cheaper to dig, but there is 30 times more low sulphur coal available in deep mines in this country, than in surface coal veins.

The ratio of all deep mine coal to strippable coal in the U.S. is 34 to 1.

In Appalachia, where most of the irreparable damage has already been done, the ratio of deep-mine low sulphur coal to strippable low sulphur coal is 43 to 1!

And the ratio of all deep mine coal to strippable coal in Appalachia is 49 to 1!

Of the total coal resources, some 50%, or 1.5 trillion tons of bituminous, subtuminous and lignite coal, are considered recoverable reserves—that is, minable under current economic conditions and with either present technology or technology that may be available in the future.

Furthermore, in certain regions of the country, strippable coal will soon become marginal and in some areas exhausted within the next decade. Thus, eventually they'll have to go deep for the coal, anyway, *after* they have ruined the land.

Here's another example of our stupid policies. The Corps of Engineers has succeeded in ruining every one of the 17 great rivers of the U.S. with hydro-electric dams, thus almost wiping out our anadromous fish population. Guess how much of the total electrical energy used in America these dams provide: a paltry 4%!

Still, we've learned a few things and we have made some small progress, but we have much to do—and time is running out.

For instance, certain groups brag these days that we have no population problem in America because our PGR is only 1%. Fiddle-dee-dee! They forget that U.S. population today is about 210 million—and one percent of 200 million is two million!! That's 40,000 every single week—52 weeks per year! That's a South Bend every two months!

There are about 105 million cars and trucks on the roads today in America—one for every two persons. About 150,000 here in South Bend. At the end of this century there'll be, at the present rate, 150 million cars in America, probably 225,000 in South Bend.

We haven't mentioned schools, yet, or hospitals, or even homes. How many people can we say, on the average, to the American home these days? Three? Four? Let's be conservative and say four. Okay, that's 10,000 homes a week we've got to build. We'll build 'em too, of course—out of fiber glass, garbage, chopped tin cans—anything but wood. We can't use wood; we have to ship it to Japan! Yes! along with the low-sulphur coal we're strip-mining. Oh, we've really got the smarts.

It's funny, y'know, in a way. When I first started barking about population explosions, urban sprawl, smog, sewage and garbage disposal several years ago, many listeners actually became so incensed, that they wrote vicious letters urging the networks to throw me off the air. "How dare you speak of birth control! Conception is an act of God!" Pipe down about pollution of the rivers. If your filthy mind wasn't always in the sewer, you'd never notice it. What do you propose: a return to the backyard privy? Stick to your ukulele and your tea-bags!"

They kept at it, too, until about a year and a half ago, when suddenly "conservation" became the "in" thing. As I said earlier, until about 7 years ago, I had no documentation to bolster my conclusions. My pitifully small knowledge was strictly empirical. I could only describe what I saw or heard or more often *smelled*. And when it came to animal species other than man, I'm afraid I was as phony an animal lover as any dour dowager with a wheezy pet pekinese on an alligator hide leash.

The turning point for me came about 1965 or 1966 when the late Mike Zeamer brought a book to my attention. It was called "Moment in the Sun" by Robert and Leona Rienow. That led me to Paul Ehrlich's "Population Bomb," to Wesley Marx' "Frail Ocean" to Barry Commoner's "Science and Survival" and on to Aldo Leopold's "Sand County Almanac." And more recently "The Invisible Pyramid" by Loren Eisely.

I soon got to know many of the authors personally, had them as frequent guests on my daily CBS radio network show. I came to know and work with Rene Dubos, Lamont Cole, Roland Clement, Bill and Lucille Stickel, Ken Norris and many others among what I call the scientific elite.

I try to read everything these scientists write—talk with them, correspond with them, ask questions. From them at first-hand, I have learned something of elementary ecology, such that I now feel at least partially qualified to express by findings in lay language.

I am now more than ever completely convinced that we must divest ourselves of all of the old fallacies, prejudices, and anthropomorphicism with which we are slowly but surely hanging ourselves! We must do it quickly, too, if there is to be any semblance of a decent future for our descendants. This is no longer debatable! As Paul Ehrlich states on the back cover of his new book "How To Be A Survivor" it is up to those with the intellect, guts and resources, to recognize what is needed and carry the rest of the world."

We must beware, may I add, of wearying of the true story because of too much rhetoric. We must beware of political and commercial exploitation. And we must beware of those who would have us hide our heads in the siren sands of fanatical religious dogmas.

We must realize that no living organism, plant or animal, ever had any appreciable deleterious effect on the biosphere until this critter we call man came along.

It has now been pretty well established that he came down out of those trees and picked up a club about 3 thousand millennia ago—give or take a couple of hundred thousand years—dragging his mate by the hair off to a cave in a steep hillside. There he was safe from attack from above and he could roll rocks down on would-be marauders from below.

Abhorrent as the very thought of such a thing is to the frightened racists among us, anthropologists now generally agree that this initially innocuous little experiment in nature had its beginnings in the middle of the African Continent, and those first forebears of ours were encased in pretty dark skin! That means that three or four hundred thousand generations ago, our ancestors were all "black as the ace of spades!"

Many other such experiments didn't make it, especially those as poorly physically equipped as primitive man, and for uncounted thousands of centuries this poor wretch, our ancestor, was just another link in the food chain. He ate and recycled and *was eaten* and recycled, as is every other living organism. However, because he had neither fangs nor claws nor great speed nor strength, man was obliged to develop his brain. He had to learn to outwit his enemies and he had to devise ingenious methods of providing his food and shelter and the primitive weapons with which to take game and protect himself. He was a hunter and a gatherer and found life very tough going. For

3 million years or so he just barely held his own. The human population growth rate was zero, the same as all other species. Only the ablest and cleverest survived.

I believe modern man is so often capable of being the most despicable of all species simply because we inherit many foul instincts from our primitive forebears who were continually forced to resort to the cruelest cunning in order to exist.

About 8000 years before Christ, man began to cultivate a little grain and domesticate a few cattle. With the dawn of agriculture, life became progressively easier. By the advent of Christianity, he numbered probably 10 million which figure by 1650 A.D. had reached 500 million. Then in only 200 years, it was doubled so that by 1850, the human population of the world had risen to one billion, where, it is now obvious, it should have stopped!

However, through technology, more people reached the age of fertility and stayed there longer. Man propagated and scattered to the far corners of the earth constantly adapting to new environments, constantly improving his technology. He is unquestionably the most readily adaptable of all species. He can and will put up with anything. To find fresh land, man abandoned that which he had ruined and moved on. He did this also to avoid his *worst* enemies—other men. Here again he is unique: Man is the only species which deliberately murders its fellows!

In all other species, he who defends his own territory always wins!—with rare exceptions, of course, to prove the rule.

Man gradually lengthened and facilitated his life, increased in numbers, incessantly making ever more horrible war against his fellows with one hand whilst inordinately befouling the entire biosphere with the other. And all this "For the love of Allah," "For God and Country" or some other fanatical fatuity.

In only 100 years, by 1930, the population had doubled again to 2 billion, and it required only 30 years to bring it to 3 billion in 1960. Here we are in 1973 at about 3.9 billion, going for four at the rate of 70 million a year. That's not the number of babies born. That's the total of new births minus deaths!

The *birth* rate is about the same as it always has been despite the pill, vasectomies and more sensible abortion laws. It's the *death* rate that has been drastically reduced, through our advancing technology, despite the wars, traffic deaths, muggings and murders. Live individuals, of course, are ecstatic about that.

Unfortunately, this results in the human population of the world doubling now every 30–35 years. In America it doubles about every 70 years because both the birth and the death rates are down. Let me re-emphasize: Man is the only species on earth whose birth rate is greater than zero! Net world increase: two-hundred and ten million every three years! That's about the present population of the United States. Therefore, if the predicted cataclysms fail to materialize the world population by 2000 AD will be 7.2 billion. By 2030, 14.4 billion. By 2060, 28.8 billion. By 2090, 57.6 billion and so on. Which is ridiculous, of course. Those figures will never be reached. There are already over 2 billion people in the world who go to bed hungry every night!

Here in the United States, despite our low growth rate of 1%, the population will be close to three hundred million by 2000.

We haven't sufficient arable acreage in America to raise enough food for three hundred million people! Notwithstanding which we continue to destroy a million point 4 acres a year in highways, airports, urban sprawl, reserviors, recreation areas, supermarkets and what not.

Nearly 1½ million acres per year of the best land, too. Yet despite these documented government figures, there are still those in high places who will tell you that we have no population problem in America: "It exists only in the underdeveloped countries." That, as Paul Ehrlich says, is like saying: "Your end of the boat is sinking."

We don't have half enough schools or hospitals or housing for our present 200 million! Three hundred million will mean, even if we provide half again as much of everything, that will still be woefully short of everything. Yet we continue to welcome thousands of immigrants every year and export millions of tons of low sulphur coal and millions of board feet of lumber!

As I have tried to point out, we are some kind of smart!!

And the ghettos—with their poverty and misery and unspeakable living conditions—rats and mice and cockroaches and other vermin. Filth and garbage. Horrible overcrowding. What kind of monsters are we that we allow such things to exist while we waste billions! Gathering moon rocks, and like that? And aren't you glad that we're now sure that our moon is actually 3.6 billion years old? I don't know how we managed to get along all this time without that vital statistic.

So what to do? We want everybody to be happy and healthy and live a nice long life. But we can't keep on multiplying like this—something's got to give. Our little planet, which is ¾ ocean, isn't big enough. And remember one-third of the land area is desert—either sand or ice. We're able to sustain human life on only ⅔ of ¼ of Earth's surface.

Yet, birth control, some say, is immoral. Traditions, mores, religious scruples: wherein lies the solution? Listen: in conclusion, here's a hopeful sign: "Christianity linked to Pollution:" squeaked a headline in the May Day issue of the New York Times three years ago. I say "squeaked" because the article appeared back on page 12, where apparently most people missed it.

Think of it: twenty Protestant theologians convened in Claremont, California in a three-day symposium to "consider the religious dimensions of the ecological issue." Their verdict was beautiful: "Theology, like Western philosophy has gone too far in making man the center of attention." That's the arrogant, anthropomorphism I mentioned earlier.

Y'know, that was more than a courageous, laudable self-indictment: It was a vivid example of the kind of spiritual leadership for which I, for one, have long been pleading.

I have often ventured the thought in bygone years that most of the insufferable, egocentric arrogance of the western world can be traced to misinterpretation of the Judeo-Christian First Book of Moses, also referred to earlier. If only we could as easily abandon some of the rest of the apocrypha of the scriptures, as we did the line ". . . . . and replenish it," it is conceivable that we could eventually develop a breed of Christians worthy of the name!

This is what we must do if we are to stop this insane, wanton destruction of our beautiful planet in time. We have, throughout the centuries, become so completely and blindly preoccupied with our own "special status" that we have lost all logical perspective and we are now perilously close to irreversible environmental degeneration. Ironically, the affluent leaders are guilty of the greatest plunder and are responsible for the most effluent. "Taking dominion over," which should have been interpreted as "assuming careful stewardship," became, instead, reckless abuse and even willful destruction of our environment.

But now, at long last, some of our clerical leaders are taking themselves to task and urging immediate reappraisal of spiritual values. One of the professors at Claremont, Dr. John B. Cobb, Jr., "regarded," said the Times "as a major American theologian," wrote in the principal paper of the conference: "As Christians we need to develop a new asceticism, based not on economics but on ecology." What makes one cross his fingers, though, is the ". . . new kind of asceticism" part. Doesn't that imply the existence of an older kind? Does the Professor actually believe there are bona fide ascetics in this country? (Outside, of course, of a handful here and there of devout members of some very strict religious orders.)

Let's face it: one average American today consumes in his lifetime perhaps a thousand times as much of our planet's natural resources as does an Indonesian, for instance, or an Eskimo, or one of the peaceful forest people of the Madyha Pradesh in India or a proud Masai tribesman of the Serengeti Plain, or any native of any so-called "underdeveloped" country, for that matter. Ascetics in America? We can't even get half a dozen professed Christians to observe any one of the ten commandments let alone adopt any voluntary austerity program! Even among the new craftily-exploited youth cultists who call themselves "Jesus freaks." (The great redeeming feature of this fad, of course, is the possibility that it may steer the kids away from dope.)

Modern Western affluent man no longer contributes anything to the environment except pollution. He pours fossil fuel poisons into the ecosphere (the air, the water and the land), he re-cycles nothing he consumes as food and in addition, incredibly demands, upon his demise an impervious bronze casket in which to eternally house his puny remains so that even *then* he will contribute nothing to the land that nurtured him!

Oh, if only Dr. Cobb's suggestions would be heard: ". . . based on ecology . . ."! Think of it this way: shorn of all the apocryphal, medieval monotheistic legends, Christ emerges as the first and greatest ecologist the world has ever known. A true Christian, therefore, is intrinsically an ecologist and vice versa.

To practice ecology is to love and have consideration for one's fellow creatures, as Christ did. We are all kindred living organisms sharing an interdependence on each other and a common environment. Did he not say: "What you do unto the *least* of these, you do unto me?"

Make no mistake: at the rate we are now destroying ourselves, the "new asceticism" will inescapably be *forced* upon all mankind *long* before the turn of the century. Such regimentation as we've never dreamed of!

If there is to be any quality of life for our children: indeed, if there is to be any life for them at all, we must waste no more time in further "rhetoric of concern."

So, I say, lead on, good reverend sirs: a tragically lonely, confused laity is begging to follow. What better place than the pulpit from which to promulgate the doctrines of ecology? Then the hearth, then the classroom and thence, the political rostrum.

We all have a lot to learn—very quickly. Those of us who know a little must not lose patience with and alienate those who don't know anything. We must help them to understand. We must keep our lines of communication open between the generations, between the races, between the professions and callings, between the lettered and illiterate, between the nations. Since the problems are planet-wide, we must shoot for some kind of world agreement—quickly! Ecology may yet prove to be the final deterrent to global war, even while we develop today the badly needed B–1 bomber for SAC.

If ever people needed to work together, it is now! Black, white, yellow, red—rich and poor. Remember, we are all members of the

same species—homosapiens—supposedly intelligent descendants of that beetle-browed poor wretch who started the whole mess by standing up on his feet.

The technology of which we now so proudly boast, cannot manufacture one square millimeter of soil, one drop of water or one breath of air. But the same brains which constitute the vast organization that puts men on the moon, for example, could give the same priorities and support, clean up the pollution in a decade! And for almost the same money! Those 30 billion, plus 30 odd additional billions we squandered so tragically in Southeast Asia, would have done the trick by now.

We've got to find ways to reduce that 165 million tons of pollutants in the air and to recycle that 360 million tons per year of garbage! Nobody need ever again be unemployed with all the mess we've got to clean up! We should rid the army engineers of their beaver complex and put their great organization to work building sewage treatment facilities instead of dams.

Let the aeronautical designers put their brains to work on non-polluting ground transportation facilities. Detroit the greatest collection of engineering brains in the world, ought to be able to come up with an automobile power plant that runs clean! And doesn't use up so much irrecoverable fossil fuel. Please note, however, none of what I have said indicts anything but *irresponsible* technology.

The technology of private industry must in future include protection of the environment. Air and water must be returned to the biosphere clean and unpolluted. All materials must be recycled. This will cost billions of dollars and you and I will pay the bill! And it will require all of the scientific research we can muster and unstintingly support.

No technological advances—even those completely devoid of biospheric pollution—will buy us anything, however, but a little time, if we fail to reduce *by at least half* the human population of the world and *keep* the *growth* rate at zero. Since some 2 billion people are hungry all the time today, if not actually starving, we must already be overpopulated by that many.

We must learn to do as all other species do: refrain from multiplying beyond the ecological limits of our environment!

Instead of striving to take dominion over the fish of the sea and the fowl of the air and every creeping thing that creepeth, let us accept and assume our rightful place among "our fellow creatures in the Odyssey of Evolution."

You must believe me when I assure you that with this humbling understanding there comes finally to a troubled, bewildered heart a beautiful peaceful serenity of spiritual fulfillment akin to Buddhist nirvana, that gives real meaning to everyone's life. Which is why I beg you to read and thoroughly digest the books I have mentioned.

I would like to close today by reading a short piece taken from the "Stevens Point (Wisconsin) Daily Journal" dated December 14, 1967, and sent to me by one of my listeners in Portland, Oregon in February of 1968. It was written by Kenneth Ross for the Idaho Wildlife Review.

In the end,
There was Earth, and it was with form and beauty.
And man dwelt upon the lands of Earth, the meadows and trees, and he said
"Let us build our dwellings in this place of beauty."
And he built cities and covered Earth with concrete and steel.
And the meadows were gone.
And man said, "it is good."
On the second day, man looked upon the waters of Earth.
And man said, "Let us put our wastes in the waters
That the dirt will be washed away."
And man did.
And the waters became polluted and foul in their smell.
And man said, "it is good."
On the third day, man looked upon the forests of Earth
And saw they were beautiful. And man said, "Let us cut the timber
For our homes and grind the wood for our use."
And man did.
And the lands became barren and the trees were gone.
And man said, "it is good."
On the fourth day man saw that animals were in abundance and ran in the fields and played in the sun. And man said, "Let us rage these animals for our amusement and kill them for our sport."
And man did. And there were no more animals on the face of Earth.
And man said, "it is good."
On the fifth day man breathed the air of Earth. And man said,
"Let us dispose of our wastes into the air for the winds shall blow them away."
And man did. And the air became filled with the smoke and the fumes could *not* be blown away.
And the air became heavy with dust, and choked and burned.
And man said, "it is good."
On the sixth day man saw himself; and seeing the many languages and tongues, he feared and hated.
And man said,
"Let us build great machines and destroy these lest they destroy us."
And man built great machines and the Earth was fired with the rage of great wars.
And man said, "it is good."
On the seventh day man rested from his labors and Earth was still.
For man no longer dwelt upon Earth.
And it was good.

ORR KELLY LEAVES PENTAGON

Mr. PROXMIRE. Mr. President, Orr Kelly, the key military reporter for the Washington Star-News, is leaving his post at the Pentagon for the Justice Department.

In the 6 years he has covered the Pentagon, Washington has been left with a rich legacy of reporting and analysis from a man who was close to the military planners. His columns have often been clear and reasoned. They bore the marks of accurate information coupled with sound analysis.

Covering the Pentagon must be a difficult job. Being able to distinguish between planted stories and issues leaked for parochial purposes demands a balanced perspective. Orr Kelly's opinions have always been respected.

In his final military column, Orr Kelly speaks out on several issues based on his experience with the military establishment.

Though his conclusions would not be mine throughout, I share his belief that the nation is fortunate that there are so many highly qualified military and civilian personnel devoted to service for the national defense. Orr Kelly's name is among those.

Mr. President, I ask unanimous consent that Orr Kelly's article titled "Last Pentagon Report" be printed in the RECORD.

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

[From the Washington Star-News, Oct. 23, 1973]

LAST PENTAGON REPORT

(By Orr Kelly)

This is the last column on military affairs that will appear here under this byline.

After more than six years covering the Pentagon, through much of our nation's longest war and through crises and scandals almost too numerous to recall, this reporter is moving across the Potomac to cover the Justice Department.

In the life of a bureaucracy like that of the Pentagon, six years is a long time—substantially longer than most key officials of the department spend in their jobs there. It is a time that affords some perspective on American military policy and the military establishment.

Here are some brief observations based on that perspective:

First, as the current confrontation in the Middle East has reminded us, the major concern of American foreign and military policy is, and will remain, the Soviet Union. Despite all the talk of détente and of the turn from confrontation to negotiation, relationships between the United States and the Soviet Union are supremely important and dangerously uncertain.

This does not mean that war between the two countries is probable. War has been avoided in the difficult years since the end of World War II on a number of occasions, and there is real hope that war can continue to be avoided. But with two countries armed as no nations ever have been armed before in history, the awfulness of war, if it should come, makes the avoidance of war between the United States and the Soviet Union the single most important objective of American policy.

Since the avoidance of war—deterrence, in the word of our nuclear strategists—depends on a balance of terror, there is very little realistic hope that the U.S. defense budget can be reduced in the foreseeable future. If the relations between the United States and the Russians continue about as they are now, with slow progress toward more comprehensive strategic arms limitations, we probably will be fortunate to keep the arms budget at about its current level in constant dollars. But there is little slack in the budget for emergencies, like the current resupply of Israel, and even brief crises can eat up millions, even billions, of dollars.

There is a broad range of opportunities for improvements in the American military structure. The changes, requiring a certain boldness and a willingness to challenge hoary assumptions, might save some money, but mostly they would provide more effective defense for about the same money.

The irrational deployment of American troops in Europe, for example, has long cried for change. The Titan missile force, already bargained away in exchange for the right to build more submarines, still is kept on alert at an annual cost of $30 million, as another example.

Spending on defense is declining as a percentage of the gross national product, as a share of the federal budget and, most dramatically, as a percentage of all public spending, both federal and local. There simply is no way that the defense budget can be squeezed to provide the large sums of money that other government programs, already on the books, will require in coming years.

There will, of course, continue to be extremely heavy pressure on the defense budget. It is very difficult to explain, for example, why the government is spending less this year to house a rapidly expanding prison population than it spends for a single fighter

plane. This pressure will require great discretion to determine what is really needed and what can be cut without danger to national security.

Despite its size, the Defense Department probably is the best-managed agency in the government. This is true, also, in spite of all the talk about cost overruns and inefficiency.

The fact that most Americans, most congressmen and many Pentagon officials do not believe the department is well-managed is a problem in itself. There is a pervasive—but false—belief that all of the Pentagon's problems would be solved if it were simply managed better.

This is simply not true. The management of the department has been improving gradually over the years and it almost certainly will continue to improve. But there is no reason for hope that there will be some miraculous breakthrough to an era of mistake-proof, error-free management. The best we can hope for is continued gradual, undramatic improvement—and demands for a miracle will simply make that kind of improvement more difficult and unimpressive when it does come.

Finally, it should be said that, despite the recent scandals that have tarnished the image of the military establishment, the nation is indeed fortunate that the quality of those, both military and civilian, who devote their skills to national defense is, on the whole, so very high.

ISRAEL—ZIONISM AND THE U.N.

Mr. HUMPHREY. Mr. President, on October 21 many Americans watching the televised proceedings of the United Nations debate on the Middle East after the cease-fire were disappointed at the atmosphere of suspicion and hate which permeated so much of the discussion. This kind of atmosphere is not a healthy one in a forum dedicated to world peace and its attainment. The spectacle of a stream of representatives vindictively engaged in a concerted effort to isolate the government of Israel, which was itself the victim of an attack by its neighbors on October 6, was not a pleasant one for many Americans.

Much of the talking was a series of acrimonious attacks on Zionism. In response, Israel's permanent representative to the United Nations, Ambassador Yosef Tekoah, responded with an eloquent defense of Zionism, describing it as a historical and valid liberation movement of the Jewish people.

I ask unanimous consent that the text of those remarks be printed in the RECORD.

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

ZIONISM—LIBERATION MOVEMENT OF THE JEWISH PEOPLE

(By Yosef Tekoah)

It was not my intention to speak at this stage of the meeting; the statement delivered by the representative of Saudi Arabia compels me, however, to do so.

Only the other day I was interrupted five times in this very chamber in the course of expressing grief over the death of innocent civilian victims of the war, whether they be Egyptian, Syrian, Israeli, or nationals of other states. Yet today we listened to a statement by the representative of Saudi Arabia into which he succeeded in packing the maximum of nonsense and the maximum of verbiage and venom. He did not stop at distorting fact and history. He insulted heads of states, including permanent members of the Security Council. He slandered nations. He abused civilizations and religions. He extolled Hitler and anti-Semitism. Yet no one except me tried to call him to order. His falsifications and calumnies do not deserve any response.

I should, however, like to refer to one point in his speech: his attack against Zionism—because he is not the only one who resorts to these perfidious views and expressions.

Zionism is the love of Zion. Zionism is the Jewish people's liberation movement, the quest for freedom, for equality with other nations. Yet in an organization in which liberation movements are hailed and supported, the Jewish people's struggle to restore its independence and sovereignty is maligned and slandered in an endless spate of malice and venom.

In his drive to annihilate the Jewish people, Hitler began by distorting the image of the Jew, by rewriting Jewish history, by fabricating some of the most odious historic and racial theories. The Arab Governments, in their campaign to complete Hitler's crimes against the Jewish people and destroy the Jewish State, have adopted the same method of falsifying Jewish history, and in particular the meaning of the Zionist movement and the significance of its ideals.

What is Zionism?

When the Jews, exiled from their land in the seventh century before the Christian era, sat by the rivers of Babylon and wept, but also prayed and sought ways to go home, that was already Zionism.

When in a mass revolt against their exile they returned and rebuilt the Temple and reestablished their State, that was Zionism.

When they were the last people in the entire Mediterranean basin to resist the forces of the Roman Empire and to struggle for independency, that was Zionism.

When for centuries after the Roman conquest they refused to surrender and rebelled again and again against the invaders, that was Zionism.

When, uprooted from their land by the conquerors and dispersed by them all over the world, they continued to dream and to strive to return to Israel, that was Zionism.

When, during the long succession of foreign invaders, they tried repeatedly to regain sovereignty at least in part of their homeland, that was Zionism.

When they volunteered from Palestine and from all over the world to establish Jewish armies that fought on the side of the Allies in the First World War and helped to end Ottoman subjugation, that was Zionism.

When they formed the Jewish Brigade in the Second World War to fight Hitler, while Arab leaders supported him, that was Zionism.

When Jews went to gas chambers with the name of Jerusalem on their lips, that was Zionism.

When, in the forests of Russia and the Ukraine and other parts of East Europe, Jewish partisans battled the Germans and sang of the land where palms are growing, that was Zionism.

When Jews fought British colonialism while the Arabs of Palestine and the neighboring Arab States were being helped by it, that was Zionism.

Zionism is one of the world's oldest anti-imperialist movements. It aims at securing for the Jewish people the rights possessed by other nations. It harbours malice towards none. It seeks co-operation and understanding with the Arab peoples and with their national movements.

Zionism is as sacred to the Jewish people as the national liberation movements are to the nations of Africa and Asia. Even if the Arab States are locked today in conflict with the Jewish national liberation movement, they must not stoop in their attitude towards it to the fanaticism and barbarism of the Nazis. If there is to be hope for peace in the Middle East, there must be between Israel and the Arab States mutual respect for each other's sacred national values—not distortion and abuse.

Zionism was not born in the Jewish ghettoes of Europe, but on the battlefield against imperialism in ancient Israel. It is not an out-moded nationalistic revival but an unparalleled epic of centuries of resistance to force and bondage. Those who attack it attack the fundamental principles and provisions of the United Nations Charter.

DELAWARE'S VETERANS UPWARD BOUND PROGRAM

Mr. BIDEN. Mr. President, an article in the August–September issue of American Education, a publication of the U.S. Department of Health, Education, and Welfare, Office of Education, focuses on the Delaware Opportunities Industrialization Center, a private, nonprofit training organization, and its Veterans Upward Bound program.

The article is entitled "From the Service to the Campus" and was written by Steve Hulsey.

The Veterans Upward Bound program, while primarily designed for Vietnam era veterans, also gives assistance to veterans of other wars and their families. The primary focus of the program is on education, but it also deals with all veteran-connected problems.

With the support of funds authorized under title IV of the Higher Education Act, five pilot VUB's were established last year. Today 67 such projects are in operation.

Delaware's program is unique in that it is both the only one that is statewide and the only one that is administered by an Opportunities Industrialization Center, an agency rather than an educational institution.

At a time when there is much justifiable concern as to whether or not Vietnam veterans are receiving adequate assistance, especially with respect to educational benefits, I think Delaware's DOIC/VUB and the other 67 VUB's throughout the country should be applauded for their worthwhile efforts in this area.

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

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

FROM THE SERVICE TO THE CAMPUS

(By Steve Hulsey)

A Delaware project that combines talent search and Upward Bound illustrates a nationwide effort to open education to Vietnam vets.

Like many another Vietnam veteran, Robert Hilton returned home with no clear idea of what kind of a career he might want to take up and an equally hazy notion of the possible options.

Bob was luckier than some in that he did manage to find work—with a burglar alarm company, thanks to his training as an electronics technician with the U.S. Coast Guard. However, he says, "The kind of training I could qualify for in the service was so general that it wouldn't carry me very far in a civilian job, and of course the fact that I had only a high school diploma didn't help, either."

The more he thought about the situation the more convinced he became that his best bet was more education. After an absence of three years in the service, however, he was uncertain as to how to go about applying and felt apprehensive about tackling whatever procedures might be involved. Moreover, though he had been saving from his salary from the burglar alarm company job, he recognized that money would be a problem, too. All in all, the odds seemed so much against him that he came close to abandoning the whole idea.

Bob Hilton's dilemma was resolved by a form letter. It came from the Delaware Opportunities Industrialization Center, it described this private, nonprofit training organization's Veterans Upward Bound program, and it invited inquiry. Bob responded, and this is what happened as a consequence: Counselors at the DOIC/VUB, as the enterprise usually identifies itself, familiarized him with the requirements and procedures for enrolling in a small liberal arts college near his home. Since in high school he had not taken the college entrance examination, they helped him get admitted on a probationary basis to complete the course requirements. They helped him apply for education benefits under the Veterans Administration's GI Bill. And to carry him along until his VA checks began to arrive, they helped him arrange a $150 loan to cover the difference between his savings and what he would have to spend. Bob proved to be a first-rate student, and this fall the plans to transfer—again with DOIC/VUB help—to the University of Delaware to major in accounting.

Bob is one of more than 500 Delaware men and women who have received guidance and conseling from DOIC/VUB, and they are in turn among an estimated 40,000 who are being helped by somewhat similar operations run by institutions or organizations in locations marked by high concentrations of unemployed or underemployed veterans. With the support of funds authorized under Title IV of the Higher Education Act, five pilot Veterans Upward Bound projects were established last year. They quickly proved their worth, and today 67 such projects are operating in 41 States, the District of Columbia, and Puerto Rico.

The Delaware program is the only one that is statewide, and it is unique also in that it is administered by an Opportunities Industrialization Center, an agency rather than an educational institution. The first such center was founded in 1964 in Philadelphia to provide free job training and to help disadvantaged persons find jobs. Like the VUBs, the OICs have expanded, there now being 105 of them in the United States and seven overseas.

Despite its name, the VUB component includes not only the Office of Education's Upward Bound program but its Talent Search program as well, these having been adapted to the particular needs of this special "client." The program is designed primarily for Vietnam-era vets (though assistance is also given to veterans of other wars, and their families), and though the focus is on education, in practice it deals with just about any veteran-connected problem.

Talent Search identifies disadvantaged veterans who have a capability for post-secondary education and encourages them to return to school, and also publicizes GI Bill educational benefits and other available financial aid. Upward Bound helps such vets get high school certification, arranges for whatever tutorial or remedial assistance they may need, and seeks to move them into a postsecondary setting, either for vocational training or for academic study in a college or university. The latter involves some special problems.

Many vets, says Eugene N. Cannon, director of DOIC's Veterans Upward Bound program, feel apprehensive about getting back into the classroom and competing with "regular" students. Most have been out of school for a long time and have lost the "feel" of attending classes and studying.

"Just about every veteran we deal with is bothered by having gotten out of the academic flow," Cannon says. "Moreover, though they want to get an education, they are adults now and have adult responsibilities." Most support themselves, many have acquired automobiles, and some have families. Most seem to have shut off all avenues other than that of finding a job. VUB seeks to open up, through counseling and training, the option of getting an education.

"We showed one vet," says Cannon "that he would be making less on a $2.25-an-hour job he was interested in than he would get on the GI Bill while he was getting an education."

Members of the DOIC/VUB staff do not always have so cogent a dollars-and-cents argument to offer, but their batting average is nevertheless high. Most are Vietnam-era veterans themselves. They understand the problems that other veterans face, they are persuasive advocates of VUB services, and they are experts in how to put those services to best use.

Typical of the young people they deal with are George Wilson, James Fitzpatrick, and Priscilla Graham. Wilson spent three years in the Army as a supply clerk. He had a high school diploma, but when he returned home in July of 1971 he was able only to find work "doing odds and ends." At the urging of a friend he entered a DOIC program set up to train technicians in industrial chemistry. VUB staff members helped him apply for GI Bill benefits. And as the training sessions neared an end, they taught him how to fill out job application forms and coached him in how to be effective in job interviews, down to such details as how to dress for such an encounter.

Wilson is now part of a four-man crew that operates and maintains extruding equipment used to manufacture new plastic materials at the Marshallton, Delaware, plant of Hercules, Incorporated, one of the world's largest chemical companies.

"I couldn't have got the job without the DOIC/VUB program," Wilson says. "I'd probably still be looking."

Much the same series of events led James Fitzpatrick, who had been a reciprocating-engine mechanic in the Air Force, to become a fellow member of George Wilson's crew at Hercules. Upon his discharge in 1971 Jim wanted to work for a local aviation firm but discovered it was laying off workers rather than hiring them. He then took a course in welding, only to find that welding jobs were scarce in that area, too. Then through an advertisement in a local newspaper he learned of DOIC/VUB and subsequently enrolled in its industrial chemistry technicians training program. Illustrative of the uncertainty that many veterans feel is that Jim remembers—perhaps more vividly than anything else about the DOIC experience—the help he and George Wilson received in learning how to fill out job application forms, and above all how to handle the tense business of going through an interview. That they learned well is testified to by their supervisor, Gerald H. Zimmerman. "They knew what to say and what not to say," Zimmerman recalls, "And subsequently they demonstrated that they knew how to accept the responsibility of a job."

Like Jim Fitzpatrick, Priscilla Graham made a couple of false starts before DOIC/VUB helped her find her niche. Priscilla had been a nurse's aide in the Women's Army Corps, but when she was discharged she decided she would like an office job. So she completed a course at a data processing school to become a key punch operator, only to discover that the job market for key punch operators was so tight that only experienced people were being hired. She was unhappily working as a waitress when she learned of the DOIC/VUB. There she entered a training program to learn typing, accounting, and the operation of business machines, the staff having meanwhile taken her through the ropes of applying for GI Bill benefits. When a local bank subsequently called DOIC/VUB with openings for teller trainees, Priscilla was recommended by her instructor and landed a job in the bank's computer center. Currently, on the advice of a DOIC/VUB counselor, she is also a part-time student in banking courses at a local vocational college.

"In the job I have now," she says, "I can go as far as I want to. I can move to other departments and get more experience, and when the right time comes I think I can get a supervisory position."

DOIC's Veterans Upward Bound program got under way in July of 1972 with an initial Office of Education Talent Search/Upward Bound grant of $60,000 (later boosted to $85,000) and the mission of serving unemployed veterans throughout Delaware. Inquiries about the VUB program began to come in even before it officially got started, says Cannon. Nearly 70 veterans were enrolled in the first three-month training courses devoted to college preparatory subjects, with a large backlog of others waiting for the start-up of vocational sessions. Meanwhile DOIC/VUB was establishing itself as a kind of "sub-VA," offering special counseling and advice and volunteering help on just about any veteran-related problem. With an office in each of Delaware's three counties, DOIC/VUB now provides Delaware veterans with 24-hour service and the assistance offered has ranged from providing benefits information for the widow of a Spanish-American War veteran to helping an enterprising Vietnam vet negotiate a loan to build an apartment house.

Since a year ago, when Delaware had an estimated 10,000 Vietnam-era veterans, the DOIC/VUB's potential clientele has been increasing at a rate of about 150 per month. Each receives a letter describing the program (the same letter that captured the attention of Bob Hilton) and letting it be known that DOIC/VUB is ready to lend a hand. Those that enroll in the program can get basic instruction in math and English as well as take vocational training or college preparatory courses.

A DOIC staff member known as the "job developer" keeps track of employment opportunities available in the community and maintains a "job bank" that not only serves the trainees but is used as the basis for adjusting the curriculum, toward making sure that the training programs reflect employer needs. Local industries have in turn agreed to interview DOIC/VUB trainees before advertising new job openings.

What happens to the young men and women exposed to the program is indicated by a survey of an initial group of 210: 89 had been placed in jobs, 15 were still in DOIC/VUB training programs, another 15 were taking on-the-job training, 80 had entered a college or university, and the remainder were doing preparatory work toward enrolling in a postsecondary institution this fall.

Those that enter the University of Delaware can receive further assistance under the Special Services for Disadvantaged Students program, also funded under Title IV of the Higher Education Act. These services, operating at the college level, include tutoring, help with applications for GI Bill benefits, and counseling not only as to course work but social problems as well.

But the special Veterans programs

are so new, no statistics are available as to the performance of DOIC/VUB men and women who enter college or undertake vocational training at the postsecondary level. However, the veterans seem to be at least average students and may be somewhat above average. So says the Office of Education's Prince Teal, Jr., veterans coordinator for Delaware and other States included in OE's Region III.

"There is no question but what the Talent Search/Upward Bound approach works," Teal says, "and it helps not only the veterans themselves but the institutions they attend. In some ways it is a kind of unofficial arm of the institution's administration. Veterans today make up a large segment of many undergraduate student bodies—25 percent or more in some places—and it would seem important that these institutions use some of their funds to establish programs that specifically concern themselves with the needs of veterans in the fashion that VUB does. Many colleges apparently are not aware of such things as that the VA will pay tutorial fees for veterans of up to $50 a month."

As the Delaware example demonstrates, moreover, VUB's potential for helping veterans is just beginning to be tapped. As director of DOIC's Veterans Upward Bound program, Eugene Cannon is now seeking to bring its benefits to eligible veterans who are inmates of the State prison. At Delaware State College, campus veterans' clubs are being organized toward building *esprit de corps* and giving these young people an opportunity to share their experiences and aspirations; other veteran-oriented projects are being planned.

"The transition from the service back into civilian life presents some problems for any veteran," Cannon says, "but particularly for those from disadvantaged backgrounds. They recognize that they need more training, more education, if they're not going to wind up in dead-end jobs. And yet they're not sure they can handle it, or even how to go about getting started. That's what VUB is all about. We want to dig out the God-given talent these young people have and then help them exploit it.

"The Vietnam-era veteran represents a major resource for this Nation. We don't want to see it go to waste."

CONFERENCE OF NONALINED NATIONS

Mr. FULBRIGHT. Mr. President, Dr. Thomas B. Manton is a recognized expert on Asiatic and Middle Eastern affairs and has been for many years a close observer of that region.

Dr. Manton, who is the president of the China-America Relations Society, was in Algiers for the recent conference of nonalined nations and wrote a series of articles on the conference for the Arkansas Gazette.

This was an important meeting of the leaders of third world nations and Dr. Manton has provided a very thorough and interesting report.

As Dr. Manton suggests in his report, having improved relations with the Soviet Union and the People's Republic of China:

> A concerted effort must be undertaken to understand and then to reconcile the differences—the enormous differences—that exist between the United States and the Non-Aligned nations . . . Within this process . . . a new and more equitable international system must be built.

I ask unanimous consent, Mr. President, to have the articles from the Arkansas Gazette printed in the RECORD. Despite the importance of the conference, it received relatively little attention in the American press.

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

"THIRD WORLD"—THE LARGEST GATHERING OF HEADS OF STATE

(By Dr. Thomas Manton)

(EDITOR'S NOTE.—Dr. Thomas B. Manton of New York is a recognized expert in Asiatic studies and has been a close observer of the Asiatic scene for 16 years. He is president of the China-America Relations Society, headquartered in New York. He was in Algiers for the recent Conference of Non-aligned Nations and here is the first in a series of articles he wrote especially for the Gazette, setting forth his observations and opinions on the Conference.)

ALGIERS.—As the gentle waves of the Mediterranean lapped up on the sandy beach 200 yards away, one Emperor, two Kings, two Princes three Shiekhs, one Sultan, an Archbishop, 34 Presidents, four Prime Ministers and 69 Foreign Ministers from 75 countries of Asia, Africa and Latin America met recently in the ornate yet functional Palais des Nations, 15 miles west of Algiers, at the fourth Summit Conference on Nonaligned Countries. In terms of grandeur, contrasts, peoples represented, and ideas discussed, some of which were agreed to by all, this gathering could rightly have been called "the greatest show on earth." It was indeed the largest gathering of heads of state ever assembled.

The Conference theme was expressed by Forbes Burnham, Prime Minister of Guyana. He said, "What we must now do, is liberate ourselves economically now that we have gained political independence." Indeed, the common theme running through all the proceedings, the nearly 70 speeches in the plenary session, the all-night sessions of the political and economic committees, and finally the declaration of the conference coupled with the action program for economic cooperation, was the absolute necessity of national economic independence as a goal with an intermediate step of interdependence in order to build up that economic sovereignty.

Essentially, what many of the countries of this non-aligned movement possess is an abundance of natural resources but they lack the technology to exploit them for the good of their own people. Consequently, they have been technologically dependent on the developed countries of the West. Before the large international oil companies came into the Middle East, Saudia Arabia, Libya, Algeria, Iran and the others were all economically backward desert kingdoms. Since the introduction of Western technology, billions have been made, providing many Middle Eastern countries an economic independence possessed by virtually no developing countries in any other part of the world.

Muammar Kueddafi, President of Libya, pulled the tail of the international oil lion, with the knowledge that he had enough money put away for his country ($3 billion in reserves) to survive another ten years without exporting one additional barrel of oil. Rarely has a country of the Third World been able to dictate its terms to a developed nation of the West, let alone a superpower. Consequently, when President Nixon compared his action with that a generation earlier of Dr. Mossadegh, Col. Kueddafi reacted as expected. It was well-known the American government was instrumental in overthrowing Dr Mossadegh of Iran in the early 1950's. Thus Col. Kueddafi in a press conference said, "If anybody intervenes militarily, we are ready to defend ourselves."

The Conference concluded that each country should have effective control over its own natural resources, and that "any state is entitled to set the amount of possible allowances as well as the terms of payment, and any dispute must be settled in conformity with the national law of the non-aligned country. The non-aligned nations would promptly and fully support developing countries and territories under colonial domination, suffering from boycott, economic aggression or political pressures, struggling for the recovery of an effective control of their natural resources and economic activities still under foreign control."

Amid an increasing number of nuclear tests in the atmosphere, the first non-aligned summit conference met in Belgrade, Yugoslavia, at the beginning of September, 1961. President Tito recalled that the conference "addressed an appeal to the great powers, divided by the cold war, at least to sit down together at the table and to begin to negotiate." He further stated "that was an expression of the concern of mankind and a voice of its conscience which was not without its response." At the conclusion of the first Non-aligned conference two groups of heads of state from the summit conference had gone to the superpowers, the United States and the Soviet Union, to plead for an end to atmospheric nuclear testing and a reduction of the cold war. This was an attempt to end the bi-polarity which had characterized world politics since the end of the Second World War and to begin what President Nixon instigated nine years later—an "era of negotiations." In the words of President Habib Bourguiba of Tunisia, "the Belgrade conference was a reaction to the atomic bomb, the military blocs, the foreign military bases on the soil of the nonaligned."

"Now," said President Numery of Sudan, "the two big powers have met and the era of entente has started." President Tito of Yugoslavia said, "if the cold war has lost its intensivity, if in the relations among the great powers negotiations and agreement have replaced confrontation in many ways, if the situation in many parts of the world has been considerably improved—our efforts have also been woven into this progress."

President Boumedienne of Algeria, host to this 4th nonaligned summit conference, voiced the determination that never again would a Yalta conference be held at which three world leaders (Roosevelt, Stalin and Churchill) would meet to determine the fate of the post-war world.

The opening session of this non-aligned conference was a pageantry of contrasts. The 27-year-old King of Nepal strode in proudly at the head of an 18-person delegation followed by his beautiful, young, sari-clad queen. Tall and stately, Archbishop Makarios, President of Cyprus, with a long beard and a tall hat, nodded to the crowds at the entrance of the hall as if he were passing on his spiritual blessing. Fidel Castro, wearing green fatigues, open at the neck, responded to a cheering crowd of enthusiastic supporters. The 71-year-old President Habib Bourguiba of Tunisia walked in a dapper lounge suit wearing dark glasses. Black and white robes flowing, the most powerful man in the conference, King Faisal of Saudi Arabia, was accompanied by a retinue of his highest ranking advisors. The Lion of Judah, Emperor Haile Selassie I, would be called the grandfather of the movement, while President Tito was acknowledged as one of the three founders of the non-aligned movement (the other two having been Nehru and Nasser). The popular heroes at the conference were the more revolutionary ones—Colonel Kueddafi of Libya dressed in a simple uniformed sports shirt and Yassar Arafat, chairman of the Palestine Liberation Organization clad in checkered headdress, dark glasses, hunting jacket and tennis shoes. Madame Indira Gandhi, daughter of the Prime Minister Nehru of India, gracefully

walked in a flowing sari surrounded by an all-male group of advisors.

At the opening session, after President Boumedienne's welcome and the short speeches of appreciation, the plenary session got down to the serious business of listening to the sometimes-longwinded, sometimes-realistic, sometimes-action-oriented, sometimes-flowery speeches delivered by nearly all of the 75 member nations of the conference. In addition, a number of observers and representatives of liberation movements spoke to the assembled delegates.

At the end of each session, the entrances were crowded with the heads of state going in new Citroen limousines, preceded by motorcycle outriders, to their three-bedroom villas dotting the complex known as the "Club des Pines"—a resort area built originally by Algeria's first president (now confined to his own house in Algiers) Ahmed Ben Bella, and now sometimes occupied by American, British and Canadian oil men working in the gas and oil fields (which supply Algeria's largest export).

So many heads of state arrived in their own private planes that during the two days prior to the opening of the conference the band and honor guard welcoming them stood constantly in the blazing sun at "Maison Blanche" airport, while President Boumedienne shuffled from the airport's VIP lounge out to each plane, then to the reviewing stand where the national anthem was played followed by the welcome of each head of state by the Algiers diplomatic corps. After Prince Sihanouk arrived and delivered a 27-minute airport speech, thus making the following plane adopt a holding pattern above Algiers, it was decided that airport speeches would be eliminated.

With such a diverse group of world leaders meeting, conflicts were bound to occur. Frankly, it was surprising that more did not take place. There seemed to be a tremendous sense of solidarity both expressed publicly and felt privately. The next article will attempt to analyze this phenomenon.

"THIRD WORLD"—MOVING TOWARD NEW INTERNATIONAL SYSTEM

(By Dr. Thomas B. Manton)

(EDITOR'S NOTE: Dr. Thomas B. Manton of New York is a recognized expert in Asiatic studies and has been a close observer of the Asiatic scene for 16 years. He is president of the China-America Relations Society. Dr. Manton was in Algiers for the recent Conference of Non-aligned Nations and this is a second article that he wrote especially for the Gazette, setting forth his observations and opinions on the Conference.)

ALGIERS.—At the end of the fourth Summit Conference of Nonaligned Countries, an Algerian came up to me and asked: "What advice would you have given the President of the United States regarding the U.S. policy towards this conference?" I replied, "I would have recommended that he instruct the American ambassador to attend the opening and closing sessions of the Conference as an observer as well as send a message to the Conference, as did the leader of the Soviet Union and the People's Republic of China, congratulating them on holding the Conference; and then at its conclusion, that he invite a delegation from the Conference to inform him of its results, and then determine ways in which the United States could assist in the implementation of its more positive and constructive recommendations."

In other words, the United States will have to come to terms with an increasingly powerful movement of non-aligned nations. Although this Conference defined non-alignment "as not belonging to a collective security pact," a number of countries that do belong to military pacts did apply to be included in its meeting, including Australia, New Zealand, Romania, Turkey and Pakistan. They were all turned away from attending because they belonged to either SEATO, CENTO, NATO or the Warsaw Pact.

What is the cement that keeps this non-aligned movement together? Mujubur Rahman, Prime Minister of Bangladesh, who got the Conference to endorse his country's membership in the United Nations, declared that "there are two groups in the world—the oppressed and oppressors," adding: "We stand with the progressive forces." Prime Minister Gandhi of India told the conference at the outset, definitely "Assembled in this hall are rebels, great revolutionary heroes and architects of newly developing nations . . . once we were termed rebels—today we must speak for those who are many, but whose voice is muted."

THIRD WORLD FALLING BEHIND

The final Economic Declaration said: "The Third World which represents 70 per cent of the world's population, lives on only 30 percent of the world's income. By 1980, the average income per person will be $3,600 for the developed countries whereas it will be only $265 for the developing countries." Third World participation in world trade is getting smaller and smaller, stated this Economic Declaration, "passing from 21.3 per cent in 1930 to 17.6 per cent in 1970," adding: "The economic situation in developing countries is worsening because of the international financial crisis for which they are not responsible." President Tito in one of the most thoughtful and perceptive speeches of the conference observed: "We have been and still are preoccupied to the greatest possible extent with the struggle of peoples and countries for state political and economic independence. We are confronted with the seemingly contradictory process. Countries are becoming ever more closely integrated and interdependent, at the same time, [they] determine to achieve and preserve their independence. These are only the two aspects of the same movement; all-around, equitable and fruitful co-operation is only possible among independent and sovereign states. Indeed, independent countries are always oriented toward co-operation with the rest of the world in order to make further progress. However, we are still compelled, and we shall probably be forced for a long time to come, to insist upon independence as an irreplaceable prerequisite of equitable international cooperation."

With an increased call for participation of peoples around the world in the determination of their own destiny, the question becomes obvious—what is the future of the non-aligned movement and how can the United States relate to it?

It was interesting to note that the Soviet Union was strongly defended by Fidel Castro, so much so that President Kueddafi of Libya stated in a press conference, "Castro doesn't belong here, he is aligned to a super power."

The People's Republic of China was hardly mentioned. Prince Sihanouk who is deeply grateful to the People's Republic of China, his government-in-exile being in Peking, made just a passing reference to China. The United States, however, was constantly called by many in this Conference an "imperialist, colonialist, and neo-colonialist power." Our actions in Indochina and our support of reactionary government around the world and, for this conference, our resolute support of Israel were given as examples of the United States being a major enemy of the non-aligned world. Not *one* nation came to our defense.

President Sadat of Egypt remarked how "the non-aligned movement started as a minority but now is a majority." Sadat claimed, as did others, that "the great powers cannot have agreements against the interests of the non-aligned."

The Conference was one of defiance—largely defiance of the United States—economically, militarily, politically, etc. The days of the United States being the great revolutionary example are over in the Third World. We are viewed now as a bully and dominator. Suspicions abound that if the United States cannot get resources using peaceful persuasion, military force will be used.

What were the primary concerns of delegates to this conference which represented a majority of the world's peoples and how can the United States relate to these concerns in helping to build a new international system which is both realistic and just? These questions are hard for us in the United States to answer. But if we want to relate to the rest of the world, as indeed we must, we need to grapple with them.

1. The non-aligned countries were unanimous in their determination to control their own natural resources. Whether it is 51 per cent control or total control is irrelevant—control is what they demand! For too long, they reason, they have been the exploited. Their determination to end that exploitation was displayed in thousands of ways here at this non-aligned conference. What the West has is technology and the ability to use it. What the non-aligned countries need is technology and the training and ability to use it. This struggle was not one between East and West at this conference but between the Northern developed states of the world in contrast to the Southern developing states.

2. One of two over-riding political concerns of this conference was the question of Palestine. In speech after speech, America and Israel were linked together. The Conference gave "its firm support to and solidarity with the Palestine people . . . and called for the restoration of the national rights of the Palestine people as a basic prerequisite for the establishment of an equitable and lasting peace in the area." The United States must realize the depth of feeling on this issue of Palestine around the world. We must then, after very careful consideration develop an all-inclusive policy which would have as its basis the national interests of the United States.

LIBERATION IN SOUTH AFRICA

3. The liberation of white-dominated Southern black Africa was the other major political problem discussed by virtually every speaker. Here is a near perfect case where a small group of persons with technology and the ability to use it are suppressing those who either lack the technology or ability to use it. In this particular case it is military technology or ability to use it. Fighters against these last vestiges of colonialism will probably win in the long run yet it will be a long, bloody struggle. The United States must deal with this problem firmly and without any equivocation. In deciding the policy of action, we in the United States must base our policy on the American tradition of self-determination of peoples and the principles of our own war of independence.

4. The creation of a more equitable international economic system was both a stated and unstated question raised by many speakers. The increasing economic disparity between the "haves" and "have nots" cannot be tolerated ad infinitum. A serious effort must be made to start the process of lessening this gap, not increasing it.

Now that the United States has made peace with the two superpowers, the Soviet Union and the People's Republic of China, a concerted effort must be undertaken to understand and then to reconcile the differences—the enormous differences—that exist between the United States and the Non-Aligned nations. Within this process, indeed a new and more equitable international system must be built.

"THIRD WORLD"—AFTERTHOUGHTS ON THE NONALINED CONFERENCE

(By Dr. Thomas B. Manton)

(EDITOR'S NOTE: Dr. Thomas B. Manton of New York is a recognized expert on Asiatic and Middle Eastern studies and has been a close observer of the Asiatic scene for 16

years. He is president of the China-America Relations Society. Dr. Manton was in Algiers for the recent Conference of Non-aligned Nations and wrote a series of special articles on the Conference for the Gazette. This is the last of three.)

"The world cannot continue to live half hungry and half fed," declared the Egyptian foreign minister, Dr. Hassan el Zayyat, in an exclusive interview with the Arkansas Gazette in Cairo after the Non-aligned Conference. Reflecting on the work of the Conference, Dr. Zayyat looked forward to the day when the assembled nations could indeed undertake important unified action.

He realizes full well that the Third World has much more to bring them together than to rend them asunder—that their commonality is far greater than their divergence.

The issue of hunger and poverty permeated much of the rhetoric of the Conference. The heads of state and government urged that in the context of the grave food crisis confronting vast areas and populations of the world, an emergency joint conference of FAO (Food and Agriculture Organization of the UN) and UNCTAD (UN Conference on Trade and Development) should be convened at a ministerial level in order to formulate a program of international co-operation, to overcome the increasing shortage of food and other primary commodities and maintain stable prices.

The new U.S. Secretary of State, Dr. Henry Kissinger, in a speech before the UN General Assembly on Sept. 24, proposed "that a world food conference be organized under UN auspices in 1974 to discuss ways to maintain adequate food supplies and to harness the efforts of all nations to meet the hunger and malnutrition resulting from natural disasters." Our new Secretary of State seems to be responsive to the major economic theme of the Non-aligned Conference—the gap between the rich and the poor. Dr. Kissinger said, "Let us therefore resolve that this (General) Assembly, this year, initiate a search—drawing on the world's best minds for new and imaginative solutions—to the problems of development." He went on to indicate serious interest in the President of Mexico's proposal for a charter of the economic rights and duties of states.

Meanwhile, at the annual meeting of the World Bank held this year in Nairobi, Kenya, the Secretary of the Treasury, George P. Shultz, announced that, if Congress agrees, the United States will contribute a third of the $4.5 billion three-year program of low cost loans to the poorest nations through the World Bank subsidiary—the International Development Association.

The Non-aligned Conference's economic plea, consequently, has not gone unheeded although some called its rhetoric "dogmatic." Some of the delegates had challenged the developed world to pay attention to the desperate needs of their peoples—and some in the developed world were listening.

The Egyptian foreign minister expressed a fervent hope for a change in United States policy toward the Middle East. He seemed, in retrospect, however, to be as cautious as Kissinger was in his comments to Arab ambassadors at the UN. Dr. Zayyat, in a wide-ranging conversation concerning U.S. policy, said that "Saigon and Tel Aviv have in the last few years been the centers of real decision making power." He referred specifically to the role Saigon had played for a number of years in blocking any peace settlement between Hanoi and Washington—that is until Kissinger broke the deadlock and the decision-making power moved from Saigon to Washington.

After a very quiet trip in March of this year to the Middle East, including Saudi Arabia, Abu Dhabi, and a number of other countries, Senator J. W. Fulbright, who is highly respected in the Middle East, indicated in a Senate speech that there was talk of a possible U.S.-inspired takeover of the oil fields in the Arabian Gulf. Earlier the foreign minister of Algeria had given credibility to the same report in comment at Algiers. When I told a friend who'd lived in the Middle East about his comment, she said that her brother had recently ended his term in the U.S. Army in Germany just as the order had been given to gradually paint desert camouflage on all U.S. Army vehicles there. The closest desert to Germany is in the Middle East.

Secretary of State Kissinger, in a meeting earlier this week with Arab ambassadors at the UN, pledged that the U.S. was ready to assist in finding ways of creating a "situation with which you can live." Kissinger, however, hoped none of the parties in the area would look to the United States or expect the U.S. "to bring forth miracles." It is widely recognized that the Middle East situation will be one of the toughest problems the new Secretary of State will have to tackle. There is little hope in the Middle East that anything positive will come out of the seemingly new initiatives taking place. Reaching any agreement of the parties concerned seems to be an insurmountable task. As the Arabs perceive a more irretractable stance by Israel on such items as annexation and development of occupied lands, the Arabs will be forced further and further into the use of the only bargaining levels they have, their vast resources of oil. Intransigence on one side fosters it on the other. It will take a mighty move to break the vicious circle.

Two days after the Non-aligned Conference ended, it had already lost one of its members—Chile. Colonial Kueddafi, president of Libya, warned that the proverbially blamed "imperialists, colonialists and neo-colonialists" would overthrow a number of governments before the next Non-aligned Conference. In Kueddafi's understanding, Chile was the first such overthrow. Which will be next?

ADMIRABLE ACTION BY THE RULES COMMITTEE ON THE FORD NOMINATION

Mr. KENNEDY. Mr. President, no one—no Senator, no Congressman, no citizen, Republican or Democrat alike—can contemplate with equanimity the depths to which the credibility of the Government of the United States is sinking. In the past 2 weeks alone, we have witnessed the immense outpouring of public outrage over the dismissal of Special Prosecutor Archibald Cox, the momentous decision by the House of Representatives to begin an inquiry into the possible impeachment of the President, the alarming public cynicism that greeted the military alert over the Middle East, and the incredible disappearance of two of the most critical White House tapes.

Certainly, the end is not in sight. Today, the Nation faces the possibility of lengthy impeachment proceedings by the House of Representatives, intensified Watergate hearings by the Senate, and reinvigorated investigations by the newly appointed special prosecutor.

In the face of these developments, there is no entirely satisfactory avenue to the restoration of confidence we all now seek. The future course that events may take is difficult to contemplate, let alone assess.

What we do know, however, is that the eyes of America and the world are now on Congress as we try to meet the crisis. At the very least, the extraordinary circumstances of these times demand a firm commitment from every person in public office to act in the highest interests of the Nation, and to avoid any possible imputation that partisan considerations are intruding in any way upon the effective discharge of our great responsibilities.

Seen in this light, one of the most troubling aspects of the current national crisis is the increasingly whispered White House accusation that Democrats in Congress may be seeking to delay action on the nomination of GERALD FORD as Vice President, as part of a partisan plan to reverse the 1972 election results by impeaching the Republican President, installing the Democratic Speaker of the House of Representatives in the White House, and taking over the entire executive branch of the Federal Government.

As one member of the Democratic Party who loves this country and is deeply concerned about its future, I want to go on public record now, as emphatically and unequivocally as I possibly can, to say that the last thing this country needs in the present turmoil is a partisan debate over the motives of Congress as we deal with the current crisis.

All of us in Congress have our own responsibility to the Constitution and the Nation and 200 million American citizens to proceed as responsibly as we can to resolve this tragic dilemma over our Nation's leadership, and to do so in a way that is free of any appearance of partisan political considerations. We must do our utmost to eliminate any such factor from the urgently pressing decisions that Congress and the country now must face.

Once before in our history, in the impeachment of Andrew Johnson, who had been a life-long Democrat before accepting the nomination as Abraham Lincoln's Vice President, allegations of unworthy partisan motives exacerbated the proceedings. At the time of President Johnson's trial before the Senate, Republican Senator Benjamin F. Wade of Ohio was the President pro tempore of the Senate. Under the Presidential Succession Act then in force, Senator Wade was next in line to the Presidency. Yet, Senator Wade was himself concerned in the conspiracy to impeach President Johnson, and he voted to convict the President and remove him from office, amid bitter partisan accusations.

The drive for President Johnson's impeachment failed by one vote, and historians now agree that it properly should have failed. Many factors were involved in those proceedings, but clearly, the passions aroused by these partisan allegations of unfair Senate motives should not have played a role.

Thanks to the 25th amendment, we do not have to repeat that aspect of our history. The Constitution now provides a mechanism to fill a vacancy in the office of Vice President, and Congress has the obligation to use it in good faith to fill the current vacancy.

As Democrats, we owe the country the earliest possible action on Mr. FORD'S nomination—consistent, of course, with the special obligation of scrutiny we must

give to the nomination of the man who may well assume the Presidency.

Thus, I commend the Senate Rules Committee and its distinguished chairman, Senator HOWARD CANNON, for their prompt and vigorous action on Mr. FORD, and I hope that continuing expedited action on the nomination will be made the Senate's highest business.

All of us are heartened by Mr. FORD's replies yesterday to what are surely some of the most unusual questions any nominee for high national office has ever had to answer. It is a sign of these distressing times that Mr. FORD's best-received replies were those avowing his basic belief in the rule of law and refusing to contemplate the use of executive privilege as a coverup for corruption in the highest office in the land.

Today, all of us are in the Rules Committee's debt for the thorough and statesmanlike and efficient manner in which their hearings and investigations are being conducted. I hope that final Senate action will come as promptly as responsible investigation and scrutiny will permit.

MARINE CORPS EXPLAINS PROMOTION OF LIEUTENANT COLONEL BRENNAN

Mr. PROXMIRE. Mr. President, the Marine Corps has recently replied to an inquiry I made on October 4, 1973, about the details of the Presidential promotion of then major now Lt. Col. John V. Brennan.

The issue involved is that of alleged preferential treatment to a Marine officer due to his service in the White House.

The facts, as outlined by the Assistant Commandment of the Marine Corps General E. E. Anderson, appear as follows. Major Brennan was first eligible for consideration for promotion to lieutenant colonel in 1972 when the Lieutenant Colonel Selection Board met in August and September. At that time he was in the "zone of consideration," the lowest of three levels open for promotion. He was 853 notches below the most junior officer in the "promotion zone," the category of selection coming before his "zone of consideration." As a result he was not selected for promotion in 1972.

Major Brennan again was in the "zone of consideration" for the March–April Lieutenant Colonel Selection Board of 1973. As before, Major Brennan was substantially below the seniority of those who were selected; 728 slots below the last officer in the "promotion zone."

Again, he was not selected. Four majors from Major Brennan's "zone of consideration" were selected for promotion but Major Brennan was not one of them.

After Major Brennan was again passed over, the President intervened via the Secretary of Defense by requesting the Marine Corps to prepare a nomination form for Major Brennan under his authority in article II, section 2, of the Constitution and Major Brennan was submitted to the Senate and confirmed for promotion to lieutenant colonel.

PRESIDENTIAL INTERVENTION FOR MAJOR BRENNAN

In retrospect, therefore, it is clear that for one reason or another, Major Brennan's peers did not find it suitable that he be promoted to lieutenant colonel. Under the Presidential directive, the promotion was made over the heads of 1,105 majors senior to him, though 509 of these had previously failed selection one or more times.

It is also clear that the Commandant of the Marine Corps only gave approval for the promotion after receiving the Presidential directive. In filling out the appropriate forms, he stated:

The commandant of the Marine Corps is in agreement with this nomination.

According to the data supplied by the Marine Corps, this type of Presidential appointment is exceedingly rare. Aside from the space program, there have been three examples of Marines promoted by Presidential authority: Brig. Gen. C. Randall nominated by President Eisenhower in 1957, Col. H. R. Smith nominated by President Johnson in 1968 and Lieutenant Colonel Brennan this year.

The central question involved in this type of promotion is one of equity. Is it fair to promote Major Brennan in 1973 when he would not have reached the promotion zone until 1976? Is it the result of his excellence or the intervention of political factors? We are left with unknowns.

I do not question the ability or outstanding qualities of Lieutenant Colonel Brennan. He may be an exceptional officer. And I realize that the Marine Corps, after passing over him for 2 years, was in a tight spot.

In the matter of promotions, however, I continue to believe that the Marine Corps is in the best position to judge the qualities of its officers and not the White House.

Exposure to high office and seats of power should not automatically grant an aspiring officer benefits beyond that of his peers.

The Marine Corps is an outstanding service. There is no better in the world. And that is why we must guard against the intrusion of political and nonmilitary forces in the officer selection process.

Mr. President, I ask unanimous consent that my correspondence with the Marine Corps and their reply be printed in the RECORD.

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

OCTOBER 4, 1973.

Gen. E. E. ANDERSON,
Acting Commandant of the Marine Corps, Washington, D.C.

DEAR GENERAL ANDERSON: I appreciate hearing from you regarding my statement about the promotion of Lt. Col. John V. Brennan.

You make the point that neither you or the Commandant opposed the promotion of Lt. Col. John V. Brennan. My comments to the contrary were based on the enclosed press article which quotes a Marine officer to that effect. You will note that the prior sentence in my speech indicated that this was "according to one press report."

Nonetheless, I will be happy to make your answer a part of the Record.

In order to clarify exactly what went on in this case would you please answer the following questions?

1. Who sat on the promotion board handling the case of Lt. Col. Brennan?

2. What was the decision of the promotion board with regard to Lt. Col. Brennan? How many times was his case reviewed and with what results? What time periods are involved?

3. How many times has the President exercised his powers of nomination when Marine promotion boards have refused to nominate? Please cite numbers, personnel involved and dates.

4. What are Lt. Col. Brennan's duties in the White House? Under what authority is he employed in the White House? How many other Marine officers are detailed to or employed by the White House?

5. Over how many other officers was Lt. Col. Brennan promoted? Why?

6. Would you please supply a copy of the written statement you attribute to the Commandant regarding his agreement with the nomination?

7. Would you please supply the official decisions of the Marine promotion board with regard to Lt. Col. Brennan?

8. Is it true that the Corps has tried to return Lt. Col. Brennan to active military duty out of the White House? Would you supply any documentation to this effect?

9. Is it true that Brig. General Brent Scowcroft actively pushed for the nomination of Lt. Col. Brennan?

10. Under normal circumstances when would have Lt. Col. Brennan reached the selection zone for Lt. Colonels?

11. Do you think it is prudent to have military officers work continuously and closely with political figures, regardless of the Administration, and thereby enhance their careers with early promotions?

12. What effect did Lt. Col. Brennan's promotion have on other officers in the Corps in terms of morale?

I appreciate your interest in this matter and I will look forward to your early reply.

Sincerely,

WILLIAM PROXMIRE.
U.S. Senator.

DEPARTMENT OF THE NAVY,
Washington, D.C., Oct. 29, 1973.

Hon. WILLIAM PROXMIRE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PROXMIRE: I appreciate your placing my September 28th letter in the Congressional Record and now respond to the questions you raised in your letter to me of 4 October 1973.

At the outset permit me to state that the statutory provisions related to the promotion of Marine Corps officers are extensive and are codified in Part II, Subtitle C, Title 10, U.S. Code, Chapters 543, Selection Boards and 545, Promotions, are particularly pertinent.

Under the selection board process for promotion to Lieutenant Colonel, three categories of officers are considered by the selection board:

a. Majors above the zone: Those are majors who have previously been in the promotion zone for lieutenant colonel but who were not selected.

b. Majors within the promotion zone: See 10 USC 5765.

c. Majors who are below the promotion zone but who are eligible for consideration and possible selection by the board. See Title 10, U.S. Code, 5706(4) and 5707(c).

Now, with respect to the questions asked in your letter I will answer them in the order in which they were presented.

1 Who sat on the promotion board handling the case of Lieutenant Colonel Brennan?

Answer: Lieutenant Colonel Brennan, then a major, was in the zone of consideration—the category referred to in subparagraph C, in my preceding paragraph—by the Lieutenant Colonel Selection Board which met in August and September 1972. The board was constituted of three general officers and six

colonels pursuant to 10 USC 5703(a). The following are the names of the board members:

Major General M. P. Ryan.
Brigadier General J. R. Jones.
Brigadier General W. R. Quinn.
Colonel F. A. Shook, Jr.
Colonel D. H. Blanchard.
Colonel G. Caridakis.
Colonel K. L. Lynn.
Colonel W. G. McCool.
Colonel B. C. Stinemetz.

Lieutenant Colonel Brennan was 853 below the junior officer in the promotion zone. He was not among those officers selected by the 1972 board. Lieutenant Colonel Brennan was also eligible for consideration by the Lieutenant Colonel Selection Board which met in March and April 1973. The following are the names of the board members:

Brigadier General C. S. Robertson
Brigadier General D. H. Brooks
Brigadier General N. W. Gourley
Colonel D. L. Davis
Colonel H. L. Vancampen
Colonel W. N. Vest
Colonel R. E. Gruenler
Colonel H. F. Deatley
Colonel N. M. Laslavic

Lieutenant Colonel Brennan was 728 numbers below the last officer in the promotion zone. No officer junior to Lieutenant Colonel Brennan was selected by either the 1972 or the 1973 selection boards.

2. What was the decision of the promotion board with regard to Lieutenant Colonel Brennan? How many times was his case reviewed and with what results? What time periods are involved?

Answer: As stated in the answer to the previous question Lieutenant Colonel Brennan was in the zone of consideration for promotion to lieutenant colonel in 1972 and 1973.

3. How many times has the President exercised his powers of nomination when Marine promotion boards have refused to nominate? Please cite numbers, personnel involved and dates.

Answer: The President has nominated the following Marine officers for advancement through his Constitutional Authority:

Name	Position at time of promotion	President nominating	Grade promoted to	Date
C. Randall	Special assistant to the Secretary of Defense.	President Eisenhower	Brigadier general	1957
J. H. Glenn	Astronaut program	President Johnson	Colonel	1964
H. R. Smith	Aide to the President	do	do	1968
R. W. Cunningham	Astronaut program	President Nixon	Colonel, USMCR	1971
J. V. Brennan	Aide to the President	do	Lieutenant colonel	1973

All of the above nominations were confirmed by the Senate except that of Colonel Cunningham. As a reserve officer on inactive duty, his confirmation by the Senate was not then required by the law. However, I think it is important to point out that in the instances listed above, it is not a question of a Marine selection board refusing to nominate an individual. For example, the astronauts nominated by the President were nominated because of their service to the Nation's space program.

In the cases of Colonel Smith and Lieutenant Colonel Brennan it was not a situation where the Selection Board refused to nominate. Rather, in the case of Colonel Smith, he had not yet entered the zone of consideration and in the case of Lieutenant Colonel Brennan, he was only in the zone of consideration. In the Selection Board of March/April 1973, the Board was authorized to select a total of 94 lieutenant colonels and of that number, 5% (or 4 selectees) could come from the zone of consideration. The Board selected the quota of four; none of whom were junior to Lieutenant Colonel Brennan.

4. What are Lieutenant Colonel Brennan's duties in the White House? Under what authority is he employed in the White House? How many other Marine Officers are detailed to or employed by the White House?

Answer: Lieutenant Colonel Brennan has served as Marine Corps Aide to the President since 1968 to assist the President in his constitutional duties as Commander in Chief of the Armed Forces. Another Marine officer, a first lieutenant, is assigned to duty at Headquarters, Marine Corps, but on occasion is a social aide at the White House. The third Marine officer, a major, is assigned to the Office of the Special Assistant to the President for National Security Affairs, Secretary Kissinger.

5. Over how many other officers was Lieutenant Colonel Brennan promoted? Why?

Answer: When Major Brennan was promoted to Lieutenant Colonel he had advanced on the lineal list over 1,105 majors who had been senior to him. Actually, of this number, 509 had previously failed selection one or more times. As I stated in my letter to you of 28 September, the President's Constitutional Authority under Article II, Section 2, of the Constitution, to submit a nomination for promotion when an officer of the Armed Forces is clear and unequivocal. The determination to exercise this authority to nominate is reserved to the President alone.

6. Would you please supply a copy of the written statement you attribute to the Commandant regarding his agreement with the nomination?

Answer: Subsequent to the March 1973 selection board action, it became known at this Headquarters that the President desired preparation of the nomination form nominating Major Brennan for promotion to lieutenant colonel pursuant to Article II, Section 2, Clause 2 of the Constitution. In transmitting the nomination paper to the Secretary of the Navy the Commandant stated "The Commandant of the Marine Corps is in agreement with this nomination."

7. Would you please supply the official decisions of the Marine promotion board with regard to Lieutenant Colonel Brennan?

Answer: As stated previously Lieutenant Colonel Brennan was only in the zone of consideration on the 1972 and 1973 lieutenant colonel selection boards. However, the results of those boards are a matter of record and are contained in the Congressional Records, No. 163 of 11 October 1972, page S17583 and No. 117 of 24 July 1973, page S14618.

8. Is it true that the Corps has tried to return Lieutenant Colonel Brennan to active military duty out of the White House? Would you supply any documentation to this effect?

Answer: Under the normal rotational policies of all Armed Services, officers can expect reassignment after three or four years at a duty station. In anticipation that Lieutenant Colonel Brennan could be subject to transfer under this procedure the President requested the retention of Lieutenant Colonel Brennan in his present assignment because of his outstanding services. The Marine Corps did not seek to transfer Lieutenant Colonel Brennan, either before or after the receipt of the President's request.

9. Is it true that Brigadier General Brent Scowcroft actively pushed for the nomination of Lieutenant Colonel Brennan?

Answer: The evaluation of the performance of Marine officers is accomplished by a periodic reporting form, termed a fitness report, which is transmitted to Headquarters Marine Corps upon completion. Lieutenant Colonel Brennan's reporting senior has been General Scowcroft, the Military Assistant to the President. He has consistently evaluated Lieutenant Colonel Brennan to be an outstanding Marine Corps Officer and in his remarks in fitness report form he had, on each occasion, recommended Lieutenant Colonel Brennan for accelerated promotion. The predecessor to General Scowcroft, General Hughes, made similar recommendations for accelerated promotion, commencing as early as 1969. Other outstanding Marine officers have similarly been recommended for promotion by their reporting seniors. Apart from the foregoing evaluation reports this Headquarters has not been urged by General Scowcroft to promote then Major Brennan.

10. Under normal circumstances, when would Lieutenant Colonel Brennan have reached the selection zone for Lieutenant Colonel?

Answer: On the basis of expected personnel strengths and vacancies the Secretary of the Navy annually establishes the promotion zone. At this time, it is estimated that Lieutenant Colonel Brennan would have been included in the 1976 promotion zone.

11. Do you think it is prudent to have military officers work continuously and closely with political figures—regardless of the Administration, and thereby enhance their careers with early promotions?

Answer: In my opinion, it is desirable to continue the long established practice of assigning military officers as aides to the Commander in Chief. Also, for many years we have had Marine Officers posted at the Congress to work continuously and closely with members of the Senate and House of Representatives and their staffs. I think the results of such assignments have been beneficial both to the Marine Corps and to the other agencies in the United States government which are involved and I forsee no reason to terminate this relationship. As one might expect, only those with proven records and indications of exceptional potential are selected for these assignments. Therefore, it is reasonable to predict a successful promotion pattern for those so assigned, even without benefit of this specific type billet assignment.

12. What affect did Lieutenant Colonel Brennan's promotion have on other officers in the Corps in terms of morale?

Answer: There have been no indications to the Commandant or myself that this promotion of Lieutenant Colonel Brennan has adversely affected the high morale of other Marine officers and their esprit which is the hallmark of our Corps.

I trust that the foregoing information clarifies an incorrect impression created by an obviously inaccurate newspaper account concerning the Lieutenant Colonel Brennan nomination. Also, since your letter to me of 4 October 1973 appeared in the Congressional Record I hope that this response will be afforded similar treatment.

Sincerely,

E. E. ANDERSON,
General, U.S. Marine Corps, Assistant Commandant of the Marine Corps.

OIL AND MIDEAST POLICY

Mr. HUMPHREY. Mr. President, Americans are understandably disturbed about the threatening fuel shortages which we face this winter. Our concern, however, must be more broadly based. None of us welcomes the inconvenience that will be ours as a result of fuel allocations and possible rationing. Even more than those immediate inconveniences, however, will be the long term effects on our economy and our national security in the years to come, should the fuel shortage assume crisis proportions.

It is clear that our present problems are the result of long-term policy

neglect. It is a matter of some comfort to me that this body is now seeking to remedy the shortsightedness of the past through hearings, studies, and proposed legislation under the chairmanship of the distinguished Senator from Washington (Mr. JACKSON).

There is, however, an immediate danger that faces us, far beyond the inconveniences that we will experience this winter as a result of the shortages. The danger is that forces both inside and outside of the United States will seek to exploit those fuel shortages in an effort to corrupt and interfere with our national security interests in the field of international relations. I specifically refer to the question of oil in the Middle East.

It is clearly in the best interest of the United States that we seek peace in the Middle East between Israel and the Arab nations which surround that beseiged country. Israel is a democracy whose people seek secure boundaries and yearn for peace. It has been consistent U.S. foreign policy that there be a special relationship between our two countries, two strong and viable democratic societies. This is a consistent policy which has been carried out by the Democratic and Republican administrations and has been supported by both Houses of the Congress through leadership provided by both Republicans and Democrats.

And yet, we have been and are experiencing a serious and deliberate effort by the oil producing Middle East nations to blackmail our country into changing its policy for the sake of alleviating our oil shortages.

Aside from the indignity of our Nation that results from our having placed ourselves in a position to be so dependent upon other nations for the supply of our oil, the process is an outrageous insult which we must and will resist.

In that connection, it is also most unfortunate that certain leading American oil companies are permitting their financial self-interest to so distort their view of our national self-interest as to put them in a position of appearing as helpful or sympathetic to those who now threaten or impose embargoes on crude oil. The reports we all hear of influence and heavy pressuring from some of these large oil companies from our Department of State and our Department of Commerce are very disturbing and sad.

The problem of oil and United States/Middle East policy is a serious one. The highly respected Antidefamation League, which is now celebrating its 60th year, has recently issued a comprehensive analysis of that problem. This report urges a program for accomplishing national self-sufficiency in energy. That study will make a significant contribution to our national deliberations and I welcome it in that spirit. I particularly note its wise observation that once a nation or an individual submits to blackmail, that submission invites a chain of escalating demands. For that reason, we must seek the national self-sufficiency which the study urges. We must never permit our economy to be hostage to foreign economic pressures.

I ask unanimous consent that the study to which I refer, together with the newspaper editorials attached to it and a column by Hobart Rowan which appeared in the Washington Post for October 28 be printed in the RECORD.

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

OIL AND U.S. MIDEAST POLICY

WE MUST BE CONCERNED

The long foreseeable energy crisis is now upon us and is threatening to become worse before it becomes better. Our nation's policies, which include policies not to make hard decisions, have brought us to the point of major dependence upon the daily consumption of imported oil which, to a considerable extent, will mean more imported oil from the Middle East Arab states.

As Americans, we must be concerned both with the immediate and long-range effects of putting these nations in control of well over 100 billion dollars in currency, credits and U.S. property during the next decade. We must also be concerned because these foreign oil producers have made it clear that they intend to raise the price of what is becoming a scarce commodity and will refuse to increase production in order to maintain their superior position for as long as possible.

As Americans, we are concerned not only with the dangers of placing these tremendous sums of dollars in foreign hands, but also with the need of adjusting our consumption of energy to what is available and practicable. As we have done in times of war, we shall have to demonstrate our ability to make small sacrifices of convenience for the greater national interests.

As American citizens of Jewish extraction, we have a secondary need for looking objectively at the elements of the energy crisis. Certain of the Middle East oil producing states have indicated that they contemplate using their effective bargaining position to compel the United States to change its foreign policy toward the Middle Eastern nations and Israel in particular. Approval of the policy of such oil blackmail has been voiced by at least four of the major American oil companies, while others have disavowed support of that position. It is self-evident that American Jews, recognizing the need for Israel as a haven for persecuted Jews from Nazi Germany and in recent years from the Arab nations, and bound to Israel by religious and sentimental ties, are alarmed that such threats may be heeded.

Consequently, the leadership and professional staff of the Anti-Defamation League has spent in recent weeks untold hours in obtaining the facts about the oil shortage and the relevance to it, if any, of the Middle East conflict. We have interviewed top officials of our government, officers of the major oil companies and of independents, as well; we have taken advice from leading specialists in oil, and we have come to a series of conclusions which are set forth in this pamphlet.

Neither Israel nor U.S. policy toward the Middle Eastern nations has any relevance whatsoever to the energy crisis.

If there were no Israel at all, the Arab oil producing nations would continue to increase their prices for the oil they export and they would continue to put a limit on the amount of their exports to maintain their advantageous position and bargaining power as long as possible.

The energy crisis is real and will continue for the next decade by which time alternate sources of energy will be available to meet the growing demands of American industry and American consumers.

In an article outlining "A Plan for National Energy Independence" that appeared in the July, 1973, issue of *Foreign Affairs*, Professor Carroll L. Wilson of the Sloan School of Management, Massachusetts Institute of Technology, wrote:

"I believe the United States is facing a national energy emergency. It arises from our extravagant and wasteful use of energy and from a shift in the sources of fuels. Per capita consumption is three times that of Western Europe, and we may ask ourselves whether our greater use enriches the quality of life by any such margin. Our cars are twice as heavy and use twice as much fuel as European cars which run about the same mileage each year, and the ratio is getting worse because of the sharp drop in fuel economy on recent models of American cars, owing to emission controls and air conditioners. We keep our houses and buildings too hot and use large amounts of fuel in air-conditioning everything. We have not given a thought to fuel conservation and efficiency since the days of rationing in World War II—an era which only 30 percent (those over 45) of the population can remember. These are some of the reasons why with six percent of the world's population the United States uses 33 percent of the world's energy—and why Europe and Japan are unlikely to be sympathetic to our plight as we ask them to share with us their traditional supply sources in the Middle East."

During this next decade our nation will have to cope with this long-expected emergency by a combination of methods. We will have to increase our use of automobiles which get at least 20 miles to the gallon instead of six or eight. We will have to compel our public utilities and other big industrial consumers of energy to turn increasingly to the use of low sulphur coal instead of oil, and where only high sulphur coal is available, to install the sulphur extraction processes now available to limit pollution of the air. We will have to reschedule our airlines so that they do not duplicate flights carrying small payloads and thus conserve the fuel they consume. We will have to increase public transportation to replace private automobile transportation that is wasteful. And as we already have begun to do, we will have to carry out crash programs for recovery of oil from the Continental Shelf, for the gasification of coal, for the extraction of oil from shale, for nuclear energy and for the other potential sources of energy now only in experimental stages.

This paper does not undertake to delineate the means by which we can accomplish self-sufficiency in energy. Rather, it gives the hard facts about the energy crisis and the importation of oil. On the basis of the facts, it is our hope to expose the propaganda which seeks to confuse the Arabs' striving for greater profits and economic independence with their efforts to change American foreign policy in the Middle East.

SEYMOUR GRAUBARD,
National Chairman of the Anti-Defamation League of B'nai B'rith.

OIL AND U.S. MIDEAST POLICY: A STATEMENT OF THE CASE

Americans are in a time of rapidly growing demand for oil and are deluged with talk about an energy crisis and an oil shortage. The Arab states have undertaken an effort to force a change in American Middle Eastern policy and U.S. support for Israel by threatening to hold down crude oil production unless such a policy reversal is carried out by Washington. This Arab effort, sometimes labeled "oil blackmail," is being buttressed by parallel activities of certain international oil companies whose economic interests depend heavily on the availability of Arab oil and the good will of the Arab countries, particularly the oil producing regimes.

In effect, Arab countries which presently provide the United States with a mere 3% or 4% of its total oil needs are seeking to dictate American foreign policy in the Middle East.

Functioning as a cartel, they seek to extort a quick political dividend for the Arab cause by exploiting an oil supply problem that the United States faces in the rest of the 1970s and probably into the early 1980s.

This Arab political pressure comes at a time when rising U.S. energy needs, especially for oil, are making this country increasingly dependent on imported crude and imported petroleum products. While this need for imported oil is expected to continue for some years, depending upon how rapidly the U.S. moves to cut down its consumption of oil and to develop new sources of energy, experts agree that the energy squeeze is solvable and that in the interest of national security, the U.S. can and must achieve energy self-sufficiency as quickly as possible.

At stake is the independence of American foreign policy itself and the freedom of U.S. decision making from pressure by other countries.

What is the energy crisis? The problem confronting the U.S. has nothing whatsoever to do with any shortage of known energy reserves, let alone potential energy resources geologists say lie buried in the American earth and the seas offshore. Experts agree that these known reserves and potential energy resources are sufficient to meet U.S. needs for hundreds of years. But the U.S. economy is heavily dependent on oil and domestic production has levelled off in recent years and is not expected to increase sufficiently to meet projected demand in the years ahead. For reasons of technology, economics or ecology, moreover, the nation's vast potential reservoir of other forms of energy is not available in sufficient amounts now, and is not likely to become available quickly enough, to avoid a gap between available domestic energy supply and the rising energy demand for seven, ten or 15 years. The U.S., with 6% of the world's population, consumes 33% of the world's energy and everything depends on how fast the country moves to cut its oil consumption, to conserve its fuels, and to develop new sources of energy.

In the meantime, the experts agree, the country will have to import more oil from abroad. Most of the readily available foreign sources of oil lie in the Middle East (including Iran which is not an Arab state), especially in Saudi Arabia whose vast known reserves could easily meet projected American oil deficits in the years ahead—if that oil were pumped from the ground and if the U.S. could pay for vast additional imports.

In this situation, which is in no sense political but purely economic, the Arab states, including the Saudis, seek to convince the American people that if their oil is to flow here in sufficient quantities to meet projected U.S. needs, this country must act politically to reduce, or abandon, its support for Israel and must impose a political settlement of the Middle Eastern dispute on terms favorable to the Arab cause. Otherwise, the Arabs, contend, they will hold down oil production, or increase it only minimally, in amounts far below those needed to meet projected American needs.

The Arab campaign, in short, is a political smokescreen to mask the purely economic effort of the oil states to exploit a changed demand-supply equation that has created a long-term sellers' market in the world oil trade, resulting in a new and favorable Arab bargaining position. Certain of the oil regimes, moreover, have found other economic reasons for threatening to hold down output now.

Their rationale is that their vast oil reserves will be worth even more in the future than they are now, even at today's prices, and that it is likewise prudent for them to prolong the life of their finite reserves, however large they may be. Further, these Arab oil states appear reluctant to accept currently devalued American dollars and claim they prefer to wait for stronger American currency; in effect, they contend that at present their oil is worth more to them in the ground than it is flowing into tankers and pipelines.

The demand for a change in U.S. policy toward Israel is merely a "cover"—a political pretext—designed to camouflage these Arab economic motivations as well as the rapidly escalating financial demands and greater economic control of crude reserves being wrested from Western oil companies by the oil producing states.

The efforts of certain leading American oil companies in support of the Arab pressure campaign reflect the fact that more and more the major international oil firms are becoming mere economic agents and hostages of the oil producing Arab states. Whereas the kings and sheikhs once welcomed their technical know-how and capital investments via favorable concessions in return for "royalties" based on the volume of oil extracted from the ground, plus taxes, the major companies today are functioning more and more as tax collectors for the oil regimes and as marketers of Arab crude and its by-products. The new relationship, in which the companies are increasingly captives of the oil-laden Arab states, has emerged as the oil countries have demanded, and won, a larger share of crude oil profits and greater control over the oil resources themselves—sometimes by threatened or actual nationalization. Cast in their increasingly captive role, certain of the oil companies are now echoing publicly the political demands of their Arab captors for a reversal of U.S. policy in the Middle East.

Extended coverage of the energy crisis and the oil problem in the American mass media during the past year has already fertilized the soil of public opinion for the political demands and propaganda arguments put forward in the parallel campaigns of the Arab states and certain of the oil companies. Some of this coverage in newspapers and magazines, and on television, reaching millions of Americans, has posed the issue in misleading terms: Oil or Israel.

It is a phony issue. The basic economic factors that have made possible the increasingly blunt political demands of the Arabs for a reversal of U.S. Middle Eastern policy have nothing whatever to do with Israel. These basic economic factors, that have given the Arabs new bargaining leverage in the market place, would exist today if Israel had never been born. The U.S. today would be confronting energy problems and an oil supply squeeze even if Israel had remained only a dream in the hearts of Jews around the world. The present sellers' market of the Arab oil regimes were predictable for years. Unfortunately, American government and industry alike failed to plan for it with the necessary prudence and foresight; in fact, some government policies and industry practices contribute to the emergence of the oil supply squeeze that now confronts the U.S.

Unless a sound national policy to achieve energy self-sufficiency is promptly adopted and carried out by the United States on a crash basis, the country faces a growing threat to its national security via a dangerous over-dependence on imported foreign oil in general and Arab oil in particular. Such over-dependence, according to the best authorities, poses future dangers for the American domestic economy, its dollar balance of payments and the value of the dollar; it poses future threats, as well, to American military security and to the freedom and independence of American foreign policy. The United States of America must not become the oil prisoner of any foreign country, certainly not any unstable, unpredictable or unfriendly Arab state, especially when alternative sources of energy are possible, awaiting only a prompt and concerted national effort to develop energy self-sufficiency in America's self-interest and in behalf of American security.

There are the realities underlying the present oil problem—realities to which the State of Israel is totally irrelevant. Economic considerations will continue to determine the amount of oil that flows from wellheads in the Arab world, regardless of U.S. policy toward Israel. If it is economically profitable to the oil regimes, that oil will flow; if it is economically profitable to keep it in the ground in the hope of better returns later, the Arabs will try to hold production down.

In short, it is impossible to assure a continued or increased flow of Arab oil by selling Israel down the river, even if this greater long-term American dependence on imported Arab oil were in the national interest, which it is not. Nor is it in America's national interest to betray its only reliable friend and democratic ally in the Middle East and a major force for stability in the area.

Experience, moreover, shows that when economic agreement and cooperation are deemed profitable by Arab states, continuing U.S. support for Israel is no barrier to the closing of such deals. In the final analysis, economic self-interest and the profit motive are the controlling factors in Arab decision-making and they are completely capable of separating their political goals from their financial concerns when it suits their purposes.

As recently as May, 1973, Egypt signed agreements with two major American oil firms who propose to spend $73 million in Mediterranean offshore oil exploration north of the Nile Delta.

Two months earlier, in March, 1973, a combine of American oil companies initialed an accord with Egypt permitting them to use the projected Suez-Mediterranean pipeline.

Also in March, Algeria, which broke relations with the U.S. after the 1967 Arab-Israeli war and which maintains a revolutionary stance in politics, signed an agreement under which a major American oil company became a partner of the Algerian national oil company.

A month earlier, the same American oil company headed a consortium of Western petroleum firms that signed an agreement granting them rights to new oil developments in Oman.

In April, 1973, Algeria concluded a $1.7 billion deal to sell the U.S. market a billion cubic feet of natural gas a day for 25 years, starting in 1976. The transactions are being financed by loans of $556 million from U.S., Canadian and other banks; $336 million, more than half the loan total, was provided by the U.S. Export-Import Bank.

In September, 1973, Iraq, which has had no diplomatic relations with the U.S. since 1967, awarded a $117 million contract for the construction of crude oil exporting facilities to an American firm.

In October, 1973, Egypt concluded a $400 million deal with an American firm for the construction of the Suez-Mediterranean pipeline. American banks played a key role in the financing arrangements.

Against this background, the current Arab effort to use oil as an instrument for diplomatic blackmail against the United States emerges for what it really is—an opportunistic attempt to secure a political victory against Israel by exploiting the presently favorable economic position the Arabs enjoy in the world market place of oil. The Arabs seek to add political icing to their economic cake.

THE ARAB THRUST

The current Arab effort to harness oil to the goals of Arab political and diplomatic policy in the war against Israel was originated by Libya's fanatical dictator, Khadafi, but is now being orchestrated by Egyptian President Anwar Sadat, with the help of King Faisal of Saudi Arabia.

Clear evidence of the economic basis for the Arab campaign of political blackmail was contained in a Cairo dispatch to *The New*

York Times by correspondent Henry Tanner that was published on August 31, 1973. The Tanner dispatch is one of many providing such evidence. Tanner wrote:

"One of Mr. Sadat's greatest assets in seeking to harness Arab oil wealth for political purposes, diplomats here say, is that for the first time the economic interests of the Arab oil-producing countries are in harmony with the political interests of Egypt and the other 'front-line' states bordering on Israel."

Tanner wrote that "Egyptian experts working in other Arab countries and officials of the Arab League, under Mahmoud Riad, its secretary general and a former Egyptian Foreign Minister, have been conducting a patient campaign of explanation and education to this end." According to Tanner, their argument, in its briefest form, runs as follows:

"At a time of steep inflation and after successive devaluations of the dollar, the Arab oil countries would be stupid to agree to a rapid increase in production when by keeping more of their oil in the ground they can expect far higher prices. In addition, they can stretch the limited time—two or three generations—that their oil would last at the current rate of exploration.

"The argument continues that at the present rate, oil revenue is so great that even with the greatest ingenuity only a fraction of it can be invested for development in the producing countries or even the whole Arab world.

"Therefore, large sums are piling up in Western banks where they are vulnerable to devaluation and may soon be subject—along with other capital—to restrictions on movement . . .

"When Arab oil and financial experts speak of these issues their talk is technical and unemotional. They talk in terms of economic self-interest. The Arab countries, as much as anyone else, are interested in a well-functioning international monetary system and have no intention of disrupting it, they say.

"But when the political writers get hold of the same issues, the terminology is different. Then it is a matter of 'punishing the United States for its total support of Israel.'"

The official spokesmen of the Arab oil-producing states themselves admit their motivation is primarily economic, not political.

The *Christian Science Monitor* of July 16, 1973, quoted Hisham Nazir, President of Saudi Arabia's Central Planning Organization and a member of his country's Supreme Petroleum Council, as expressing reluctance to sell more oil because Saudi Arabia has no way to spend the additional dollars. He said:

"We were able to spend only 62 percent of the past year's budget, though I think we can improve on that. Of course, seen from the standpoint of you oil users in the West, a 10 percent increase [in oil output] is low. But Saudi Arabia must strike a balance among competing factors."

Listing as the first two factors in importance the requirements of Saudi Arabia's own development and the need to diversify, Nazir continued:

"Everything about oil is vulnerable: the markets, the political angle and the physical installations themselves. Oil is precious. It also is undependable. This is why the kingdom now wants heavy industries.

"Third, is the absorptive capacity of the economy. We can absorb just so much money and no more. Tied to this is the fourth consideration: the accumulation of oil reserves. It is better to have reserves in the ground than a lot of depreciating dollars in hand."

A week earlier, a Saudi Arabian cabinet minister declared:

"We have found that the maximum revenue we can usefully absorb is brought in by production of seven million barrels a day. Anything we produce over that harms our own interests by keeping prices down and by disturbing our economic balance."

In a recent interview with CBS news correspondent John Sheahan, Kuwait's Minister of Finance and Oil, Abdul Rahman S. Al-Ateeqi, said:

"Why should I produce more oil and give it for unguaranteed paper money? Why should I produce oil, which is my own bread, my livelihood, and give it for a price which next year will be devalued for so much percent. That means that I am sacrificing so much percent for somebody else who is giving me unguaranteed paper money."

Obviously, however, were Israel to die tomorrow, the Arab oil regimes and their allies would have the same purely economic reasons for restricting oil output in the present period.

The depreciated value of the dollar, one of the factors which now tempts them to do so, emerged at just about the same time that other purely economic developments were taking place—developments that have driven the price of oil sharply upward, that may in coming years send extra billions into Arab coffers, and that may strain the U.S. balance of payments deficit, putting further downward pressure on the value of the dollar.

The price of oil has just about doubled since 1970. The Arabs have been able to send the price spiraling upward because they have been wresting control of their own oil reserves from major Western oil companies who previously controlled those resources under long-term concessions.

Under the concession system, the Western oil companies, mostly American, British and French, decided how much oil to produce, where to sell it, and how much to charge. The countries in whose ground the oil lay received a fixed royalty of about 12.5% of the sale price, plus a tax. The production costs to the companies were, nevertheless, so low that their producing operations—"upstream"—were highly profitable. "Downstream" operations—refining and marketing—in fact accounted for only a minuscule portion of the profits earned by the giant international companies.

Following a unilateral 1958–1959 cut by the companies in posted prices for oil—the prices on which the taxes to host governments were based—the revenues to the oil states were, as a result, reduced. In 1960, they formed the Organization of Petroleum Exporting Countries (OPEC), originally Saudi Arabia, Iran, Iraq and Kuwait, plus Venezuela, and now including Libya, Algeria, Abu Dhabi, and Qatar, plus Indonesia and Nigeria. These 11 OPEC countries are a cartel that controls half the world's production and 80–90% of the oil that moves in international trade, although only 3% or 4% of U.S. oil consumption comes from the Arab states.

At first seeking only a restoration of the 1958–1959 posted prices that had been cut by the international oil companies, OPEC was by 1969–1970 warring against the concession system itself. In the last two or three years, a rapid succession of confrontations has taken place between the producing countries and the international oil companies that has drastically and dramatically changed their relationships and that has placed the oil states, rather than the companies, in the driver's seat.

The oil states have not only won their demands for higher payments but have wrested ownership participation" rights from the companies as well. This participation, in the case of the Persian Gulf states, provides for a 25% interest in existing concessions now, with 51% majority interest scheduled by 1983. (Now there are rumblings that these states may press for control now—or at least earlier than 1983.) In other countries, such as Libya, oil company properties have been seized without compensation, or have been nationalized with offers of some compensation to the corporations. In yet other cases, nationalization has been threatened.

These actions have been met by a noticeable inability on the part of the companies and the consuming governments to resist. The companies are well down the road to becoming the servants of the exporting countries—more and more mere conduits for the transfer of billions of dollars from consumers to the producing states.

In none of these purely economic developments of recent years, so radically altering the international oil picture, have the State of Israel and U.S. Middle Eastern policy been factors of any significance whatsoever.

ENERGY CRISIS

Just as Israel is totally irrelevant to the purely economic developments of recent years that have led to the new sellers' market in oil and to the threatened Arab oil output hold-down, so too the existence of the Jewish State has no relationship whatsoever to the ever-increasing demand for energy in the United States and the rest of the world that has now come to be called an energy crisis."

That escalating demand for energy—a purely economic manifestation—results from the combined and mounting needs of the U.S., Western Europe, Japan and some of the underdeveloped countries now striving for more industrialization.

The human animal has used up more energy in the 30 years since 1940 than he consumed in all of recorded history until then. And, experts say, by 1980 world energy consumption is expected to be double that of 1970.

As far as the United States is concerned, here is how recognized authorities see the situation:

The U.S. grew to its present stature of strength and prosperity because of vast domestic supplies of cheap energy that enabled it to emerge as an industrial giant with the highest standard of living in the world.

Tremendous amounts of fossil fuels—coal, oil and natural gas—made this growth possible. Those supplies are far from exhausted. Indeed, the energy crisis the country faces is a problem of shortage in the midst of plenty—tight supplies above ground amidst vast recoverable reserves and even vaster basic resources believed to exist under ground and under water but not presently able to be tapped. For example:

The U.S. Geological Survey estimates the nation's total coal resources at 3.2 trillion tons, enough for many hundreds of years, and of this resource base, 150 billion tons are presently recoverable, enough for almost 200 years.

The U.S. has an estimated 385 billion barrels of ultimately discoverable oil—that is, estimated oil in place but not yet part of proven reserves or presently recoverable. The amount is almost equal to all the oil discovered in the country up to 1971.

The U.S. has 1,178 trillion cubic feet of ultimately discoverable natural gas in its overall energy resource base—a little less than double all the natural gas discovered until 1971.

The U.S. has 1.6 million tons of mineable uranium, 700,000 tons mineable at costs low enough to assure cumulative requirements through 1985, and to take the nation from the oil age through the age of the breeder reactor and on into the next energy age, whatever it may be.

The country has 1.8 trillion potential barrels of crude shale oil in oil shale deposits in the Western states.

For reasons of technology, economics or ecology, most of these vast potential sources of energy are not now readily available. The lag in development of these resources is in part the result of government policies, industry practices and pressures in recent years from ecologists and environmentalists.

Existing supplies, meanwhile, have been squandered at a far faster rate than necessary by national wastefulness and failure to conserve—the result, likewise, of various gov-

ernment policies and certain industry practices.

The gap between available energy supplies and mounting energy demands that is expected in the next seven to 15 years is one of the most serious facing the country, if not the most serious. Closing the gap will take time, great outlays of money, technological research and a concerned effort, starting at once.

The prospects for a solution are far brighter for the long term—ten years or more from now—than they are in the short term, between 1973 and 1980 or 1985. Sen. Henry M. Jackson of Washington, considered by many to be one of the best informed men in the nation's capital on energy problems, believes that a 10-year, $20 billion research and development program, on the scale and scope of the Space Program, must be undertaken at once with the goal of making the U.S. once again self-sufficient in energy by 1983.

The challenge confronting the nation is formidable. Energy consumption in the U.S. doubled between 1950 and 1970 and most of the consumption levels projected for 1985 are almost double those of 1970.

Because the American economy is so heavily geared to petroleum and its by-products, much of the projected increase in the demand for energy will take the form of an increased demand for oil, which has already risen markedly in recent years. The U.S. oil consumption picture looks like this:

U.S. oil consumption—Actual and projected

[Millions of barrels a day]

Actual:	
1970	14.7
1971	15.1
1972	16.3
1973 (estimated)	18.0
Projected:	
1975	21.0
1980	22.0–25.0
1985	25.0–27.0

The U.S. oil import picture looks like this:

U.S. OIL IMPORTS, ACTUAL AND PROJECTED

Year	Millions of barrels daily	Percent of total oil consumption
Actual:		
1970	3.4	23
1971	3.7	25
1972	4.6	28
1973	6.0	33
Projected:		
1975	7.5	36
1980	9.0–12.5	36–57
1985	13.0–15.0	48–60

Until now, most imported U.S. oil has come from Venezuela, Canada and Nigeria. In 1970, less than 3% of total U.S. consumption came from the Middle East. By 1972, the percentage had risen to 3% or 4%.

The estimates of U.S. oil demand for the years ahead, until 1985, tend to vary, depending on assumptions made with respect to various demand and supply factors.

Most of the increased imports, the experts say, will come from the Middle East, and some estimates place the expected 1980 imports of Middle Eastern oil at 35–40% of total U.S. consumption.

All estimates and future projections, it should be noted, rest on a series of assumptions that may or may not prove to be sound. Most of the statistical data on oil come from petroleum industry sources and both the government and the mass media are heavily dependent on oil industry sources for crucial information, key statistical data and indicators, and for future estimates and projections as well.

That the oil industry itself can be wrong in its projections was indicated by Thornton F. Bradshaw, president of the Atlantic Richfield Co., during an interview on a recent three-hour NBC–TV documentary on the energy crisis. Discussing the present oil and gasoline squeeze, Mr. Bradshaw stated that demand for petroleum and petroleum products had proved to be greater than the industry had anticipated and that at the same time actual supply had been less than anticipated.

While the foregoing caveats with respect to oil statistics and future projections are worth noting, it is nevertheless generally agreed that, if the consumption of oil continues to increase, the United States is likely to be increasingly dependent on Middle Eastern oil imports in the latter years of the 1970s and the early years of the 1980s, and the main available sources of supply for such imports from the area will be Saudi Arabia and Iran.

Yet another factor in the picture is the price of crude oil which, as noted, has just about doubled since 1970 and which seems certain to go up even further in the wake of Libya's recent action, setting the price of its crude at $6 a barrel.

The combination of increasing U.S. reliance on imported oil and the rapidly escalating price of crude could have a serious impact on the U.S. balance of payments in the future.

In 1972, the U.S. balance of payments deficit was approximately $6.5 billion of which about $4 billion resulted from energy imports, mostly oil. In testimony before the Senate Foreign Relations Committee on May 31, 1973, Deputy Secretary of the Treasury William E. Simon said that the U.S. payments outflow due to oil imports might reach about $7 billion for 1973, and that this figure could grow to $10 billion in 1975 and might reach $17 billion by 1980.

Allowing for estimated exports of $8.2 billion that would be generated in 1980 by this outflow of dollars—an optimistic estimate—plus about $5.9 billion returning to the United States as "repatriated profits," Mr. Simon put the net dollar outflow due to oil imports at about $3 billion. This figure, however, would be substantially increased by projected capital and exploration expenditures overseas on the part of American oil companies.

The Simon analysis made it clear that some of the oil producing states in the Persian Gulf area—Saudi Arabia, Kuwait, Abu Dhabi and Qatar—had small populations and that they might not be able to increase imports or domestic investments as fast as their oil revenues accumulate. He said that by 1980, the combined dollar holdings of these oil states could be about $60 billion.

A *Newsweek* article in April, 1973, was less restrained. It projected accumulated Arab oil earnings of $120 billion by 1985—a figure the magazine noted was almost as much as the world's combined reserves of gold and foreign exchange and enough to buy up all the issued stock of all the petroleum companies in the world. *The Economist*, respected British publication, recently put the projected monetary reserves of the four Arab oil states of the peninsula at anywhere from $44 billion to $95 billion by 1985.

These projections of accumulated Arab oil earnings by the end of the next ten or twelve years have led to speculation that the oil states could end up controlling a number of major American corporations. Other speculation suggests that Arab investments in U.S. industry will increase sharply. Some highly placed government officials feel such investments are to be welcomed as a way of soaking up accumulated Arab earnings and offsetting the projected U.S. payments deficits.

In any case, the problems implicit in projected U.S. trade deficits stemming from energy imports and accumulated monetary holdings in Arab treasuries are obvious. First and foremost is the problem of how the U.S. is to pay for billions of dollars worth of oil imports and meet its steep balance of payments deficits. Another problem is the possibly serious impact of these oil imports and trade deficits on the value of the dollar in the years ahead. A third is the problem of increasing competition for Arab oil supplies among the U.S., Western Europe and Japan, not to mention the underdeveloped countries who may be priced out of the market as the escalating demand of the major industrial nations drives crude oil prices steadily upward.

Put bluntly, the projected dependence of the United States on oil imports from the Middle East during the next decade poses serious threats to American national security, the health of the U.S. economy, the value of the dollar and the freedom and independence of American foreign policy.

FACTORS IN THE ENERGY SQUEEZE

The growing reliance of the United States on imported oil, especially from the Middle East, has its roots in an array of domestic factors that in recent years have tended to stimulate oil demand while restricting exploratory drilling, U.S. production of oil and natural gas, expansion of American oil refining capacity, and development by this country of alternate sources of energy. These factors include various government policies in the energy field, certain industry practices, and resistance by environmentalists to a variety of energy projects.

Experts who have analyzed the problem say this: Government import quotas on crude oil, originally adopted in 1959, were continued for some time after they had become self-defeating; they were finally abolished by the President on May 1, 1973. By restricting supplies of crude oil, these import quotas tended to stifle construction of additional refinery capacity, as well as competition by independents in the petroleum industry. The industry and other observers contend, also, that government tax, pricing and leasing policies stifled exploratory drilling for new sources of domestic oil, especially offshore oil along the Outer Continental Shelf. At the same time, many experts agree, government price controls kept natural gas so cheap that exploratory drilling likewise lagged, restricting new finds of both natural gas and oil, since the two are often found together. The cheapness of natural gas led to uneconomic and wasteful uses of that fuel; this has led to a supply squeeze in natural gas.

Government incentives have likewise been lacking for the construction of oil storage facilities and deepwater ports to make possible substantial economies from the use of super-tankers. These factors have in turn dampened efforts to construct new refining facilities.

The international oil companies, pointing to uncertainties as the result of all these government policies, have tended to concentrate on "upstream" profits in crude oil production at the expense of building more refining facilities. In many cases, where efforts were made by the major companies or by independents to build refineries, sincere opposition by environmentalists delayed or blocked construction. Environmentalists have likewise opposed construction of nuclear energy plants, although the U.S. now has 30 such plants in operation, 59 under construction and 97 on the drawing boards. Yet nuclear power generates less than 5% of electricity today; this is expected to grow to 20% by 1980, and to 27% by 1985.

The often understandandable opposition of environmentalists to the siting of oil refineries and nuclear plants has also delayed or blocked other steps that might, in recent years, have begun to relieve the energy supply problem. Such opposition has held up offshore oil drilling projects and has prevented construction of the Alaska pipeline for the last five years.

The Federal Government recently proposed a variety of steps aimed at speeding the pro-

duction of new domestic oil supplies and at developing alternate sources of energy. Results, however, will take time, many of the proposals may encounter opposition, and technological research will have to be speeded on an even more urgent basis.

Experts, however, agree that the "supply side" of the nation's urgently needed crash program for energy self-sufficiency must be balanced by determined efforts to attack the "demand side." They point out that national security requires not only the development of new supplies of energy, but a concerted drive to reduce our total consumption of energy, especially oil, plus the more efficient use of the energy supplies we already have.

Conservation of energy, these experts say, must become an urgent national priority because, over a period of time, such conservation can achieve reductions in the country's total energy consumption that would be the equivalent of hundreds of thousands of barrels of oil a day, perhaps even more.

An October, 1972, report issued by the Office of Emergency Preparedness ("The Potential for Energy Conservation") said that by 1980, the country could reduce its energy demand by the equivalent of 7.3 million barrels of oil a day and save an estimated $10.7 billion in outlays for imported oil, thus benefiting its balance of payments problem as well.

The study said major areas for energy conservation were in the sectors of industry and transportation. It said industry could cut demand by 10% to 15% of projected levels, or more, if given incentives to do so. Transportation, which accounts for about 40% of overall energy consumption, offers major opportunities for consumption cuts but some of the possible economy measures, the OEP conceded, might encounter public resistance. Residential and commercial uses, the report said, now consume about 20% of the country's overall energy demands and could possibly be cut 20% by 1980.

In the final analysis, the U.S. goal must be to achieve independence from foreign sources of energy.

ECHOES OF THE ARAB THRUST

In the last year, every aspect of the energy crisis and the oil problem has been covered by the American mass communications media. The public has been deluged with articles, in-depth analyses, editorials and cartoons in newspapers and magazines, and by extensive coverage on radio and television.

In the hundreds of thousands of words that have been printed and broadcast about the energy crisis and the oil problem, there have been references time and time again linking the nation's fuel difficulties to American policy in the Middle East. Such coverage has implicitly or explicitly given credence to the smokescreen the Arabs have raised to camouflage the economic self-interest that underlies their recent threats to hold down oil production now in the hope of greater profit later.

The false Arab claim, that their threatened oil hold-down results from U.S. support for Israel and that Arab oil will flow only if the U.S. changes its policy, has been given such heavy exposure and the energy crisis has been so extensively covered that it appears many Americans are disturbingly vulnerable to the propaganda campaign of the oil regimes and their collaborators here.

Thus, in a June, 1973, advertisement in *The New York Times*, one international oil company urged that the U.S. join with the Soviet Union in insisting on a Middle Eastern peace "guaranteed" by the two great powers—an *imposed* peace between the Arabs and Israel and a solution opposed not only by Israel but by the United States Government itself.

A month later, the board chairman of another major international oil corporation sent a letter to his company's 262,000 stockholders and 40,000 employees, urging them to pressure Washington into adoption of a policy favorable to "the aspirations of the Arab people, and more positive support of their efforts toward peace in the Middle East." The letter received extensive coverage in the mass media. Filled with obvious anti-Israel insinuations, its basic message was identical to that contained in the Arab oil hold-down threats: if the U.S. wants increased supplies of Arab oil for its energy needs, it must change its foreign policy with respect to the Middle East. The board chairman who signed the letter later denied any anti-Israel intent. Other such statements from similar sources have followed. Significantly, all these companies are those most dependent on Arab oil reserves.

Major American oil companies have long maintained a pro-Arab stance and their executives have been for many years busy Washington lobbyists for the Arab cause in the dispute with Israel. Most of their activities, however, have been carried out quietly and discreetly—behind the scenes and far from the spotlight of publicity, in the offices and corridors where policy is made, and by support of "educational" activities carried out by pro-Arab groups to influence public opinion. Rarely, however, have oil companies openly attempted to influence American foreign policy in line with their own corporate interests.

More usual is the tactic whereby oil industry spokesmen have testified before Congressional committees considering U.S. foreign policy, or have met privately with State Department officials, or other top leaders in the Executive branch.

Thus for example, in June, 1972, the former chairman of a consortium of four major American oil companies, testifying before a House Foreign Affairs Subcommittee on the Middle East, urged a change in U.S. Middle Eastern policy and the adoption of a more "realistic political stance" toward the Arab nations. Two years earlier, in July, 1970, the same spokesman told the same House panel that America's pro-Israel policies were hurting U.S. business interests.

In May, 1970, 10 representatives of the same consortium and its four owning oil companies met privately with Assistant Secretary of State Joseph Sisco and warned him that American military sales to Israel would damage relations with the Arab states and jeopardize U.S. oil interests in the Middle East.

As recently as September 4, 1973, the present board chairman of the same consortium, owned by the four major American oil companies (and now in part by the Arab host government as well), told a Los Angeles *Times* reporter in an interview that he was the "middleman" in a "calculated" attempt by the consortium to create a more sympathetic attitude in this country toward Arab nations. The board chairman of the consortium contended that the intent of this effort was not to arouse sentiment against Israel but to promote a climate of public opinion which might move the American government to "more aggressively" seek a settlement of the Arab-Israeli dispute.

In the interview, the chairman also disclosed that he had initiated the effort because of "pressure" from King Faisal of Saudi Arabia. The views of the monarch, the board chairman told the Los Angeles *Times*, were conveyed to him at a meeting early in May, 1973, at which Faisal said he felt the consortium should be doing more in the U.S. to put across the Arab viewpoint.

Following his conversation with the King, the board chairman said, he immediately sent a detailed cable to the four American companies summarizing his conversation with Faisal.

Two of them acted during June and July (a third acted later)—the company that published the ad in *The New York Times* and the company whose board chairman sent the letter to his stockholders and employees. The chairman of the consortium indicated that he considered the content of the letter "ill-advised." But he contended that while the consortium's interest in its own good relations with the Arabs remained a major factor, "Mideast stability" had also become an American national interest.

In any case, the open effort to influence American foreign policy by the oil consortium and three of its owning corporate partners emerged as an Arab-instigated propaganda tactic.

It soon became clear that other major oil firms were disavowing such tactics. In August, 1973, a spokesman for one such firm told *Anny*, a New York advertising weekly, that his firm would not meddle in American foreign policy. "Oil companies," he was quoted as stating, "have no right to involve themselves in international politics." *Anny* reported that another oil company spokesman had issued a similar statement. An official of yet a third major oil firm wrote a public letter asserting that his company "has made no public statement supporting either side in the Middle East conflict." He added: "It is our position that U.S. foreign policy is the responsibility of government, acting on behalf of all citizens who are free to express their individual beliefs."

Despite these disavowals from within the oil industry itself, despite sharp reactions from thousands of customers and from the American Jewish community, and despite editorial criticism from a number of leading newspapers around the country, echoes of the Arab pressure campaign for a change in U.S. Middle Eastern policy were again heard in mid-September, 1973.

In a public speech, the chairman of yet another giant international oil company—like the others a member of the four-company consortium and heavily dependent on Arab crude—called for a re-examination of the country's Mideast policy. He noted that "key reserves on which this country is now dependent, and on which it is destined to become more dependent, reside with countries where these reserves represent substantially all or the major part of their known wealth." Consequently, he said, it was not difficult to understand "that the leaders of these nations will use their oil to achieve the major objectives to which their people aspire, whether they be economic or political."

Perhaps more significant, this oil industry executive pointed out that close ties had developed between the oil companies and Saudi Arabia, adding:

"We must feel concern when those who have been so close to us urge us to review our policies. When such long-time friends assert that we are not being fair and even-handed, it seems only sensible to pause and examine the actions about which they express concern.

"This would seem appropriate even if this nation were not now facing decisions about the Middle East which will directly affect the flow of energy during the critical, short supply years ahead—energy which is so fundamental to our economic well being. To dismiss without some concern the viewpoint of those who feel wronged is to neglect a significant aspect of the nation's energy policy."

As may already be clear, the major international oil companies face some serious problems, but these problems are economic. They result from the economic self-interest of the Arab oil countries and bear no relation whatsoever to the existence of Israel as a sovereign state in the Middle East or to U.S. policy in that area of the world.

All of the problems that now confront the oil companies would confront them if Israel had never existed, or if it were to disappear tomorrow.

NEEDED: U.S. SELF-SUFFICIENCY IN ENERGY

The United States should not, need not, and must not, submit to Arab oil blackmail, aimed at forcing a reversal of U.S. support for Israel.

This country should not submit because a change of policy will not alter the basic economic factors behind the Arab threat to hold down oil production.

This nation need not submit because it has energy options available.

It must not submit because American self-interest and the requirements of national security dictate a policy that avoids a dangerous over-dependence on imported Arab oil.

To submit would invite a chain of escalating demands that would threaten the independence of American foreign policy.

The September, 1973, conference of oil ministers from 10 Arab nations, held in Kuwait, indicated that the Arab world is not as united on the issue of using oil as a political weapon against the U.S. as its propaganda would have us believe. The Kuwait conference ended without any agreement on a common policy to force a change in U.S. policy by holding down Arab oil production. *The Wall Street Journal* of September 5, 1973, quoted "conference sources" as stating that "the ministers believed their views were so diverse that to attempt a common policy at this time would threaten serious damage to the organization."

In any case, the course to be taken by the United States is clear and commands widespread support and broad agreement. That course would set the United States on the road to energy self-sufficiency through adoption of a concerted and coordinated national program to conserve energy and to develop alternative energy sources that would free the country from dependence on imported Arab oil and the vagaries of unpredictable Arab regimes.

While conservation of energy resources through reduced consumption can be and must be pursued, according to many experts, conservation and reduced consumption will not solve the long-term problem. Nevertheless, these experts say, development of mass transit, lower legal speed limits, taxation of heavier cars to stimulate production and purchase of smaller ones, and other such efforts, can be helpful. So, too, they add, can educational campaigns and incentives aimed at persuading homeowners to improve the insulation of their homes and the efficiency of their heating units.

But, all agree, the major U.S. effort must take the form of a national program to develop alternative sources of energy and there is an array of options open to the country. Promptly pursued, on the scale suggested by Sen. Jackson's 10-year, $20 billion development proposal, they offer a permanent solution to the energy problem.

Here is what leading experts in government, science and industry say:

America's energy options include nuclear energy through both fission, including breeder-reactors, and fusion. Fusion especially offers great hope for a lasting solution to the energy requirements of a great industrialized nation.

The nation's vast supplies of coal offer opportunities through the use of gasification and liquidation processes and the use of low-sulphur coal for direct burning. There is great hope in magneto-hydrodynamic power generation—MHD—whereby energy from coal is converted directly into electrical energy. MHD is both a clean and efficient source of energy from coal and offers another long-range answer.

Other potential sources of energy include the extraction of oil from shale rock, already being explored, and from tar sands, plus research into the employment of solar power to tap the vast energy of the sun and geo-thermal energy to be extracted from the core of the earth.

These potential sources of energy will have to be researched and the best sources developed for our long-term future needs because even if national security considerations were not involved and the independence of American foreign policy were not at stake, the plain fact is that even the vast oil resources of the Arab world will some day run out. In the shorter term, if the United States resolutely develops alternative sources of energy, it will stand a far better chance of ending the OPEC cartel's grip on the world trade in petroleum that has produced the current Arab effort at oil blackmail.

The Arabs know all this. They know that they are in an advantageous position now, but that some time down the road in the future, their bargaining position will eventually erode.

American policy in the Middle East must be determined by the long-term interests of American security, not by worry—let alone panic—in the face of an oil squeeze and Arab blackmail threats that may turn out to be mere bluff.

To bow to these threats, to sell the existence of Israel as a reliable and democratic ally for future supplies of Arab oil that would make the U.S. a prisoner of the oil regimes, would be folly.

[From the Jerusalem Post magazine, Sept. 14, 1973]

THE GREAT OIL BLACKMAIL

The Western world's biggest headache during the next decade is going to be the oil crisis. It is a problem of such intimidating dimensions that its association with the Arab-Israeli dispute becomes incidental, almost irrelevant. Put another way, if Israel were to disappear tomorrow, the oil crisis would remain unchanged.

Here are the statistical facts, as they were immediately prior to President Nixon's statement last Saturday. Oil production on the American continent has passed its peak, and is beginning slowly to decline—while consumption goes on growing. The U.S. imported close to 250m. tons last year. That figure, will increase to 600m. tons in 1980.

The Americans consumed 775m. tons of petroleum in 1972—550m. tons of it from internal sources, the rest imported. By 1980 they will be needing 1,200m. tons, 50 per cent of it from foreign wells.

Japan will be buying a similar quantity by then. Europe is importing more than that already. In all, the world will need over 1,000m. tons of extra oil eight years from now.

The chief supplier will be the Middle East, at a price—a very high price. In fact, the cost of this whole operation will be so immense that it probably cannot be accommodated within the framework of the world's present monetary system. For the first time in human memory, neither currency nor bank loans nor gold are going to prevent a major economic deadlock.

The U.S. paid $7,000m. for oil imports last year. By 1980 (with prices already going up), the bill be be $20,000m. or more. The Americans do not have that amount of foreign exchange to spend. They cannot possibly push up their exports by $10–15 billion in eight years—just to pay for oil.

One of the reasons they cannot is that the Arab States face the same problem in reverse. Saudi Arabia—the country with the largest oil reserves in the world—earned $3,000m. from the oil trade last year. By 1980, if she is to supply the purchasing countries as outlined above, she will be earning an estimated $25,600m. per annum. Saudi Arabia has no idea how to spend last year's $3,000m.—and this year's revenue is already appreciably greater. What will she do with an annual inflow of $25 billion?

According to the British Institute of Strategic Studies, the Arabs—and Saudi Arabia especially—want to industrialize; but they cannot possibly manage to spend—whether on raw materials, machinery or consumer goods for the wage-earners—a fraction of these huge sums. If they could, the U.S. would have a new market for exports. Instead, King Faisal will be sitting on an increasing pile of superfluous dollars. He will be stuck with a growing mass of depreciating banknotes. The more he has, the more their value will decline—inevitably, as supply exceeds demand.

Meanwhile, his country's one vital treasure is being remorselessly extracted from the ground. Once that oil is exhausted, Saudi Arabia will be like Samson shorn of his locks—powerless, abandoned, a forgotten monster. The Arabs are lucidly aware of this problem. They are being asked to exchange their one priceless asset for bits of paper—notes, bills, scrip, bonds, share certificates—whose purchasing-power could quite conceivably evaporate with the passage of time. (Western governments are already alarmed at the mounting purchase of securities in their countries by the oil sheikhs.)

Why did Kuwait freeze her petroleum output two years ago? The real reason is that she has no incentive to increase production. Last year she earned $1,560m.—for a population of 800,000, only half of whom are Kuwaitis. That comes to $10,000 per family. This year she is receiving $2,000m. What can she do with the money?

Abu Dabi earned $550m. last year, for a population of less than 40,000. Seven years from now, assuming a 25 per cent population growth, there will be (quite literally) $400,000 a year per family. Even if they share it with other inhabitants of the United Arab Emirates, it will still come to a handsome quarter of a million dollars annually per family.

The game is scarcely worth the candle. Explaining to the "Christian Science Monitor" why his country wants to reduce the growth-rate of its petroleum output from 30 per cent a year (which represents the Western need) to 10 per cent, Mr. Nazer, chief of Saudi Arabia's Central Planning Bureau, said: "Frankly, I wish you could find some other energy source, to take the pressure off us."

Production costs are only six to seven cents a barrel. Yet the Arab Governments make $1.70. (This is in the Persian Gulf, where the posted price is $2.90 a barrel. In Libya, which is nearer the European market, the price is $4.40) OPEC (the Organization of Petroleum Exporting Countries) constitutes by far the biggest international cartel in history. It puts on the squeeze in order to extract profits. These profits have no relation whatever to production costs, the price of capital, or anything else. They are a kind of toll, extorted by the menace of sanctions. It can be said that OPEC was oversuccessful. The consumer countries were altogether too obliging. Their agreements threaten to wreck the world's monetary stability. (A first small taste of this was felt in the recent dollar crisis.)

One could ask, why should not poor countries get what they can out of the rich countries? If all the poor countries were benefiting, the imbalance would be much less serious, because the world's poor need desperately to buy, and would want to spend those dollars. But even the Arabs are not doing as well as they think out of their one-sided deal. They are at last beginning to recognize that, in a way, they are themselves being exploited for the benefit of the industrialized world. They are giving away their only asset albeit expensively—but at a pace convenient to the buyer, and highly inconvenient to the seller.

It would be best for them to market the oil in their own time, to step up production

slowly, as their need for foreign exchange slowly increases. Any business consultant would give them the same advice. Other things being equal, the Arabs should nurse their oil reserves, whose availability, after all, is finite, even in the Middle East. They should dispose of the precious liquid at a cautious and calculated rate, as extra finance is required to activate the country's industrial and social development.

If they sell too much too quickly, as is happening today, they are faced with the problem of finding investments abroad for the cash that comes in. But there is nothing in the world better to invest in than the oil itself, which lies securely under their own feet. The ideal placement for the Arabs is to refrain from pumping the "black gold" out of the ground in the first place.

This dawning realization on both sides of the astonishing problem they have created in their transactions with each other is causing anxiety—on both sides. To say that Saudi Arabia will cut production to a 10 per cent growth-rate because of Israel is meaningless. Even if President Nixon throws Israel to the wolves, will King Faisal, in a spurt of gratitude, order the companies to go on increasing production by a breathtaking 100m. tons a year, as before?

Just as much as the Westerners, the Arabs need an agreed solution to their oil problem and possibly more. Their wealth lies not in the oil, but in the readines of the outside world to buy that commodity. President Sadat may fulminate about the Israel problem, because he has no oil to speak of. But King Faisal is preoccupied with something more important: how to secure that the West buys his oil more slowly, and for a longer time to come. Therefore President Nixon's decision to maximize efforts for developing alternative energy sources should have the King's warm approval.

He probably welcomes the proposed Alaska oil pipeline. He should applaud the development of nuclear energy. On the other hand, he must make sure that the pendulum does not swing too far the other way. If the West, stimulated by the oil crisis into a fever of inventive energy, finds a way of running its cars and trucks with a new form of battery, powered by nuclear energy, there could develop a buyer's market for conventional fuels. That could be a death-blow to Faisal's monarchy—and to Saudi Arabian independence.

There are liberal-minded people in Europe who rely on the Americans to take the hard decisions, and can therefore indulge a curious sentimentalism in their political thinking. They are responsive to the high-minded statements that men like Faisal make for the record, such as his observation to Frank Jungers of Aramco that he is "not able to stand alone much longer in the Middle East as a friend of America"—if, that is, the White House does not change its posture over Israel.

Faisal is first and foremost a friend not of America, but of Faisal. It is not Israel that threatens him, but Egypt, Iraq, the Soviet Union, China. It is Egypt, not Israel, that invaded the Yemen and bombarded Saudi Arabian targets before 1967. It is fear of Egypt that made Faisal beg Harold Wilson, then Prime Minister of England, not to leave Aden. Saud Arabia is today the leading Arab power, thanks partly to Egypt's collapse in the Six Day War. If Nasser's successor, Sadat, makes friendly noises, it is not because Egypt has changed, but because Israel has altered the Middle East power balance.

It cannot be denied that hostility to Israel is a problem. But for the Arab oil principalities, it is largely a rhetorical issue—"a 'figleaf' for more pressing economic objectives," to quote the "Wall Street Journal." The article (published on August 21) goes on:

"Libya has nationalized American properties ostensibly over Israel, but it has nationalized British properties ostensibly over the Persian Gulf islands of Abu Musa, Greater Tunb and Lesser Tunb."

In other words, the oil blackmail is a political bluff, reminiscent of the techniques commonly used in hi-jacking planes. The object is to make kindly-minded people panic. The question for Western statesmen to consider is whether to call the bluff, or submit. If they submit, it will be another defeat for Western interests.

It the West maintains its position and does not yield, one thing at least is clear: the oil problem will not be materially affected. If the Arabs are trying to pretend that they would genuinely like to step up their oil sales, but are prevented from doing so by U.S. policies in the Middle East, that is a gambit which even the least sophisticated listener cannot accept.

As to King Faisal, his mind is evidently divided. He wants to speak up against Israel—the Arabs expect it of him. But it is far from certain that he wishes the Americans to treat his gently-worded reproaches as an ultimatum.

[From the Wall Street Journal, Aug. 21, 1973]

EYES ON THE FIGLEAF

With the voluminous talk of the "energy crisis" and the eternal tension in the Middle East, a great deal of attention has been focused on the possibility that the U.S. may have to back away from its support of Israel because of its need for Arab oil. We often wonder whether the West isn't more obsessed with Israel than the Arabs are.

Some Arab nations have long made rhetoric about oil and Israel, of course, and the current concern arises because Saudi Arabia has started to join in. Lobbying for a more pro-Arab U.S. policy by Mobil and Standard Oil of California, two of the partners in Saudi Arabia's main oil consortium, apparently results from something King Faisal said to their executives. But we wonder just what the king said, and what he meant by it. Similar well-publicized remarks by his oil minister, Sheik Ahmed Zaki Yamani, seemed on close examination to peter out into remarkably vague and mild statements. We wonder whether the whole issue is being kept in perspective.

Take, for example, the "energy crisis," which in fact is America's adjustment to becoming a larger-scale importer of oil like other industrial nations. Saudi Arabia, which sits on some 28% of the world's proven oil reserves, is of course a key factor in meeting future world demand. And the United States will need some Middle Eastern oil to meet its increasing demands. But even 10 years from now about half of American needs will be met domestically, and nearly half of the rest from elsewhere in the Western Hemisphere. Some of the remaining 25% to 30% will come from non-Arab lands such as Iran. Up to now, for instance, our largest supplier from the Eastern Hemisphere has been Nigeria.

As far as the Arab world is concerned, a renewed war with Israel would indeed endanger the flow of Persian Gulf oil. But this possibility seems to have blinded American opinion to the even more serious Middle East trouble spots that border directly on the oil fields. As an immediate source of an oil crisis. Arab-Israeli conflict ranks somewhere below Kurdish nationalism, the Iraqi-Kuwait confrontation over the islands of Babiyan and Warba, the Iraqi-Iranian dispute over the Shatt al Arab waterway, the Saudi tension with Abu Dhabi over the Buraimi Oasis, and the ethnic rebellion in the Dhofar province of Oman.

Arab politics might not even be as monolithic on Israel as many in the West seem to think. In spite of King Faisal's fear of the Jews, the Saudis have not forgotten that the 1967 war forced Egypt to withdraw its expeditionary force from the Yemen, from which it occasionally dropped gas bombs on Saudi border villages.

Rhetoric about Israel in fact often seems to be a "figleaf," as one Middle East bureaucrat puts it, for more pressing economic objectives. Saudi reluctance to increase oil production has its real origin in problems of absorbing oil revenues in a near-feudal economy. Yet the London-based International Institute for Strategic Studies says the answer favored by the Saudis and other Arabs is "a dream of transforming themselves from mere reservoirs into industrialized states, exploiting a combination of surplus capital and cheap energy in order to process oil and other goods for the world market." This dream needs cooperation from America, both as an outlet for investment money and for help creating a local petrochemical industry; the IISS remarks that industralization depends on "assured export markets for oil products and other manufacturers."

While Saudi Arabia may suffer pressure from more militant Arab lands, the militants themselves have their own economic interests. We hear reports that Iraq's oil boycott plan, for instance, would give Iraq an increased share of the market. Libya has nationalized American properties ostensibly over Israel, but it has nationalized British properties ostensibly over the Persian Gulf islands of Abu Musa, Greater Tunb and Lesser Tunb. It recently put production limits on Standard Oil of California despite California Standard's pro-Arab lobbying, suggesting that the real targets of the campaign are the oil companies that have not yet agreed to Libya's economic demands.

Egypt's President Anwar Sadat saluted one of Libya's nationalizations in a militant speech about beginning the battle against American interests in the Arab world. Two weeks before, he was inviting Exxon to explore for oil under a 30-year contract. Two weeks later, he was soliciting American bids for construction of a $300 million Suez-Mediterranean pipeline.

The Arabs no doubt are tough customers to deal with, as are the Norwegians, the Ecuadorians, the Alaskans and almost anybody else who sits on oil. There may be serious troubles ahead if the Arabs decide to foresake their development plans and sit on the oil instead. But the idea that to crush Israel they would ignore their economic interests, or would turn charitable if Israel were sacrificed, strikes us as a view tinged with the romanticism which has so often fogged the Western view of the Middle East.

[From the New York Times, Sept. 5, 1973]

TIGHTENING THE VALVE

Unofficial reports on the secret talks held by Arab oil ministers in Kuwait yesterday carry the welcome news that no common policy of political blackmail against the United States and other major oil-consuming nations was adopted.

But even if the Arab states' chronic difficulty in ever being united on anything has averted an immediate showdown, it is plain that the Middle East forces determined to use oil as a weapon for isolating Israel from diplomatic and military support are steadily gaining ground. Both price and supply will be the instruments of pressure, with Libya in the van through its 51 per cent nationalization of foreign-owned companies, its 20 per cent boost in the price of crude and its refusal to accept payment in United States dollars.

The intensification of this squeeze makes it particularly important that the United States not allow panic over the availability of fuel to control its decisions on how it can best contribute to a just and stable peace in the Middle East. Instead of yielding to self-serving scare talk from the Arabs, the United States should start taking the long-

term steps needed to lessen its dependence on oil as an energy source.

This dependence cannot be ended overnight, but there has been too much extrapolation from that point to suggest that it cannot be ended at all—or at least, not in this generation. When talk is heard about developing alternate sources of energy, that talk is too often shot down as esoteric or science fiction or just impractical. Such has been the fate of two promising energy technologies which, though long familiar in their potential, found themselves for years downgraded when the priorities for private and Government research funds were drawn up.

The more immediate in its possible application is the process called MHD, a manageable acronym for magneto-hydrodynamic power generation, by which energy from coal is converted directly into electric power without the serious problem of pollution or loss of thermal efficiency which still bedevils other processes for using this country's immense coal reserves. The Soviet Union is far ahead of the United States in MHD research, not so much because know-how is lacking here but because the Russians have committed more investment to bringing this process closer to commercial application.

More impressive in its long-range potential is the process of nuclear fusion, which is viewed with unusual unanimity by energy experts as the ultimate answer to the energy demands of the industrialized world. The Atomic Energy Commission has long downplayed fusion research in favor of the less satisfactory fission reactors, now much under fire from scientific and citizens' groups alike for their reputed danger and inefficiency. Even the breeder reactor, which the Administration seems to consider the next best hope in nuclear power, pales in its promise compared with the fusion process.

Technological and economic problems remain unsolved for these and other alternative sources of energy, including even solar power, geothermal energy and gasification of coal—processes which have stirred long-absent popular and industrial interest in the past year or so. Another inhibiting factor, as some specialists argue, may be that existing economic interests have little stake in fusion or MHD research, and thus there are no active lobbies at work to attract funds.

The point is that alternatives do exist to petroleum fuel, if not for this decade, then for the next. That is time enough, since any convincing show of progress in making these alternatives commercially viable—even if realization remains a decade away—would immediately reduce the blackmail possibilities now open to the Arab oil-producing nations. Now it is a sellers' market, and America's dependence on Middle Eastern oil is growing, but once alternative energy sources begin to be taken seriously, the interest of the oil-rich countries would be to extract and sell their oil while they can.

[From the Washington Post, Oct. 28, 1973]

U.S. OIL POLICY: LIVE WITHOUT ARAB SUPPLIES

(By Hobart Rowen)

The Arab nations' embargo on oil shipments here has taught this country a valuable lesson: It must develop an energy policy to permit the Untied States to get by without any dependence at all on Middle East oil.

"We can't and we won't let the Arab oil-producing countries blackmail us," a high Nixon administration official says. "Happily, we're in a position where we can turn to other sources. We'll be pinched, to be sure. But we can do without any Arab oil at all, while Japan and Europe would be hurt by such a policy."

There is reason to believe that the Arab boycott, coming when it did, may have been a blessing in disguise. Our dependence on Arab oil, while growing, is still a pittance. In July, for example, total crude oil and oil products imports from Arab countries shutting off or curtailing their supplies amounted to 6.7 per cent of U.S. supplies from all sources.

That's an easier gap to try to fill than, say, 20 per cent of our supplies—the level that Middle East oil could have reached in a couple of years if the sheikhs had delayed their squeez play by that long.

But by having signaled this country so dramatically that they are not reliable suppliers, the Arab nations have escalated American efforts to produce oil and gas supplies from shale and coal. What was once seen as an uneconomic venture not only becomes economically feasible, given the sharp rise in oil prices that the Arab producers have been extorting, but a political necessity. No major power such as the United States can vest its foreign policy in the hands of a small group of willful men 10,000 miles from these shores.

But a policy keyed to living without Mideast oil has many grave consequences, all of which must be faced openly and intelligently. Among them are these:

There must be a "crash" program of the same magnitude as the Manhattan Project that developed the atom bomb in World War II to find alternative sources of energy from all sources—fossil, solar, and nuclear. That means beefing up the present Energy Policy Office, and much more concentration on research and development. There are signs that the Nixon administration is willing to invest up to $10 billion in an initial effort in this direction.

Environmental needs will have to take a second priority, at least in the short run. That doesn't mean that all protections for the environment should be abandoned. But environmentalists will be pressured by administration officials to compromise on some goals to permit explorations on the continental shelf, for the production of oil from shale and coal, and to allow the Alaskan pipeline to get under way.

Industrial and individual consumers of energy will have to learn to live with less. We waste a horrible amount of energy (and other raw materials) in this country. But voluntary efforts to save, although clearly now a major necessity, won't be enough. Gasoline and oil will have to be rationed, at least until the time that adequate alternative supplies have been developed. Such rationing plans are being readied by the administration. Consumer goods producers, who have a high consumption of fuel oil per worker, will doubtless be hit hard.

Any drop in total energy supplies will, of course, immediately require the curtailment of private passenger car travel. It could come first by letting gasoline prices skyrocket, later through coupon rationing. Undoubtedly, there would be some shift from truck transportation to more economical (in fuel use) rail transport. Detroit's present frantic efforts to move from gas-guzzlers to compacts will be accelerated.

These measures will substantially raise the cost of all forms of energy, and therefore will add to inflationary pressures in the U.S. economy. But it should be borne in mind that the Arab nations have steadily been extracting a higher price for their oil, and to the extent that they continue shipments, costs will be going up anyway. (And the reason that the United States was planning, before the latest Arab-Israel war, to rely more on Arab oil was that it used to be cheap.)

As difficult as will be our adjustment to living without Middle East oil, the problem is substantially less than it would have been if the Arabs had begun to use oil as an economic weapon against us three or four years hence.

While embarked on a crash program, the United States could make it plain to both the Arab nations and the Soviet Union that it can't be pressured by an oil boycott by indicating that it is also willing to use economic leverage. One highly regarded economist who privately advises the Nixon administration points out that the United States "must be prepared to periodically embargo farm products to certain countries if it is to exercise a countervailing pressure against the Arab-Soviet oil alliance."

If the Russians still want to pursue and reinforce their detente with the United States, they will have to acknowledge that American policy in the Middle East includes a commitment to the preservation of Israel. That policy is not merely a Nixon policy—it is a commitment by both major American political parties.

On the other hand, if we pass from detente back to cold war, it will mean not only a regrettable reversion to an arms race, but it will underscore the need for more dependable oil resources than those in Saudi Arabia, Kuwait, Libya, and other points east.

CLOSE OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

FEDERAL FIRE PREVENTION AND CONTROL ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 1769, which will be stated by title.

The legislative clerk read as follows:

A bill (S. 1769) to establish a United States Fire Administration and a National Fire Academy in the Department of Housing and Urban Development, to assist State and local governments in reducing the incidence of death, personal injury, and property damage from fire, to increase the effectiveness and coordination of fire prevention and control agencies at all levels of government, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Commerce with an amendment to strike out all after the enacting clause and insert:

That this Act may be cited as the "Federal Fire Prevention and Control Act".

DECLARATION OF POLICY

SEC. 2. (a) FINDINGS.—The Congress finds and declares that—

(1) The National Commission on Fire Prevention and Control, established pursuant to Public Law 90—259, has made an exhaustive and comprehensive examination of the Nation's fire problem, has made detailed findings as to the extent of this problem in terms of human suffering and loss of life and property, and has made ninety thoughtful recommendations. The National Commission concluded that while fire prevention and control is and should remain a State and local responsibility, "the Federal Government must . . . help . . . if any significant reduction in fire losses is to be achieved."

(2) The United States today has the highest per capita rate of death and property loss from fire of all the major industrialized nations in the world (57.1 deaths per million versus only 29.7 deaths per million for the industrialized nation with the next to the worst record).

(3) Fire constitutes a major burden affecting interstate commerce. Fire kills twelve thousand and scars and injures three hundred thousand Americans each year, including fifty thousand individuals who must be hospitalized for periods lasting from six weeks

to two years. Almost $3,000,000,000 worth of property is destroyed by fire annually, and the total economic cost of destructive fire has been conservatively estimated by the National Commission to be $11,400,000,000 per year. Firefighting is the Nation's most hazardous profession, with a death rate 15 per centum higher than that of the next most dangerous occupation.

(4) The National Commission concluded that the fire problem is exacerbated by—

(A) "the indifference with which Americans confront the subject";

(B) the Nation's failure to undertake significant amounts of scientific research and development into fire and fire-related problems;

(C) the inadequate facilities and resources available to train firefighters in fire prevention and control techniques;

(D) the scarcity of reliable data and information;

(E) the fact that designers and purchasers of building and products generally give only minimal attention to fire safety ("many communities are without adequate building and fire prevention codes");

(F) the fact that many local fire departments appear concerned only with fire suppression and rescuing victims rather than with being at least equally concerned with fire prevention, inspection, and code enforcement programs ("about 95 cents of every dollar spent on the fire services is used to extinguish fires; only about 5 cents is spent on efforts . . . to prevent fires from starting"); and

(G) the limited number of places in the United States that have burn centers which are properly equipped and staffed to save lives and rehabilitate the victims of fires.

(5) The unacceptably high death, injury, and property losses from fires can be reduced if the Federal Government establishes a coordinated program to support and reinforce the fire prevention and control activities of State and local governments.

(b) PURPOSES.—Therefore it is declared to be the purposes of Congress in this Act to—

(1) establish the office of Assistant Secretary of Commerce for Fire Prevention and Control;

(2) direct the Secretary of Commerce to establish a national Program for Fire Prevention and Control (FIREPAC) and to authorize him to initiate, support, and maintain programs and activities to reduce the Nation's fire problem;

(3) direct the National Institutes of Health to conduct an intensified program of research into the treatment of burn injuries and the rehabilitation of victims of fires; and

(4) authorize fire protection assistance.

DEFINITIONS

SEC. 3. As used in this Act—

(1) "Academy" means the National Academy for Fire Prevention and Control (FIREPAC Academy), authorized under section 6 of this Act.

(2) "Fire service" means a department, bureau, commission, board, or other agency established by a Federal, State, or local government or by a volunteer organization for the purpose of preventing or controlling fires or loss and damage from fire.

(3) "Local" means of or pertaining to any city, county, special purpose district, or other political subdivision of a State.

(4) "Program" means the Program for Fire Prevention and Control, established pursuant to section 5 of this Act.

(5) "Secretary" means the Secretary of Commerce.

(6) "State" means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Canal Zone, Guam, American Samoa, the Trust Territory of the Pacific Islands, or any other territory or possession of the United States.

ASSISTANT SECRETARY OF COMMERCE FOR FIRE PREVENTION AND CONTROL

SEC. 4. Section 42(a) of the Act of October 21, 1970 (84 Stat. 1038; 15 U.S.C. 1507a) is amended by adding at the end thereof the following new subsection:

"ASSISTANT SECRETARY FOR FIRE PREVENTION AND CONTROL

"There shall be in the Department of Commerce, in addition to the Assistant Secretaries now provided by law, one additional Assistant Secretary of Commerce who shall be known as the Assistant Secretary of Commerce for Fire Prevention and Control. This Assistant Secretary shall be appointed by the President, by and with the advice and consent of the Senate. The Assistant Secretary of Commerce for Fire Prevention and Control shall receive compensation at the rate prescribed by law for Assistant Secretaries of Commerce, shall be responsible for carrying out the provisions of the Federal Fire Prevention and Control Act under the direction of the Secretary of Commerce, and shall perform such other duties as the Secretary of Commerce shall prescribe. In carrying out such responsibilities, the Assistant Secretary of Commerce for Fire Prevention and Control shall consult, be guided by, and implement, so far as practicable, the recommendations of the National Commission on Fire Prevention and Control, to the extent not inconsistent with this Act."

FIRE PREVENTION AND CONTROL PROGRAM

SEC. 5. (a) ESTABLISHMENT.—The Secretary is authorized and directed to establish a national Program for Fire Prevention and Control (FIREPAC). The Program shall consist of all relevant programs and activities heretofore established in the Department of Commerce together with all programs and activities authorized or mandated to be established under this Act. The Program shall be administered, under the direction of the Secretary, by the Assistant Secretary of Commerce for Fire Prevention and Control.

(b) CONTENT.—The Program may consist of—

(1) the FIREPAC Academy, authorized to be established by the Secretary under section 6 of this Act;

(2) research and development programs, pursuant to section 7 of this Act;

(3) an annual conference of professionals in fire prevention, fire control, and treatment of burn injuries, pursuant to section 8 of this Act;

(4) a national data center on fire prevention and control, pursuant to section 9 of this Act;

(5) a fire services assistance program, pursuant to section 10 of this Act;

(6) State demonstration projects, pursuant to section 11 of this Act;

(7) citizens' participation programs, pursuant to section 12 of this Act;

(8) relevant studies, as directed by section 13 of this Act;

(9) an annual report, as directed by section 14 of this Act;

(10) an awards program, as directed by section 16 of this Act; and

(11) such other programs and activities as in the judgment of the Secretary are likely to reduce the Nation's losses from fires.

FIREPAC ACADEMY

SEC. 6. (a) AUTHORIZATION.—The Secretary is authorized to establish a National Academy for Fire Prevention and Control (FIREPAC Academy). The Secretary is authorized, pursuant to this section, to develop and revise curricula, standards of admission and performance, and criteria for the awarding of degrees and certificates. He is further authorized to appoint a Director, faculty members, and consultants for the Academy without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and, with respect to temporary and intermittent services, to make appointments to the same extent as is authorized by section 3109 of title 5, United States Code.

(b) PURPOSES.—The Academy is authorized to conduct appropriate educational and research programs to—

(1) train fire service personnel in such skills and knowledge as may be useful to advance their ability to prevent and control fires;

(2) develop model curricula, training programs, and other educational materials suitable for use at other educational institutions, and to make such materials available without charge;

(3) develop and administer a program of correspondence courses to advance the knowledge and skills of fire service personnel;

(4) develop and distribute to appropriate officials model questions suitable for use in conducting entrance and promotional examinations for fire service personnel; and

(5) reduce the Nation's fire problem.

(c) BOARD OF OVERSEERS.—Upon establishment of the Academy, the Secretary shall establish a procedure for the selection of professionals in the field of fire safety, fire prevention, fire control, research and development in fire protection, treatment and rehabilitation of fire victims, or local government services management to serve as members of a Board of Overseers for the Academy. Pursuant to such procedure the Secretary shall select the members of the Board of Overseers. Each member of such Board shall each year independently inspect and evaluate the Academy and report his findings and recommendations to the Secretary. The Board of Overseers shall meet from time to time and shall advise the Secretary on all questions pertinent to the Academy.

(d) PLACEMENT SERVICE.—The Secretary shall maintain at the Academy a placement and promotion-opportunities program for firefighters in cooperation with fire services.

(e) CONSTRUCTION APPROVAL.—(1) No appropriation shall be made for the planning or construction of facilities for the Academy involving an expenditure in excess of $100,000 if such planning or construction has not been approved by resolutions adopted in substantially the same form by the Committeee on Interstate and Foreign Commerce of the House of Representatives and by the Committee on Commerce of the Senate. For the purpose of securing consideration of such approval, the Secretary shall transmit to Congress a prospectus of the proposed facility to be planned or constructed;

(A) a brief description of the facility to be planned or constructed;

(B) the location of the facility, and an estimate of the maximum cost of the facility;

(C) a statement of those agencies, private and public, which will use such facility, together with the contribution to be made by each such agency toward the cost of such facility; and

(D) a statement of justification of the need for such facility.

(2) The estimated maximum cost of any facility approved under this subsection as set forth in the prospectus may be increased by the amount equal to the percentage increase, if any, as determined by the Secretary, in construction costs, from the date of transmittal of such prospectus to Congress, but in no event shall the increase authorized by this paragraph exceed 10 per centum of such estimated maximum cost.

FIRE RESEARCH AND DEVELOPMENT PROGRAM

SEC. 7. The Secretary is authorized to conduct directly or through contracts—

(a) a program of basic and applied fire research for the purpose of arriving at an understanding of the fundamental processes

underlying all aspects of fire. Such program shall include scientific investgiations of—

(1) the physics and chemistry of combustion processes;

(2) the dynamics of flame ignition, flame spread, and flame extinguishment;

(3) the composition of combustion products developed by various sources and under various environmental conditions;

(4) the early stages of fires in buildings and other structures, structural subsystems, and structural components and all other types of fires, including, but not limited to forest fires, fires underground, oil blowout fires, and waterborne fires with the aim of improving early detection capability;

(5) the behavior of fires involving all types of buidings and other structures and their contents, (including mobile homes and highrise buildings, construction materials, floor and wall coverings, coatings, furnishings, and other combustible materials); and all other types of fires (including forest fires, fires underground, oil blowout fires, and waterborne fires);

(6) the unique aspects of fire hazards arising from the transportation and use in industrial and profesional practices of combustible gases, fluids, and materials;

(7) development of design concepts for providing increased fire safety consistent with habitability, comfort, and human impact, in buildings and other structures; and

(8) such other aspects of the fire process as are deemed useful for pursuing the objectives of the fire research program;

(b) research into the biological, physiological, and psychological factors affecting victims of fire and the performance of individual members of fire services and research to develop clothing and protective equipment to reduce the risk of injury to firefighters;

(c) studies of the operations and management aspects of fire services, including operations research, management economics, cost effectiveness studies, and such other techniques as are found applicable and useful. Such studies shall include, but not be limited to, the allocation of resources, the manner of responding to alarms, the operation of citywide and regional fire dispatch centers, and the effectiveness, frequency, and methods of building inspections; and

(d) operation tests, demonstration projects, and fire investigations in support of the activities set forth in this section.

ANNUAL CONFERENCE

SEC. 8. The Secretary is authorized to organize or participate in organizing an annual conference on fire prevention and control. He may pay in whole or in part the costs of such conference and the expenses of some or all of the participants. All the Nation's fire services shall be eligible to send representatives to each such conference to discuss, exchange ideas, and participate in educational programs on new techniques in fire prevention and control. Such conferences shall be open to the public.

NATIONAL DATA CENTER

SEC. 9. The Secretary is authorized to—

(a) operate directly or through contracts an integrated comprehensive fire data program based on the collection, analysis, publication, and dissemination of information related to the prevention, occurrence, control, and results of fires of all types. The program shall be designed to provide an accurate national picture of the fire problem, identify major problem areas, assist in setting priorities, determine possible solutions to problems, and monitor progress of programs to reduce fire losses. To carry out these functions, the program shall include—

(1) information on the frequency, causes, spread, and extinguishment of fires;

(2) information on the number of injuries and deaths resulting from fires, including the maximum available information on the specific causes and nature of such injuries and deaths, and information on property losses;

(3) information on the occupational hazards of firemen including the causes of death and injury to firemen arising directly and indirectly from fire-fighting activities;

(4) information on all types of fire prevention activities including inspection practices;

(5) technical information related to building construction, fire properties of materials, and other similar information;

(6) information on fire prevention and control laws, systems, methods, techniques, and administrative structures used in foreign nations;

(7) information on the causes, behavior, and best method of control of other types of fires, including, but not limited to, forest fires, fires underground, oil blowout fires, and waterborne fires; and

(8) such other information and data as is judged useful and applicable;

(b) develop standardized data reporting methods and to encourage and assist State, local, and other agencies, public and private, in developing and reporting fire-related information;

(c) make full use of existing data, data gathering and analysis organizations, both public and private; and

(d) insure dissemination to the maximum possible extent of fire data collected and developed under this section.

FIRE SERVICES ASSISTANCE PROGRAM

SEC. 10. The Secretary is authorized to assist the Nation's fire services, directly or through grants, contracts, or other forms of assistance, to—

(a) advance the professional development of fire service personnel;

(b) assist in conducting or supplementing, at the request of a fire service, local and regional programs for the training of fire personnel;

(c) develop model fire training and educational programs, curricula, and information materials;

(d) develop new or improved approaches, techniques, systems, equipment, and devices to improve fire prevention and control;

(e) conduct such development, testing, and demonstration projects as are deemed necessary to introduce new technology standards, operating methods, command techniques, and management systems into use in the fire services;

(f) provide, establish, and support specialized and advanced education and training programs and facilities for fire service personnel;

(g) measure and evaluate, on a cost-benefit basis, the effectiveness of the programs and activities of each fire service and the predictable consequences on the applicable local fire services of coordination or combination, in whole or in part, in a regional, metropolitan, or State-wide fire service; and

(h) sponsor and encourage research into approaches, techniques, systems, and equipment to improve and strengthen fire prevention and control in the rural and remote areas of the Nation.

MASTER PLAN DEMONSTRATION PROJECTS

SEC. 11. (a) GENERAL.—The Secretary is authorized and directed to establish master plan demonstration projects which shall commence not later than eighteen months after the date of enactment of this Act. Not less than five nor more than eight demonstration projects may be assisted by the Secretary under this section. Any demonstration project under this section shall be conducted by, or under the supervision of, a State in accordance with the application of the State submitted under subsection (c) of this section. Whenever any such State includes a Standard Metropolitan Statistical Area, as defined by the Bureau of the Census, the geographical boundaries of which include two or more States, then such State shall include the entire such Standard Metropolitan Statistical Area in its master plan demonstration project.

(b) ELIGIBILITY FOR GRANTS.—The Secretary is authorized to establish criteria of eligibility for awarding master plan demonstration project grants. In awarding such project grants, the Secretary shall select projects which are unique in terms of—

(1) The characteristics of the State, including, but not limited to, density and distribution of population; ratio of volunteer versus paid fire services; geographic location, topography and climate; per capita rate of death and property loss from fire; size and characteristics of political subdivisions of the State; and socio-economic composition; and

(2) The approach to development and implementation of the master plan which is proposed to be developed with Federal assistance under this section. Such approaches may include central planning by a State agency, regionalized planning within a State coordinated by a State agency, or local planning supplemented and coordinated by a State agency.

(c) PROCEDURE FOR AWARDING GRANTS.—A grant under this section may be obtained upon an application by a State at such time, in such manner, and containing such information as the Secretary shall require. Upon the approval of any such application, the Secretary may make a grant to the State to pay each fiscal year an amount not in excess of 80 per centum of the total cost of such project. Not more than 50 per centum of the amount of each grant shall be allocated to the planning and development of the master plan and the remainder to partial or total implementation. Payments under this subsection may be made in advance, in installments, or by way of reimbursement.

(d) MASTER PLAN.—(1) Each demonstration project established pursuant to this section shall result in the planning and implementation of a comprehensive master plan for fire protection for each State funded thereunder. Each such master plan shall contain:

(A) a survey of the resources and personnel of existing fire services and an analysis of fire and building codes effectiveness in the State;

(B) an analysis of short- and long-term fire prevention and control needs in the State;

(C) a plan to meet the fire prevention and control needs of the State; and

(D) an estimate of costs and a realistic plan for financing implementation of the plan and operation on a continuing basis, and a summary of problems that are anticipated in implementing such plan.

(2) Forty-two months after the date of enactment of this Act, the Secretary shall submit to Congress a summary and evaluation of the master plans prepared pursuant to this section. Such report shall also assess the costs and benefits of the master plan program and recommend to Congress whether Federal financial assistance should be authorized in order that master plans can be developed in all States.

(e) AUTHORIZATION FOR APPROPRIATION.—There is authorized to be appropriated to carry out the provisions of this section $10,000,000. Not more than 20 per centum of the amount appropriated under this section for any fiscal year may be granted for projects in any one State.

CITIZEN PARTICIPATION

SEC. 12. (a) GENERAL.—The Secretary is authorized to take all steps necessary to educate the public and to overcome public indifference as to fire safety and fire prevention. Such steps may include, but are not limited to, publications, audio-visual presentations, and demonstrations.

(b) FIRE SAFETY EFFECTIVENESS STATE-

MENTS.—The Secretary is authorized to encourage owners and managers of residential multiple-unit, commerical, industrial, and transportation structures to prepare and submit to him for evaluation and certification a Fire Safety Effectiveness Statement pursuant to standards, forms, rules, and regulations to be developed and issued by the Secretary. A copy of such statement and evaluation shall be submitted to the applicable local fire service and, in the case of transportation structures, to the Secretary of Transportation. Any person who submits such a statement and receives certification may attach the following statement to any contract of sale or lease or any advertisement or notice which pertains to the structure as to which such statement has been submitted: "A Fire Safety Effectiveness Statement has been prepared regarding this structure and this structure has been certified as meeting the requirements of the United States Department of Commerce.".

(c) REVIEW.—The Secretary is authorized to review, evaluate, and suggest improvements in State and local fire prevention and building codes, fire services, and any relevant Federal or private codes, regulations, and fire services. He shall annually submit to Congress a summary of such reviews, evaluations, and suggestions. In evaluating such a code or codes, the Secretary shall consider the human impact of all code requirements, standards, and provisions in terms of comfort and habitability for residents or employees as well as the fire prevention and control value or potential of each such requirement, standard, and provision.

(d) ASSISTANCE.—The Secretary shall assist the Consumer Product Safety Commission in the development of fire safety standards or codes for consumer products, as defined in the Consumer Product Safety Act (15 U.S.C. 2051 et seq.).

(e) PUBLIC ACCESS TO INFORMATION.—(1) Copies of any document, report, statement, or information received or sent by the Program for Fire Prevention and Control shall be made available to the public upon identifiable request, and at reasonable cost, unless such information may not be publicly released pursuant to paragraph (2) of this subsection. Nothing contained in this subsection shall be deemed to require the release of any information described by subsection (b) of section 552 of title 5, United States Code, or which is otherwise protected by law from disclosure to the public.

(2) The Secretary shall not disclose information obtained by him under this Act which concerns or relates to a trade secret referred to in section 1905 of title 18, United States Code, except that such information may be disclosed—

(A) upon request, to other Federal Government departments and agencies for official use;

(B) upon request, to any committee of Congress having jurisdiction over the subject matter to which the information relates;

(C) in any judicial proceeding under a court order formulated to preserve the confidentiality of such information without impairing the proceedings; and

(D) to the public in order to protect health and safety after notice and opportunity for comment in writing or for discussion in closed session within fifteen days by the party to which the information pertains (if the delay resulting from such notice and opportunity for comment would not be detrimental to health and safety).

STUDIES

SEC. 13. (a) FISCAL STUDY.—The Comptroller General of the United States is authorized and directed to study the financing of the Nation's fire services and to report to the Congress on whether the moneys available to the various fire services through State and local taxation and Federal-State revenue sharing is adequate to meet the Nation's need to minimize human and property losses from fire, or whether the Congress should authorize a grant-in-aid program to prevent and reduce fire losses. The results of such study shall be reported to the Congress not more than three years after the date of enactment of this Act and shall not be subject to prior review, clearance, or approval by any other officer or agency of the United States.

(b) FIREFIGHTERS STUDY.—The Secretary is authorized and directed to prepare a comprehensive study of the organization and operation of the Nation's fire services as they affect individual firefighters, including, but not limited to, rates of pay; retirement benefits; working conditions; training requirements; entrance and promotional systems, standards, requirements, and opportunities; number of hours spent on active service; employment opportunities for women and members of minority groups; the impact on individual firefighters of coordinating and combining local fire services into regional metropolitan, or statewide fire services; risk of injury or death during active service; and recommendations for improvements. The results of such study shall be reported to the Congress not more than two years after the date of enactment of this Act; thereafter, such results shall be updated as part of the annual report of the Secretary required by section 14 of this Act.

ANNUAL REPORT

SEC. 14. The Secretary shall report to the Congress and the President not later than June 30 of the year following the date of enactment of this Act and each year thereafter on all activities of the Program for Fire Prevention and Control and all measures taken to implement and carry out this Act undertaken during the preceding calendar year. Such report shall include, but is not limited to—

(a) a thorough appraisal, including statistical analysis, estimates, and long-term projections of the human and economic losses due to fire;

(b) a survey and summary, in such detail as is deemed advisable, of the research undertaken or sponsored pursuant to this Act;

(c) a summary of the activities of the National Academy for Fire Prevention and Control, for the preceding twelve months, including, but not limited to—

(1) an explanation of the curriculum of study;

(2) a description of the standards of admission and performance;

(3) the criteria for the awarding of degrees and certificates; and

(4) a statistical compilation of the number of students attending the Academy and receiving degrees or certificates;

(d) a summary of the activities undertaken to assist to the Nation's fire services, pursuant to section 10 of this Act;

(e) a summary of the citizens' participation programs undertaken during the preceding twelve months;

(f) an analysis of the extent of participation by owners of residential multiple-unit, commercial, industrial, and transportation structures in preparing and submiting a Fire Safety-Effectiveness Statement pursuant to section 11 of this Act;

(g) a summary of outstanding problems confronting the administration of this Act, in order of priority;

(h) such recommendations for additional legislation as are deemed necessary to carry out the declaration of policy of this Act; and

(i) all other information required to be submitted to Congress pursuant to other provisions of this Act.

ADMINISTRATIVE PROVISIONS

SEC. 15. (a) ASSISTANCE.—Each department, agency, and instrumentality of the executive branch of the Federal Government and each independent regulatory agency of the United States is authorized and directed to furnish to the Secretary, upon written request, on a reimbursable basis or otherwise, such assistance as the Secretary deems necessary to carry out his functions and duties pursuant to this Act including, but not limited to, transfer of personnel with their consent and without prejudice to their position and rating.

(b) POWERS.—With respect to this Act, the Secretary is authorized to—

(1) enter into, without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), such contracts, leases, cooperative agreements, or other transactions as may be necessary to carry out the provisions of this Act;

(2) accept gifts and voluntary and uncompensated services, notwithstanding the provisions of section 3679 of the Revised Statutes (31 U.S.C. 665(b));

(3) purchase, lease, or otherwise acquire, own, hold, improve, use, or deal in and with any property (real, personal, or mixed, tangible or intangible) or interest in property, wherever situated; and to sell, convey, mortgage, pledge, lease, exchange, or otherwise dispose of property and assets;

(4) procure temporary and intermittent services to the same extent as is authorized under section 3109 of title 5, United States Code, but at rates not to exceed $100 a day for qualified experts; and

(5) establish such rules, regulations, and procedures as are necessary to carry out the provisions of ths Act.

(c) COORDINATION.—To the extent possible and consistent with the declaration of policy of this Act, the Secretary shall utilize existing programs, data, information, and facilities already available in other Federal Government departments and agencies, and, where appropriate, existing private research organizations, centers, and universities. The Secretary shall provide liaison at an appropriate organization level to assure coordination of its activities with State and local government agencies, departments, bureaus, or offices concerned with any matter related to the Program for Fire Prevention and Control and with private and other Federal organizations and offices so concerned.

PUBLIC SAFETY AWARDS

SEC. 16. (a) ESTABLISHMENT.—There are established two classes of honorary awards for the recognition of outstanding and distinguished service by public safety officers—

(1) the President's Award For Outstanding Public Safety Service ("President's Award"); and

(2) the Secretary's Award For Distinguished Public Safety Service ("Secretary's Award")

(b) DESCRIPTION.—(1) The President's Award shall be presented by the President of the United States to public safety officers for extraordinary valor in the line of duty or for outstanding contribution to the field of public safety.

(2) The Secretary's Award shall be presented by the Secretary or by the Attorney General to public safety officers for distinguished service in the field of public safety.

(c) SELECTION.—The Secretary and the Attorney General shall advise and assist the President in the selection of individuals to whom the President's Award shall be tendered. In performing this function, the Secretary and the Attorney General shall seek and review recommendations submitted to them by Federal, State, county, and local government officials. The Secretary and the Attorney General shall transmit to the President the names of those individuals determined by them to merit the award, together with the reasons therefor. Recipients of the President's Award shall be selected by the President.

(d) LIMITATION.—(1) There shall not be

awarded in any one calendar year in excess of twelve President's Awards.

(2) There shall be no limit on the number of the Secretary's Awards presented.

(e) AWARD.—(1) Each President's Award shall consist of—

(A) a medal suitably inscribed, bearing such devices and emblems, and struck from such material as the Secretary of the Treasury, after consultation with the Secretary and the Attorney General, deems appropriate. The Secretary of the Treasury shall cause the medal to be struck and furnished to the President; and

(B) an appropriate citation.

(2) Each Secretary's Award shall consist of an appropriate citation.

(f) REGULATIONS.—The Secretary and the Attorney General are authorized and directed to issue jointly such regulations as may be necessary to carry out this section.

(g) DEFINITIONS.—As used in this section, the term "public safety officer" means a person serving a public agency, with or without compensation, as—

(1) a firefighter; or

(2) a law enforcement officer, including a corrections or a court officer.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 17. There are hereby authorized to be appropriated to carry out the foregoing provisions of this Act, except section 11 of this Act, such sums as are necessary, not to exceed $25,000,000 for the fiscal year ending June 30, 1974, $30,000,000 for the fiscal year ending June 30, 1975, and $35,000,000 for the fiscal year ending June 30, 1976.

CONFORMING AMENDMENTS

SEC. 18. (a) Chapter 552 of the Act of February 14, 1903, as amended (15 U.S.C. 1511) is amended to read as follows:

"BUREAUS IN DEPARTMENT

"The following named bureaus, administrations, services, offices, and programs of the public service, and all that pertains thereto, shall be under the jurisdiction and subject to the control of the Secretary of Commerce:

"(a) National Oceanic and Atmospheric Administration;

"(b) United States Travel Service;

"(c) Maritime Administration;

"(d) National Bureau of Standards;

"(e) Patent Office;

"(f) Bureau of the Census;

"(g) Program for Fire Prevention and Control; and

"(h) such other bureaus or other organizational units as the Secretary of Commerce may from time to time establish in accordance with law.

(b) Paragraph 12 of section 5315 of title 5, United States Code, is amended by striking out "(6)" and inserting in lieu thereof "(7)".

(c) Title I of the Fire Research and Safty Act of 1968 (Act of March 1, 1968, 82 Stat. 34; 15 U.S.C. 278 f, g) is repealed.

VICTIMS OF FIRE

SEC. 19. The Secretary of Health, Education, and Welfare is authorized and directed to establish, within the National Institutes of Health and in cooperation with the Secretary, an expanded program of research on burns, treatment of burn injuries, and rehabilitation of victims of fires. The National Institutes of Health shall—

(a) sponsor and encourage the establishment throughout the Nation of twenty-five additional burn centers, which shall comprise separate hospital facilities providing specialized burn treatment and including research and teaching programs, and, twenty-five additional burn units, which shall comprise specialized facilities in general hospitals used only for burn victims;

(b) provide training and continuing support of specialists to staff the new burn centers and burn units;

(c) sponsor and encourage the establishment in general hospitals of ninety burn programs, which comprise staffs of burn injury specialists;

(d) provide special training in emergency care for burn victims;

(e) augment sponsorship of research on burns and burn treatment;

(f) administer and support a systematic program of research concerning smoke inhalation injuries; and

(g) sponsor and support other research and training programs in the treatment and rehabilitation of burn injury victims.

For purposes of this section, there are authorized to be appropriated not to exceed $7,500,000 for the fiscal year ending June 30, 1974, $10,000,000 for the fiscal year ending June 30, 1975, and $10,000,000 for the fiscal year ending June 30, 1976.

FIRE PROTECTION ASSISTANCE

SEC. 20. Section 232 of the National Housing Act (12 U.S.C. 1715w) is amended by adding at the end thereof the following new subsection:

"(i) (1) The Secretary is authorized upon such terms and conditions as he may prescribe to make commitments to insure loans made by financial institutions to skilled nursing facilities and intermediate care facilities to provide for the purchase and installation of fire safety equipment necessary for compliance with the latest edition of the Life Safety Code of the National Fire Protection Association, as modified in accordance with evaluation by the Secretary of Commerce under the Federal Fire Prevention and Control Act or which are recognized by the Secretary of Health, Education, and Welfare as conditions of participation for providers of services under title XVIII and title XIX of the Social Security Act, as modified in accordance with evaluations by the Secretary of Commerce under such Act.

"(2) To be eligible for insurance under this subsection a loan shall—

"(A) have a principal amount not to exceed $50,000;

"(B) bear interest at a rate not to exceed the rate prescribed by the Secretary;

"(C) have a maturity satisfactory to the Secretary, but not to exceed twelve years from the beginning of the amortization of the loan or three-quarters of the remaining economic life of the structure in which the equipment is to be installed, whichever is less; and

"(D) comply with other such terms, conditions, and restrictions as the Secretary, in consultation with the Secretary of Commerce, may prescribe.

"(3) The provisions of paragraphs (5), (6), (7), (9), and (10) of section 220(h) shall be applicable to loans insured under this subsection, except that all references to 'home improvement loans' shall be construed to refer to loans under this subsection.

"(4) The provisions of subsections (c), (d), and (h) of section 2 shall apply to loans insured under this subsection, and for the purpose of this subsection references in such subsections to 'this section' or 'this title' shall be construed to refer to this subsection.".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time for debate on the bill be equally divided by the distinguished Senator from Washington (Mr. MAGNUSON) and the distinguished Senator from Alaska (Mr. STEVENS).

The PRESIDING OFFICER. Without objection, it is so ordered. Who yields time?

Mr. MAGNUSON. Mr. President, we have before us a bill which would create a Federal Program for Fire Prevention and Control (FIREPAC). I quote from the Final Report of the National Commission on Fire Prevention and Control as follows:

The striking aspect of the Nation's fire problem is the indifference with which Americans confront the subject.

We, as a nation, should not be indifferent: destructive fire takes a huge toll in lives, injuries, and property losses. Each year, 12,000 American lives are lost and $11 billion worth of our precious resources are wasted. Annual costs of fire rank between crime and product safety in magnitude. Each year 300,000 are injured of which 60,000 will spend anywhere from 6 weeks to 2 years recuperating. And the real tragedy is that there are many measures—often very simple precautions—that can reduce these losses significantly.

Mr. President, the legislation which the Committee on Commerce has developed and reported to the floor—the Fire Prevention and Control Act—is the first step towards combating this Nation's neglect of the social and economic costs of fire.

Although a Federal presence is needed in the fire area, that does not mean we should "run the show." In fact, I feel strongly that fire prevention and control should remain primarily a local responsibility. Local governments have always shouldered the responsibility because those governments appreciate special local conditions and needs more than an arm of the Federal Government would be able to do.

The program contemplated by the Fire Prevention and Control Act (S. 1769) is designed to supplement rather than supplant the local effort. There are many aspects of the Nation's fire problem that have not received enough attention—often due to a lack of resources. And while genuine economic problems often stand in the way of deeper investment in fire protection, lack of understanding of fire's threat helps to account for the low priority given fire protection.

The people to whom we turn when fire strikes—the volunteer and the paid firefighter—have themselves been sorely neglected by the Nation. Theirs is the most hazardous profession of all with an injury rate of 39.6 per 100 men. Their training is often scant, their protective gear grossly inadequate and their firefighting equipment archaic.

It is to these problems that the Fire Protection and Control Act are addressed.

S. 1769 as reported would establish the position of Assistant Secretary of Commerce for Fire Prevention and Control who would administer the Federal FIREPAC program. The program to be established in the Department of Commerce would be multifaceted and would include a National FIREPAC Academy, a research and development program, a national fire data gathering system, fire prevention education, and a demonstration grant program to establish master plans for fire prevention and control.

The FIREPAC Academy would offer the Nation's professional and volunteer

firefighters the same quality training and teaching in advanced techniques and skills that the FBI Academy has for so many years offered the Nation's law enforcement academy. If properly constituted, the Academy can serve not only as a national center for the education and training of the fire services, but also as a catalyst for modernization of firefighting prevention and control techniques. Although many State and local jurisdictions have established fire training centers, the quality of these centers varies throughout the Nation. I would envision this Academy playing an important role in assisting to upgrade the curriculum of these local programs.

The fire research and development program contemplated by S. 1769 is designed to arrive at an understanding of the fundamental processes underlying all aspects of fire including problems of fighting building, transportation, forest, warehouse, aviation, and high rise fires. The Secretary would also explore the operation and management aspects of the fire services and recommend improvement where necessary.

I would also develop better protective equipment to reduce the risk of injury to firefighters. With regard to this latter function, the Senate Commerce Committee hearings revealed that a major factor contributing to the high injury rate of firefighters is the antiquated personal protection equipment which they are forced to use. The research program in S. 1769 is designed to alleviate this deficiency.

Another component of the FIREPAC program which is specifically authorized in S. 1769 is the establishment and maintenance of a National Data Center. The center would collect information on causes of all types of fires, extinguishment and control methods, and methods of fire prevention. This data gathering function is crucial to the FIREPAC program because it will assist the new Assistant Secretary in defining his priorities for research and education.

The Assistant Secretary for Fire Prevention and Control would play an important role in overseeing other programs of assistance to local fire services. For example, he is authorized and directed to establish five to eight demonstration grant projects which would result in the development and implementation of master plans for fire prevention and control. Similiarly, he is authorized to take all steps necessary to educate the public and to overcome public indifference as to fire safety and fire prevention. He also would review, evaluate and suggest improvements in State, local, and model fire prevention and building codes. I was shocked to learn that many local jurisdictions do not even have fire codes. Clearly, FIREPAC can aid those jurisdictions in adopting such codes.

Mr. President, there is a very human aspect to the fire problem which S. 179 addresses directly. Fire kills. But there are also those that survive fire injuries and for them, there is a long painful and difficult road ahead. About half the victims of fire are children. The average hospital stay for a burn victim is over three times that of a medical and surgical patient. Their scars, psychological as well as physical, often last a lifetime.

At present, fewer than 100 of the 6,000 general hospitals in the United States provide specialized burn care. Together, these few hospitals treat only 8 percent of the Nation's patients with serious burn injuries. In fiscal year 1972, the National Institutes of Health spent only $1.25 million on research connected with burns and their treatment. The Social Rehabilitation Service of HEW spent an additional $380,000 on special studies having to do with rehabilitation of burn patients. This is grossly inadequate.

The Fire Prevention and Control Act would authorize and direct NIH to undertake an expanded program of research on burns, treatment of burn injuries and rehabilitation of victims of fires. Included in this program would be the establishment of 25 additional burn centers—there are currently 12—and 25 additional burn units. Finally, the act would authorize Federal loan guarantees to enable nursing homes to install fire detection devices in compliance with the latest edition of the Life Safety Code.

Mr. President, I was proud of the report of the National Commisison on Fire Prevention and Control which explored the fire problem in the United States. I am equally proud to report, on behalf of the Commerce Committee, this bill, which I authored. The United States—the richest and most technologically advanced nation in the world—leads all major industrialized countries in per capita deaths and property loss from fire. While differing reporting procedures make international comparisons unreliable, it appears as though the United States reports a deaths-per-million-population rate nearly twice that of second-ranking Canada.

I believe this legislation will reduce those losses. The National Commisison on Fire Prevention and Control estimated—and there was pretty solid testimony as to this—that we can achieve a reduction of 5 percent a year in deaths, injuries, and property losses. During the first 10 years, 119,000 Americans would be spared the trauma of serious burn injury and 8,300 lives would be saved. This to me is a proper and prudent investment in our future.

Mr. STEVENS. Mr. President, I wonder if the chairman of our committee, author of the bill, and a Member of the Senate with such a distinguished record in this area, had a chance to see the article that was in the Washington Post of yesterday that sort of derides the efforts of the national commission? One of the comments was: "When was the last time a commission concocted by the Federal Government did not urge the Federal Government to expand itself?" The author also notes that S. 1769 indicates there is an indifference with which Americans confront the subject of fire prevention and says, "This is a right. You might have thought Americans were allowed to be indifferent about something these days, even a problem."

I would ask the distinguished chairman of our committee if we can afford to be indifferent any longer about the problem of fire prevention and the problem of adequate training of our firefighters, and thus to provide the educational structure for the Nation's fire prevention mechanism?

Mr. MAGNUSON. Mr. President, I do not think that we can afford to. I quickly read that article this morning. I think that in all fairness we should have it printed in the RECORD. I ask unanimous consent, Mr. President, to have the article to which reference has been made printed in the RECORD along with, and right behind it a letter that I am sending today to the Washington Post.

Mr. STEVENS. I did not know that the chairman of the committee had done that.

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

NOW THE FEDS WANT TO HELP FIGHT FIRES

(By George F. Will)

This month's winners of the Tenth Amendment Memorial Trophy are Sen. Warren Magnuson (D-Wash.) and the 20 senators (13 Democrats, 7 Republicans) who have joined him in sponsoring S. 1769, a bill to establish "a United States Fire Administration and a National Fire Academy," among other things.

This trophy (which would exist if we were fortunate enough to have a United States Trophy Administration) is the way I recognize and reward, in my imagination, the efforts of those who think the federal government, having mastered the art of delivering the mail, needs new challenges to keep it alert

Thus S. 1769 which, at long last, will get the federal government into the fire fighting business, and for the initial bargain basement three-year price of only $127.5 million.

This breakthrough in creative government began, as all things do, with a commission. (I expect that in the next improvement on the King James version of the Bible, Genesis will read: "In the beginning, a commission said, 'Let There be God.' And then God said. . . .") The bill's "declaration of policy" says: "The National Commission on Fire Prevention and Control . . . has made an exhaustive and comprehensive examination of the nation's fire problem . . . and has made ninety thoughtful recommendations."

Pause a moment.

An interviewer once asked Eric Hoffer, the author-longshoreman, why his books are so short. Look, Hoffer replied, waving a thin volume under the nose of the interviewer, this book has five especially well-wrought sentences and five new and true ideas. Of how many books, however thick, can that be said?

Well, Hoffer is a piker. The national commission spun off 90 "thoughtful recommendations" and, according to S. 1769, "The National Commission concluded that while fire prevention and control is and should remain a state and local responsibility,"—brace yourself—"the federal government must . . . help . . . if any significant reduction in fire losses is to be achieved." When, I wonder, was the last time a commission concocted by the federal government did not urge the federal government to expand itself.

Anyway, that predictable "must ("the federal government must . . . it . . .") lacks constitutional force. Really, it does. And Magnuson and friends quaintly acknowledge that there should be some passing nod to the Constitution when shoehorning the federal government into yet another sphere of local responsibility.

So Sec. 2. (a) (3) says "Congress finds and declares" that "Fire constitutes a major

burden affecting interstate commerce." Amid the hurly-burly of modern life, our legislators still take time to honor in the breach the doctrine that the federal government needs a *reason* to justify getting up to its elbows in the business of lower governments.

With that formality disposed of, S. 1769 buckles down to what senators recognize as serious business, i. e., rhetoric and the creation of new bureaucracies. So Sec. 2 (a) (4) begins, "the National Commission concluded that the fire problem is exacerbated by—" And now, class, there will be a snap quiz. Which of the following is the topmost exacerbator on S. 1769's list?

A. Oxygen
B. Combustible materials
C. Matches
D. "The indifference with which Americans confront the subject."

Right. You might have thought Americans would be allowed to be indifferent about *something* these days, even a "problem." But S. 1769, like so many other bills, acknowledges that it is a bill made "necessary" because the American people are not interested in it.

So, in case of "fire problem," break glass and pour on a spanking new Assistant Secretary of Commerce, "who shall be known as the Assistant Secretary . . . for Fire Prevention and Control." The Secretary himself is directed to "establish a national Program for Fire Prevention and Control (FIREPAC)" and "the FIREPAC Academy." In addition, there will be a national data center, annual conferences, "relevant studies," "citizen participation programs," and "demonstration projects."

And that, fans of the "new federalism," is how S. 1769 proposes to tidy up after Prometheus. Anyone got a match?

NOVEMBER 1, 1973.

THE WASHINGTON POST,
Editor,
Washington, D.C.

DEAR SIR: George F. Will's November 1 column on the Fire Prevention Act takes some valid pokes at the bureaucratic mentality but he does so at the expense of one of this Nation's tragic and neglected problems. The United States leads all major industrialized countries in the world in per capita deaths and property loss from fire. That is leadership we can do without. Half of the victims of fire are children. This year 60,000 Americans will spend anywhere from 6 weeks to 2 years in hospitals recuperating from burn injuries. The average hospital stay for a burn victim is over 3 times that of a medical or surgical patient.

But to merely quote statistics can not possibly convey the physical and psychological scars of fire victims which often last a lifetime. The frightening circumstances of the injury, the long isolation from family, the feeling of helplessness, the continuous pain during recovery, the cosmetic operations that fall far short of expectations, the stigma of disfigurement—all contribute to a deep despondency that impairs recovery. And perhaps the greatest tragedy of all is that there are many measures—often very simple precautions—that can reduce our fire losses.

There are several major components of S. 1769. It would establish a federal fire academy to provide specialized training to firefighters throughout the Nation. Firefighting is more than merely aiming a hose at a flame: with the complex array of building designs and materials, and the multitude of hazardous materials in commerce, the old techniques may actually exacerbate the ravages of fire. The quality of training throughout the country varies greatly, and many firefighters receive none at all. The Academy would not only itself train firefighters, but would also offer moder curricula to upgrade local programs.

The FIREPAC Program would undertake research in fire prevention and control technology. Research is needed to better understand how fire behaves in the presence of new materials. Much work is also needed to protect firefighters. Firefighting is the most hazardous profession in America. 39.5 of 100 firefighters are injured each year in fires. Firefighting equipment has not changed in 5 decades despite new building designs. Personal protective gear is antiquated—helmets conduct heat, breathing apparatus is heavy and leaks, and turncoats are virtual sweatboxes and often melt on the back of the firefighter.

Finally, the federal government can play a major role in mitigating the pain of burn victims. Only 8% of the 300,000 injured annually in fire received attention in specialized burn care units. In fact, fewer than 100 of the 6,000 general hospitals in the United States offer such care. S. 1769 would direct NIH to undertake an expanded program of research on burns, treatment of burn injuries and rehabilitation of victims of fires. Included in this program would be the establishment of 50 additional burn centers and units throughout the nation.

In short, S. 1769 would supplement, not supplant local firefighting efforts. It is designed to offer State and local jurisdictions the fruits of research, specialized training, and advanced firefighting techniques and technology which, due to a lack of resources, have not been available on local levels. This modest federal effort will, in its first 10 years, save 8,300 lives and spare 119,000 Americans the trauma of a serious burn injury. And that effort deserves more than a cheap shot.

Sincerely yours,

WARREN G. MAGNUSON,
Chairman.

Mr. MAGNUSON. Mr. President, this is the first time that I have read anything as critical as that with regard to the pending bill. As the Senator from Alaska knows, we have had the bill before us for many weeks. I suppose what is behind this particular article is that some person found out that the Senate was going to consider the matter today. I think Mr. Will fears that this will merely be another governmental agency.

Here, we are dealing with loss of life and property through fire. We are not creating a new agency but only authorizing additional programs in the Department of Commerce.

I have seen, and I know that the Senator from Alaska has also probably seen, the result of fire. All one has to do is to go to a children's hospital and see a child in a glassed-in room who has been burned by fire. We would probably double the amount of money contained in the bill if we had all seen such sights.

Mr. STEVENS. I would point out that if one realized that in rural areas such as we have in my State, the situation is much worse. My State is the largest State and has the smallest population. It leads the Nation in this respect. We are double the rate of the rest of the Nation.

As the Senator knows so well, the loss in terms of capital investment that goes with that is almost double in Alaska the rate of the rest of the Nation.

I think we should take a much more serious view of the matter than we have. It seems to me that the most shocking fact about the destruction of fire is, as the Senator has pointed out, the deaths of children under 5 and the deaths of the elderly, those over 65. Those deaths are three times the number of deaths among the rest of the population. And although the young and old, those under 5 and over 65, account for only 20 percent of the population, they account for 45 percent of the fire deaths. Of course, with our high statistics, we are no exception. This is one place where unfortunately we have kept up with the national average. In 1971, 18 of Alaska's 33 fire fatalities—over half of them—were young people or people over the age of 65.

Mr. MAGNUSON. Mr. President, as the Senator from Alaska will recall, we made a special attempt in the hearings to do what we could to report a strong bill on fire prevention. When we consider nursing homes, for example, we realize that there are tragedies almost weekly in which a great many old people have been killed due to inadequate fire protection. In this bill we are trying to see if we cannot get more vigorous fire codes to take care of the very young and the very old.

I think that we can save thousands of lives if this bill passes. And there is no reason why firefighters should not have a National Fire Academy, similar to the Federal Bureau of Investigation Academy for police officers. In terms of dollars, it is not expensive. Each year, there are about 12,000 people in the United States that have died from fires, and the rest are so badly burned that they are immobile for the rest of their lives.

We have done a great deal in the area of deaths from automobile accidents, in which field there are 50,000 deaths a year. Fire is the second greatest cause of accidental death, and we as a nation are completely indifferent about it. This bill would change that.

Mr. STEVENS. Mr. President, I am pleased today to join the distinguished Senator from Washington in urging Senate passage of S. 1769, the Federal Fire Prevention and Control Act. I believe that this is a comprehensive piece of legislation that is direly needed to deal with our Nation's great fire problem.

During the last year, I have been privileged to be named along with Senator MAGNUSON as one of the two congressional advisers to the National Commission on Fire Prevention and Control. Congress established the Commission to make an independent and authoritative examination of the nature and scope of the fire problem in the United States today. After 2 years of careful analysis and research, the Commission filed a final report with statistics which make it abundantly clear that destructive fires are indeed a major national problem.

Each year over 12,000 of our citizens are brutally killed due to fire, and 300,000 more are injured and scarred both physically and emotionally. In addition, each year over $11 billion of our national resources are lost forever due to fire's destructive power.

In comparison to other national perils, fire ranks near the top. Among causes of accidental death, only motor vehicle accidents and falls rank higher. In terms of magnitude of both physical and prop-

erty loss, destructive fire ranks in size between crime and product safety.

One of the most shocking figures I have read reveals the group upon whom destructive fires fall with unusual severity. The death rate from fire among children under five and the elderly over 65 is three times that of the rest of the population. Although together these young and old make up only 20 percent of the American population, they account for 45 percent of the fires deaths.

As a nation, the United States has an appalling record for fire safety. Although we are the richest and most technologically advanced nation in the world, we lead all the major industrialized countries in per capita deaths and property loss from fire.

Among those Americans who must pay most dearly for this grim record are our firefighters. Firefighting is without doubt the most hazardous profession in our Nation today. In 1971, for example, the injury rate for firefighters was 39.6 per 100 men—or 15 percent higher than for the next most dangerous occupation. In the same year 175 firefighters died in the line of duty; an additional 89 died of heart attacks; and 26 died of lung disease.

Mr. President, these grisly statistics should make it undeniably clear that destructive fire is a truly national problem of alarming magnitude. Nevertheless, destructive fire is a national problem which has not received the critical examination and analysis given to so many other pressing national concerns. Indeed, the deadly toll that is exacted each year through fire accidents has been ignored and forgotten. Indifference and apathy among the public at large and among too many levels of our government have inevitably meant that meaningful efforts toward fire prevention and protection have been allotted a low priority among our national concerns.

I believe that S. 1769 will go a large way in filling the void that now exists in our national fire prevention and control efforts. Surely the Federal Government should assist in helping State and local governments control the fire menace. The final report of the National Commission on Fire Prevention and Control stated that were its recommendations to be adopted, the Nation could half its present level of losses due to fire in about 14 years. This is a goal that I truly believe is worthy of the Senate's effort and support.

Without detailing all of the provisions of S. 1769, I would like to highlight a few of the bill's sections for the Senate.

S. 1769, as amended, would establish a National Program for Fire Prevention and Control—or FIREPAC—in the Department of Commerce. The program would include various projects. One of these projects that I most strongly support is the establishment of a National Academy for Fire Prevention and Control in section 6. The Academy would train fire service personnel in the prevention and control of fires, much as our National Service Academies presently train officers for our Armed Forces. Additionally, the Academy would develop curricular and other training programs for use at other educational institutions without charge, so that all our colleges and universities might benefit from their new teaching techniques.

Section 7 of the bill would authorize the Secretary of Commerce to conduct an extensive research and development program to arrive at an understanding of the fundamental processes underlying all aspects of fire, including investigations into the dynamics of flame ignition and spread, the behavior of fires involving all types of buildings, and the development of design concepts for buildings and other structures.

Additionally, section 9 of S. 1769 would create a National Fire Data Center to collect and disseminate the latest information concerning fire statistics and new techniques in fire control and prevention. The Commerce Secretary is directed to assist the Nation's fire services in the training of fire personnel, and in the development of new firefighting techniques. The Secretary is also directed in section 10 to sponsor research into techniques and equipment to improve fire prevention and control in the rural and remote areas of the Nation. I believe this latter provision is particularly important in light of the greater proportional losses which occur each year in the Nation's rural areas.

S. 1769 would also provide for the funding of five to eight State master plan demonstration projects to serve as models for the rest of the Nation. This limited effort would be to see if such demonstration projects are worth supporting on a larger scale in all 50 States.

Section 16 would establish two classes of honorary awards for the recognition of outstanding and distinguished service by local public safety officers, whether law enforcement officers or firefighters. This provision will help gain greater public recognition and appreciation for the truly heroic efforts that firefighters have achieved. For too long has the Nation bypassed public servants in these fields.

Mr. President, S. 1769 is the most comprehensive legislation ever proposed on the Federal level for controlling our Nation's very real and very sizable fire problem. I believe this is a well designed measure which should greatly assist State and local governments and our firefighters in their daily firefighting efforts. Most importantly, I believe this bill should help to create the national consciousness that is necessary for a truly effective program of fire prevention and control.

Mr. President, I ask unanimous consent to have printed in the RECORD the statement I made before the Alaskan Firefighters' Association and a brief summary of the bill.

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

SPEECH OF SENATOR TED STEVENS BEFORE THE ALASKA STATE FIRE FIGHTERS ASSOCIATION

JUNEAU, ALASKA,
October 19, 1973.

FELLOW ALASKANS: It is a great pleasure to be with you today to discuss some of the recent developments on the national level concerning fire prevention and protection. Because I believe that recent days have seen some real progress in this critically important field, I would like to explore these matters in some depth.

However, before doing so, I think it is worthwhile to reflect on the nature and scope of the day-to-day dangers that destructive fire poses to Americans in general and to Alaskans in particular. Strangely enough, fire is a national problem which has not received the critical examination and analysis given to so many other national concerns. While anxiety has mounted regarding the high numbers of Americans who die and are injured each year due to automobile accidents and while alarm has risen concerning the health problems posed by air and water pollution, the deadly toll that is exacted each year through fire accidents has been largely ignored and forgotten. Indifference and apathy among the public at large and among too many levels of our government have inevitably meant that meaningful efforts towards fire prevention and protection have been allotted a low priority among our national concerns. Indeed, although those citizens who have survived a fire never forget its terror and incredible destructive potential, most Americans view fire as a remote danger that justifies their ignorance and indifference.

During the last year, I have been privileged to serve as one of the two Congressional advisors to the National Commission on Fire Prevention and Control. Congress established the Commission to make an independent and authoritative examination of the nature and scope of the fire problem in the United States today. After two years of careful analysis and research, the Commission filed a final report with statistics which make it abundantly clear that fire is indeed a major national problem. Each year over 12,000 of our citizens are brutally killed due to fire, and 300,000 more are injured and scarred both physically and emotionally. In addition, each year over $11 billion of our national resources are lost forever due to fire's destructive power.

In comparison to other national perils, fire ranks near the top. Among causes of accidental death, only motor vehicle accidents and falls rank higher. In terms of magnitude of both physical and property loss, destructive fire ranks in size between crime and product safety.

One of the most shocking figures reveals the group upon whom destructive fires fall with unusual severity. The death rate from fire among children under five and the elderly over 65 is three times that of the rest of the population. Although together these young and old make up only 20 percent of the American population, they account for 45 percent of the fire deaths. Our State is no exception to this grisly record. In 1971, 18 of Alaska's 33 fire fatalities, or over half, were ten years old or younger.

As a nation, the United States has an appalling record for fire safety. Although we are the richest and most technologically advanced nation in the world, we lead all the major industralized countries in per capita deaths and property loss from fire.

Among those Americans who must pay most dearly for this grim record are our fire fighters. Fire fighting is without doubt the most hazardous profession in our nation today. In 1971, for example, the injury rate for fire fighters was 39.6 per 100 men—or 15 percent higher than for the next most dangerous occupation. In the same year 175 fire fighters died in the line of duty; an additional 89 died of heart attacks; and 26 died of lung disease. These figures cause me particular distress because of the thousands of Alaskans who contribute their time and effort each year as volunteer fire fighters.

Closer to home, I regret to tell you what you already know far beter than I do—that Alaska leads the nation in its rate of fatalities and property loss due to fire. While the 1971

national fire death rate was 57 per million inhabitants, the rate in Alaska was 119, or over double. Likewise, while national per capita property loss for 1971 was $13.22, the figure in Alaska was $23.91.

As you are aware, this dismal record is not due to poor fire protection and control all over Alaska. The statistics I have received indicate that our major cities have a commendable record and that Alaska's main fire problem lies in our small towns and villages. Alaska is not unique in this situation, however. According to statistics of the Department of Health, Education, and Welfare, the fire fatality rate for Americans in our nonmetropolitan areas is nearly twice the rate for Americans in metropolitan areas.

Because the national loss from fire is so great and because fire presents itself in such direct and tragic form to so many of our nation's citizens, I have believed for some time that more action was required on the national level if we are to deal adequately with the scope of the destructive fire problem. Although each state and local area must develop a fire protection scheme which is adapted and tailored to meet the unique problems of that area, the national government can assist in this effort. In its final report, the National Commission on Fire Prevention and Control stated that were its recommendations to be adopted, the nation could half its present level of losses in about fourteen years. It is my earnest hope that such a goal can be reached.

As I stated earlier, I think that recent days have witnessed some positive developments which will assist states and local governments in dealing with the tremendous fire problems that they face. For example, last year the Congress enacted the State and Local Fiscal Assistance Act of 1972, commonly known as the Revenue Sharing Act. Sec. 103 of the Act enumerates the permissible uses to which local governments can put their revenue sharing allocation. Among these uses is "public safety" which is defined to include law enforcement, fire protection, and building code enforcement. For 1972 Alaskan local governments received over $4 million in revenue sharing funds. Of course, each town, village, or borough must itself decide how to spend these sums. Hopefully, however, some of these monies will be used to improve the equipment and training of local fire fighting forces, whether full time or volunteer.

In 1972, the Congress also enacted the Rural Development Act of 1972. Title IV of the Act established a Rural Community Fire Protection plan whereby the Secretary of Agriculture was authorized to provide financial assistance to state officials for cooperative efforts to organize, train, and equip local forces in rural areas to prevent and control fires which threaten human life, livestock, wildlife, and woodlands.

In 1973 the Congress amended the 1972 Rural Development Act to authorize federal assistance for organizing, training, and equipping local volunteer fire departments in "rural areas." "Rural areas" was defined to include towns with a population of over 200, but less than 2,000. I believe that this provision offers a great deal of hope for the numerous small towns in our state which at present are financially unable to train or equip fire fighting forces.

Unfortunately, I must tell you that no funds were appropriated by the Congress for this section of the Rural Development Act for this fiscal year. As you can guess, budgetary pressure has forced the curtailment of many worthy programs in recent months. I remain hopeful, however, that funds will be appropriated for this provision in the not too distant future.

The report by the National Fire Commission makes plain, nevertheless, that more action is necessary on the federal level for our nation to cope effectively with the problem facing us. I am pleased to report to you today that the Senate Commerce Committee has finished its work on S. 1769, the Federal Fire Prevention and Control Act and has reported it to the full Senate.

Although I have corresponded with some of you in recent weeks concerning the various provisions of this bill, I would like to describe briefly the areas of the bill in light of the amendments that the Commerce Committee accepted.

S. 1769, as amended, would establish a National Program for Fire Prevention and Control (or "FIREPAC") in the Department of Commerce. The program would include various projects. One of these projects that I most strongly support is the establishment of a National Academy for Fire Prevention and Control. The Academy would train fire service personnel in the prevention and control of fires, much as our National Service Academies presently train officers for our armed forces. Additionally, the Academy would develop curricula and other training programs for use at other educational institutions without charge, so that all our colleges and universities might benefit from their new teaching techniques.

The present bill would also authorize the Secretary of Commerce to conduct an extensive research and development program to arrive at an understanding of the fundamental processes underlying all aspects of fire, including investigations into the dynamics of flame ignition and spread, the behavior of fires involving all types of buildings, and the development of design concepts for buildings and other structures.

I was successful in obtaining Committee approval of an amendment to authorize research and development into the behavior and nature of forest fires, fires underground, oil blowout fires and waterborne fires. As most of you probably know there is very little knowledge about how to deal effectively with these latter kinds of fires. In fact, I learned recently that there has been an underground oil shale fire near Eagle that has been burning for nearly a year. No one at present has devised a proper method for dealing with fires of this nature.

Additionally, this bill would create a National Fire Data Center to collect and disseminate the latest information concerning fire statistics and new techniques in fire control and prevention. Likewise, the Commerce Secretary is directed to assist the Nation's fire services in the training of fire personnel and in the development of new fire fighting techniques. The Committee accepted an amendment which I proposed directing the Secretary, in addition, to sponsor research into techniques and equipment to improve fire prevention and control in the rural and remote areas of the nation. I particularly had in mind the development of more effective techniques for small towns and villages in states such as Alaska with their unique weather problems and financial limitations.

Finally, S. 1769 would provide for the funding of 5 to 8 State Master Plan Demonstration Projects to serve as models for the rest of the nation. This limited effort would be to see if such demonstration projects are worth supporting on a larger scale in all fifty states.

The Committee also accepted an amendment that I offered which would establish two classes of honorary awards for the recognition of outstanding and distinguished service by local public safety officers, whether law enforcement officers or fire fighters. This last provision will help, I hope, to gain greater public recognition and appreciation for the truly heroic efforts that fire fighters have achieved. For too long has the nation bypassed public servants in these fields. Hopefully, these awards will also show fire fighters that their great contributions are indeed worthy of national recognition.

As I stated, S. 1769 has been reported to the full Senate this week. I can tell you that I will do all I can to secure prompt passage of this important piece of legislation.

The measures that I have discussed today are limited, to be sure. However, I feel that increased efforts of these kinds will begin to create the national consciousness that is necessary for a truly effective program of fire prevention and control. Ultimately, the task of fire protection falls upon the shoulders of men such as yourselves here today. It is my earnest hope, however, that these efforts will create the climate and conditions so that your great work can be as effective as possible.

BRIEF SUMMARY OF S. 1769

Sec. 4 (p. 50)—establishes an additional Assistant Secretary of Commerce for Fire Prevention and Control. He will be appointed by the President with the advice and consent of the Senate.

Sec. 5 (p. 51)—The Secretary of Commerce will establish a National Program for Fire Prevention and Control (FIREPAC) to be administered by the Assistant Secretary of Commerce for Fire Prevention and Control.

The FIREPAC Program will consist of:

(1) a FIREPAC Academy—Sec. 6 (p. 52).

(2) a Research and Development Program—Sec. 7 (p. 55).

(3) an annual conference of professionals in fire prevention, fire control, and treatment of burns—Sec. 8 (p. 57).

(4) a National Data Center on fire prevention and control—Sec. 9 (p. 58).

(5) a fire services assistance program—Sec. 10 (p. 60).

(6) State Demonstration projects—Sec. 11 (p. 61).

(7) a Citizens Participation program—Sec. 12 (p. 64).

(8) Relevant studies—Sec. 13 (p. 67).

(9) Annual report—Sec. 14 (p. 68).

(10) Awards Program—Sec 16 (p. 71).

Sec. 19 (p. 75)—The Secretary of HEW is directed to establish within the National Institutes of Health an expanded program of research on burns, treatment of burn injuries, and rehabilitation of victims of fire.

Sec. 20 (p. 76)—The Secretary of HUD is authorized to make commitments to insure loans not to exceed $50,000 made by financial institutions to skilled nursing facilities and intermediate care facilities to provide for the purchase of fire safety equipment.

AUTHORIZATIONS FOR APPROPRIATIONS

For sections 2–17

(In millions)

For fiscal year 1974	$25
For fiscal year 1975	30
For fiscal year 1976	35
Total	90

For section 11

(In millions)

Master Plan Demonstration Projects	$10

For section 19 (Victims of Fire)

(In millions)

For fiscal year 1974	$7.5
For fiscal year 1975	10.0
For fiscal year 1976	10.0
Total	27.5

Total for whole bill: $127.5 million for three (3) years.

More detailed analysis of certain key sections of bill:

Sec. 6—FIREPAC Academy—p. 52:

(b) Purposes: 1. train fire service personnel;

2. develop model curricula and training programs, and make them available to other educational institutions without charge.

(c) Board of Overseers—composed of professionals

(e) Construction Approval—for Academy facilities not to exceed $100,000

Sec. 7—Fire Research and Development Program—p. 55:

The Secretary is authorized to conduct:

(a) A program of basic and applied fire research for understanding the processes underlying all aspects of fire, including:

(1) physics and chemistry of combustion processes;

(4) early stages of fires in buildings and other structures . . . and all other types of fires, including but not limited to forest fires, fires underground, oil blowout fires, and waterborne fires;

(5) the "behavior" of fires in (4) above;

(7) development of design concepts for providing increased fire safety . . . in buildings and other structures.

(c) Studies of operations and management aspects of fire services.

Sec. 9—National Data Center—p. 58:

The Secretary is authorized to:

(a) to operate a fire data program based on collection, analysis, publication, and dissemination of information related to prevention, occurrence, control, and results of fires of all types.

Sec. 10—Fire Services Assistance Program—p. 60:

Secretary is authorized to assist the nation's Fire Services, to:

(a) Advance professional development of Fire Service Personnel,

(b) Assist in conducting . . . local and regional programs for the training of fire personnel.

(h) Sponsor and encourage research into approaches, techniques, systems, and equipment to improve and strengthen fire prevention and control in the rural and remote areas of the Nation.

Sec. 11—Master Plan Demonstration Projects—p. 61:

(a) Secretary is authorized and directed to establish no less than 5 nor more than 8 demonstration projects, under the supervision of a State in accordance with the application of the State.

(b) Eligibility for grants—project grants shall be awarded to "unique" projects.

(d) Each demonstration project established shall result in . . . the implementation of a master plan for fire protection for each State funded.

Sec. 12—Citizenship Participation—p. 64:

(c) Secretary is authorized to review, evaluate, and suggest improvements in State and local fire prevention and building codes, fire services, and any relevant Federal or private codes.

Sec. 13—Studies—p. 67:

(b) Firefighter study: The Secretary is directed to prepare a study of the organization, and operation of the Nation's Fire Services, as they affect individual firefighters, including rates of pay, retirement benefits, working conditions, etc.

Sec. 15—Administrative Provisions—p. 70:

(a) Assistance: Departments and agencies of the Federal Government are directed to furnish such assistance as the Secretary deems necessary.

Sec. 16—Public Safety Awards—p. 71:

(a) Establishment—2 classes of awards established: (1) The President's Award, (2) the Secretary's Award.

(c) Selection: Recommendations to the President may be made by Federal, State, and local government officials.

(d) Limitations: No more than 12 Presidential awards per annum.

Sec. 19—Victims of Fire—p. 75:

The Secretary of HEW is directed to establish within the National Institutes of Health an expanded program of research on burns, treatment of burn injuries, and rehabilitation of victims of fire;

The National Institute of Health shall—

(a) Sponsor the establishment of 25 additional burn centers throughout the Nation.

(b) Provide training for specialists to staff the new centers.

Mr. MAGNUSON. Mr. President, I want to add, and I am sure that the Senator from Alaska will join with me in the statement, that we have over 1 million volunteer firefighters all over the United States. I would suspect that most of Alaska's firefighters are volunteers.

Mr. STEVENS. Almost all of them.

Mr. MAGNUSON. They have not been able to receive the training that we should be able to supply them with. This bill would provide them with much of that training.

There was a fire downtown yesterday in the Southern Building. I understand that it took over an hour to evacuate the building, according to the reports. The stairways were filled with smoke so escape was by fireman's ladder.

As it turned out, it did not amount to a great deal. No one was injured. However, if it had flared up, a lot of people could have been killed. I am sure that stairways could be designed that would remain smoke free.

Mr. President, these are some of the things we are thinking of in this bill. We want our firefighters to receive training in fire prevention and control and a knowledge of the proper city codes.

At this time, I am pleased to yield to the Senator from Maryland.

Mr. BEALL. Mr. President, I thank the distinguished chairman of the committee for yielding to me.

I read the article that the Senator referred to in the Washington Post of yesterday. Although I find myself more often in general agreement with the author of that article than I do with some of the others who write in that newspaper, I must admit that I am in general disagreement with the impression he reaches in the article. He did not recognize the nature of the problem. There are 300 very destructive fires in the United States this minute, and I believe this matter needs our attention.

Before becoming a Member of the Congress, I happened to be in the insurance business as an agent. I had an opportunity first hand to view the destruction brought about by fire and the tragedy brought to families and small businesses in rural America.

I have seen people burned out, not because they were indifferent about preventing fire, but because they did not know the cause. They were not aware of the inadequacies in the fire code in their community and the need to upgrade that code.

I have seen firemen burned, not because they were indifferent, but because of the inadequacies of the fire protection devices they were using.

We have not had the research necessary to change firefighting equipment from the early part of this century.

I had the honor and pleasure to chair one of the sessions of the Commerce Committee on this bill, and one of the witnesses was Fireman Thomas Herz, from Baltimore City. One would just have to look at this man to see the terrible burns he had. He brought with him the equipment he used in the fire in which he was injured. The equipment provided hardly any protection whatever. He showed how the equipment had failed when it was supposed to protect him from the ravages of fire.

It seems to me that it is a proper role for the Federal Government to provide a framework whereby we can have the kind of cooperation needed between local and State governments to upgrade the opportunities provided by fire protection devices and can have the kind of cooperation necessary between local and State governments so that firemen can meet one another and find out what is going on.

I think it is proper for the Federal Government to be the leader in research to provide new equipment for firemen. I think it is a proper role for the Federal Government to provide training facilities and people knowledgeable who will be able to train people in fighting fires every day.

Rather than saying that this bill is an unnecessary appendage, I think it is very important legislation.

I commend the Senator from Washington and the Senator from Alaska for seeing to it that the legislation moved so rapidly through the Commerce Committee and in seeing to it that it receives the kind of consideration that it will receive from the Senate today; because, as the Senator from Washington has pointed out, most of the firefighting in the United States is done by volunteers, much of it at their own expense. These men and their auxiliaries go out and raise money, spend a lot of time protecting other people's property, train themselves, and do a splendid job in providing protection for the lives and property of the American people. I think the least we can do is provide some sort of Federal direction so that their time and talents can be used to the fullest advantage through taking advantage of the training, research, and new techniques available to them.

Mr. President, certainly there is no greater catastrophic threat to the citizens of our country than the destruction that is caused by fire. During the next hour as we discuss this legislation, there is a statistical likelihood that more than 300 destructive fires will rage somewhere in this Nation. Annually, fire claims nearly 12,000 lives in the United States. An additional 300,000 Americans will be injured and 1 out of 6 of these victims will be hospitalized for a period ranging from 6 weeks to 2 years. The more seriously burned may be disfigured and/or disabled for life in spite of advances in corrective or plastic surgery. At least $11.4 billion worth of property will be destroyed this year, and we are unable to accurately calculate the additional losses that occur from lost jobs and interrupted business activity. Mr. President, the United States has the dubious distinction of leading the industrialized world in fire death and property loss, with a death per million figure of 57.1, nearly twice that of the second place nation—Canada.

We should also note that our Nation's 2.2 million firefighters are engaged in the most hazardous profession of all.

Their death rate is at least 15 percent greater than that of the next most hazardous occupation, mining, and quarrying. Firefighting is probably always going to be an especially hazardous profession. However, we must develop a concerted national effort to promote programs of fire prevention and mobilize the technological resources of this Nation to improve our ability to combat fires.

For these reasons, Mr. President, I heartily applaud S. 1769. This legislation, which I have cosponsored and strongly endorse, represents an important step in focusing the resources of the Federal Government on the problem of fire prevention and fire control. I urge my colleagues in the Senate to give it overwhelming support today.

Mr. President, this legislation will do several things. First, it will establish under the administration a new Assistant Secretary of Commerce for Fire Prevention and Control and a coordinated program for fire prevention and control. The purpose of this program will be to reinforce and support fire prevention and control activities of State and local governments and volunteer fire companies for research and development programs.

It will also call an annual conference of professionals in fire prevention, fire control, and treatment of burn injuries to discuss the problems in this area. Additionally, the bill will establish a National FIREPAC Academy, a national data center, a technical assistance program for State, local, and private fire services, a master plans demonstration project, a citizens participation program, and relevant studies. Also, the bill authorizes the Secretary of Health, Education, and Welfare to establish a research program on burn injuries and rehabilitation of fire victims in the National Institutes of Health, and authorizes the Secretary of Housing and Urban Development to make loan guarantees toward the installation of fire safety equipment in skilled nursing facilities and intermediate care facilities.

Mr. President, I would also, while discussing this bill, like to take a moment to commend the entire membership of the Senate Commerce Committee, and particularly its able chairman, Senator MAGNUSON. This legislation was introduced on May 9, 1973, as a result of the final report of the National Commission on Fire Prevention and Control, entitled, "America Burning." Originally introduced by Senator MAGNUSON, the bill has been cosponsored by 20 Senators, myself included. Full Commerce Committee hearings were held on September 24 and 26, and it was my pleasure and honor to chair the second day of these hearings. Work on the bill was completed in two executive sessions on October 9 and 11, which readied the bill for consideration. I certainly believe that the expeditious way in which the committee handled this bill stands as testimony to the urgent need for legislation in this area.

Mr. President, the Congress must move quickly to meet the threats posed to this Nation by the dangers of major fire. This bill takes giant strides toward this goal, and I implore my colleagues in the Senate to give overwhelming support, and ask my colleagues in the other body to join with us in helping to curb the needless loss of lives, the almost unspeakable injuries and the extensive destruction of property that is a result of fire. Let us begin today to make that type of national commitment that is needed to halt the menace of fire.

I ask unanimous consent that a section-by-section summary of S. 1769 as reported by the Commerce Committee be included at the conclusion of my remarks.

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

SECTION-BY-SECTION SUMMARY OF S. 1769 AS REPORTED BY THE COMMITTEE ON COMMERCE

Sec. 1. Short title, Federal Fire Prevention and Control Act.

Sec. 2. Declaration of Congressional findings and the purposes of the Act.

Sec. 3. Definitions of terms used in the Act.

Sec. 4. Establishes within the Department of Commerce an Assistant Secretary for Fire Prevention and Control who shall be responsible for carrying out the provisions of this Act and who shall be guided by the recommendations of the National Commission on Fire Prevention and Control, insofar as practicable.

Sec. 5. Directs the Secretary to establish a National Program for Fire Prevention and Control consisting of a National Academy for Fire Prevention and Control, research and development programs, a national data center on fire prevention and control, fire service assistance programs, State demonstration projects, and citizens' participation programs.

Sec. 6. Authorizes the establishment of the National Academy for Fire Prevention and Control and authorizes the Academy to conduct appropriate educational and research programs to train fire service personnel, develop training programs, administer a program of correspondence courses, and reduce the nation's fire problem.

Sec. 7. Authorizes the Secretary to conduct a program of basic and applied fire research; research into biological, physiological, and psychological factors affecting human victims of fire; and studies of the operations and management aspects of fire services.

Sec. 8. Authorizes the Secretary to organize an annual conference on fire prevention and control.

Sec. 9. Authorizes the Secretary to operate a comprehensive fire data program designed to provide an accurate national picture of the fire problem.

Sec. 10. Authorizes the Secretary to assist the nation's fire services through grants, contracts, or other forms of assistance to develop technology to improve fire prevention and control.

Sec. 11. Authorizes the Secretary to establish master plan demonstration projects and authorizes an appropriation of $10 million for the purpose of awarding project grants.

Sec. 12. Authorizes the Secretary to conduct citizens' participation programs.

Sec. 13. Fiscal and firefighter studies.

Sec. 14. Annual report by the Secretary on activities pursuant to this Act.

Sec. 15. Administrative provisions.

Sec. 16. Establishes honorary awards for the recognition of outstanding and distinguished service by public safety officers.

Sec. 17. Authorizes appropriations of $25 million for fiscal 1974, $30 million for fiscal year 1975, and $35 million for fiscal year 1976.

Sec. 18. Conforming amendments.

Sec. 19. Directs the Secretary of Health, Education, and Welfare to establish, within the National Institutes of Health, an expanded program of research on burns, treatment of burn injuries, and rehabilitation of victims of fires; and authorizes $7.5 million for fiscal year 1974, $10 million for fiscal year 1975, and $10 million for fiscal year 1976 for this purpose.

Sec. 20. Amends the National Housing Act to authorize the Secretary of Housing and Urban Development to make loan guarantees for the purchase and installation of fire safety equipment in nursing facilities.

Mr. BEALL. I also ask unanimous consent to have printed in the RECORD a letter I was moved to write to the editor of the Washington Post.

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

EDITORIAL PAGE EDITOR,
The Washington Post,
Washington, D.C.

DEAR EDITOR: As a cosponsor and strong supporter of S. 1769, the Federal Fire Prevention and Control Act, I was disappointed to note the article by Mr. George Will entitled "Now the Feds Want to Help Fight Fires", which appeared in the November 1 *Washington Post.*

Mr. Will seems to demonstrate a lack of understanding of a serious national problem. Annually, fire claims nearly 12,000 lives in the United States. 300,000 more Americans are injured by fire, of which nearly 50,000 lie in hospitals for a period ranging from six weeks to two years. By conservative estimate, fire destroys $11.4 billion of property yearly, with additional incalculable losses from businesses which must close and jobs that are interrupted or destroyed. I believe it is appalling that the richest and most technologically advanced nation in the world leads all major industrialized countries in per capita deaths and property loss from fire, with a death rate that is nearly twice that of our nearest rival for this dubious distinction.

In his haste to award the mythical "Tenth Amendment Memorial Trophy", Mr. Will also seems to forget the tremendous sacrifices borne by our nation's firefighters. They are the ones who must pay most heavily for this horrendous record. A fireman participates in the most hazardous profession of all, with an annual injury rate for firefighters of nearly 40%, far higher than any other profession. In 1971, at least 290 firemen died of fire or fire-related causes.

The Fire Prevention and Control Act seeks to focus the resources of the Federal Government on this terrible problem. Its three year cost of $127 million is a small investment when compared to the billions annually lost in property, and the massive human suffering, upon which no price tag can be placed. The bill will reinforce and support fire prevention and control activities of local groups throughout the country, and for the first time place proper emphasis on meeting this grave national menace.

I hope Mr. Will would consider these facts the next time he needs a firefighter.

With best wishes, I am

Sincerely yours,

J. GLENN BEALL, Jr.

Mr. MUSKIE. Mr. President, the Fire Protection and Control Act which we are considering today addresses in a constructive manner an historically cruel enemy of all mankind—fire. Throughout history, fires have brought death and destruction, striking down the helpless and healthy alike, destroying the lifework of men and women without mercy. The proud and brave efforts of firefighters have met the threat of fire for generations. But their work has never been

given the maximum support needed to minimize the danger of fire.

The Fire Protection and Control Act, S. 1769, would establish programs of education and support for local firefighters that would help them meet the threat of fire. I hope the Senate will give this goal a strong endorsement by passing this bill, so that it may soon become law.

Only a little imagination is needed to translate the appalling statistics about fires in the United States into their cruel toll of death and destruction. The statistics for 1972, released October 10 by the National Fire Protection Association, tell a sad story. Last year nearly 21,000 people died in fires. There were 2¾ million fires in the Nation. And the property loss from these fires was almost $3 billion. And all of these figures sadly reflect an increase over the previous year.

In the face of these mounting tragedies, the firefighters of America have responded with a record of service of which they can be proud. In my own State of Maine, there are over 400 municipal fire departments, with about 12,000 firefighters, most of them volunteers. Maine's professional firefighters work a 56-hour week at modest wages. And they perform the most hazardous job of any in the Nation, with a death rate 15 percent greater than the next most dangerous occupations.

The firefighters in Maine have been part of a strong firefighting tradition which has benefited from widespread community support. Initiatives by State governments have helped their work: one notable example is the fire technology program for professional firefighters which Maine initiated in 1968, which now operates at five vocational technical institutes in the State, and which leads to an associate degree in fire technology. But firemen could be given extra help on the national level to do their job more effectively. Critical national needs exist: there is no central, comprehensive source of data on fires; there is little research conducted on controlling or responding to fires; there is little national effort in the field of training firemen; and there are few sources to which the local firefighting agency can turn for technical advice.

The Fire Protection and Control Act constitutes a framework of sensible Federal effort to meet some of these needs, without altering the nature of firefighting as a local function.

The support furnished by this act would be through a National Program for Fire Prevention and Control—FIREPAC. Working within the Commerce Department, the FIREPAC program would devote resources to getting answers to crucial questions of fire control, would provide that information to firefighters and firefighting agencies throughout America, and would give needed support to firefighting personnel themselves. The FIREPAC program includes research and development programs and studies covering the many topics involved in firefighting from physics to psychology, as well as comprehensive planning programs—called master plan demonstration projects—to be established in selected States. The FIREPAC program would gather firefighting expertise on a national level and distribute it to the firefighting community through an annual conference of firefighting professionals, a national fire data center, a program of fire services technical assistance to local firefighting agencies, and a FIREPAC Academy to train fire service personnel and promote fire service training. Finally, the FIREPAC program would bolster the efforts of firefighting personnel through public safety officer awards and a study of firefighting employment.

The Fire Prevention and Control Act before us today is a modest Federal contribution to the heroic efforts of local firefighters across the Nation. I give it my full support.

Mr. KENNEDY. Mr. President, I urge the Members of the Senate to act favorably on S. 1769, the Fire Prevention and Control Act. The Senate Commerce Committee under the distinguished leadership of Senator MAGNUSON has spent a great deal of time and effort in developing this legislation which is so important to the citizens of this country.

We, in Massachusetts, are unfortunately acutely aware of the devastating effects of fire on a very recent occasion. On October 14, fire destroyed 17 blocks of Chelsea, Mass. We are now in the process of coordinating Federal, State, and city efforts to renew this city of 33,000 people. We have had the sad opportunity to walk through the burned-out section of Chelsea, and we are painfully aware of the need for a broad program of fire prevention and control.

The National Fire Protection Association has completed their preliminary report on the fire in Chelsea and I would like to insert it in the RECORD at this point. Their final report will be completed in the near future.

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

NFPA FIRE RECORD DEPARTMENT, PRELIMINARY REPORT, CONFLAGRATION, CHELSEA, MASS., OCTOBER 19, 1973

A conflagration occurred in Chelsea, Massachusetts on October 14, 1973. It was the second such fire: a previous fire, in 1908, destroyed about half the city. The city rebuilt an almost perfect replica of the buildings that burned, laying the groundwork for the latter-day fire. With few exceptions, the rebuilt Chelsea had nearly as much conflagration potential as before the fire of 1908.

The hazardous condition in the waste trades district and adjacent residential area, low humidity and high winds, and an inadequate water supply were contributing factors in this second conflagration.

A detailed report will be available from the NFPA in the near future.

HISTORICAL PERSPECTIVE

Conflagrations were more common in the 19th and early years of the 20th century. Cities and towns were built with little or no regard to fire safety, and the fire departments of the day left something to be desired. There were "great" fires in Chicago, Boston, Baltimore, and San Francisco, along with a host of lesser communities. Fewer conflagrations occurred in this country after the 1930's. One can guess at reasons: faster response and reinforcement of firefighters using motor vehicles; better protection by organized and trained fire departments; safer buildings through use of codes and fire prevention activities. Whatever the causes, the last large conflagration on record at the NFPA occurred in 1934.[1] Smaller conflagrations occurred, such as the Bellflower Street Fire in Boston in 1962. But most of these fires were stopped within a few blocks, as soon as sufficient firefighting units could be mustered from the surrounding area. Fire destroying hundreds of buildings have not occurred in almost three decades. Fire and insurance officials, and spokesmen for the NFPA who warned of conflagrations were not heeded. Municipal administrators seemed to feel their fire departments could handle any fire that developed. But they were wrong. Given the right circumstances, the potential for a conflagration could exist in many other communities.

THE CITY OF CHELSEA

Chelsea itself is an independent city of about 33,000 people crowded into just over two square miles. The city has industrial and residential occupancies. Perhaps the largest commercial activity in the city is salvage. Many small companies are engaged in recycling useable materials. The "rag shop district" as it is called is characterized by narrow streets with wood-frame and brick-wood joist buildings up to three stories high. These shops, sheds, and warehouses are loaded with rags, waste paper, used tires or whatever else their owners feel may be of some value. Fire loading is heavy. Housekeeping is poor, and trash is everywhere. If the price on some material drops, the salvage dealers specializing in that line may go out of business leaving the building abandoned but still containing considerable amounts of stock. A few buildings are sprinklered, and a few are of ordinary construction. There are few fire breaks. Streets are only 20 to 25 feet wide; sidewalks 2½ to 3 feet wide. The total separation between blocks is only 30 feet or so. The area fire flow for the rag shop district is about 1,000 gpm.

To the south and east, the rag district gives way to houses. First, there are wood-framed "three-deckers," three-story multiresidential structures. They are on narrow lots, with the structures separated by only a foot or two. They are constructed with wood porches on the rear and sometimes on the front and trash, awaiting collection, is usually stored under the porches.

These buildings contribute to the conflagration hazard. Further to the south and east are apartment buildings of ordinary construction up to four stories high. Some have stores on the first floor. Still further to the south are another industrial area and some petroleum storage facilities.

The conflagration of April, 1908 killed 18 persons, destroyed 3,500 buildings and left 17,000 homeless. In September, 1908, another serious fire destroyed 40 buildings in Chelsea under similar circumstances. With help of donations from all over the world, the city was rebuilt almost exactly as it had been before. The only notable exceptions were that wood-shingle roofs had disappeared, and the "oil works" had increased in size.

Some people did get concerned about the hazard of fire in Chelsea. A local fire prevention council was set up in the 1920's. With encouragement from the NFPA and local backing, the council got a Fire Prevention Bureau established in the fire department. The rag shops were supposed to have sprinklers installed. The fire department was increased in size, and new equipment purchased.

The population had declined in the intervening years, from 38,000 in 1908 to about 33,000 in 1973. Some houses and shops had burned and never been rebuilt. Others were vacant, and frequently the scene of incendiary fires. Fires in all types of buildings

[1] Excluding brush and forest fires.

were all too common in Chelsea. In 1968, Chelsea had more building fires per 1,000 population than any other city covered by the NFPA's annual survey.[2] The salvage business was in decline, and many dealers simply piled up materials, hoping for a better price. Many of these were marginal businesses at the time of the 1973 fire.

In the past few years, the city government finally began to improve conditions. An urban renewal plan was developed which would revitalize the rag shop area and part of the blighted residential area nearby. Planned improvements included an improved water system, re-location of streets to provide bigger lots and wider streets, sufficient parking areas, and zoning restrictions to separate residential and industrial occupancies. After several years, the program had been approved and funded. The local developer was buying buildings and land when this fire occurred.

The first department had changed considerably since 1908. At that time, they had three "steamers," four other companies, and twenty-one men. The present-day department had five engines and two ladder trucks, manned by 109 firefighters. Usually about 23 men were on duty at any given time. To make up, in part, for deficiencies in the water supply, the department was equipping its units with 4-inch hose for supply lines.

It was proposed that one company be eliminated during a recent "economy" drive, but the company continues to operate.

THE FIRE OF OCTOBER 14, 1973

October 14th was a Sunday. The weather was warm, 69°F at 4 p.m., with the wind from the northwest gusting up to 48 miles per hour. There had been only 0.01 inches of rain in the preceding week. It was what forestry men call a "Class 5 Day"—extremely hazardous. Because it was Sunday, there were few people in the area. About 4 p.m., a fire started near a truck parked in a yard at 120 Summer Street.[3] A passer-by reported it to a watchman on duty at a nearby plant. He called the fire department. By that time, smoke from the fire was visible five miles away.

The fire department sent their standard response of two engines, one ladder truck and a deputy chief. The two engine companies had about ⅔ of a mile to travel to reach the fire. When they arrived, the fire had already involved two buildings. The deputy ordered a third alarm as soon as he arrived. At that time, three buildings, were involved. The chief of the fire department arrived from his home a minute or two later and ordered a fourth alarm.

The initial attack was made with two-2½ inch-hose lines, one from each of the first two engine companies. Additional companies, responding to the multiple alarms, began to arrive about four minutes after the first alarm companies. The fire was extending faster than companies could get into operation. The fire spread through tires and other combustibles stored between buildings. An attempt was made to hold the fire in the block of origin, but it was unsuccessful. The fire ignited buildings across Maple Street and jumped across Summer Street. It was now a conflagration.

With the fire spreading rapidly, and parts of three blocks already in flames, the chief realized a major conflagration was developing. He ordered his off duty firefighters to report for duty. He also put out a call for "all available assistance" over the intercity fire radio. (This is a system for communication between fire departments of different cities when assistance or "Mutual Aid" is required. There is no control function which decides which departments should send assistance and how much). The response to this and later calls was about 105 units and 700 firefighters.

At this time, the chief attempted to hold a line at Third Street. But the fire jumped this, and successive lines. Hand lines were too small to be effective, and there was not enough water available to supply master streams. Water supply was becoming critical.

In one case, five pumpers were required to provide one good stream at the fire. Command and control problems were developing. The fire had become so large that one could not see all important parts of it. The chief started to walk from point to point, but the area was so large and the fire developing so fast that he could not exercise control effectively that way.

Arrangements were made to get a helicopter for the chief so he could get an overview of the fire. The chief felt this was an excellent means of finding critical areas, and taking effective action in them. He had placed a Chelsea officer with a walkie talkie in each sector of the fire. He could communicate directly to them as well as to his dispatcher. They could relay messages to many of the companies. The chief also found spot fires, and could send companies to them through his dispatcher. The command problem was never completely solved, but by this procedure control was significantly improved.

Another control problem related to companies arriving from out of town. The companies might follow the glow of flames till they ended up close enough to the fire to go to work on their own. Other companies came to Chelsea's headquarters fire station to be assigned. The dispatcher would hold them there until someone requested assistance, then send them out. By midevening, companies were arriving every three or four minutes, and only staying a few minutes before being sent out. Some companies were at work in the narrow streets at right angles to and in front of the line. One of these units was burned, and two others were damaged. Others had to pull out hurriedly to avoid a similar fate.

To the north, a successful defense was eventually set up along railroad tracks. The right-of-way, wide enough for six tracks, was wide enough to be a good fire break. Two tracks had been taken up, and the remaining roadbed provided easy access. The buildings north of the tracks were of better construction and less susceptible to ignition, too, when helped.

To the west, firefighters were able to hold a line on Second Street. The wind carried much of the heat and smoke away from them. Also, the flimsy buildings had burned quickly, limiting the most intensive exposure. (The piles and bales of stock, however, continued to burn for several days. The fire was still smouldering Wednesday night).

By 6 p.m., a firestorm had developed. Winds at ground level blew toward the fire at such speeds that working was difficult. Items as heavy as shutters were borne along by the wind. Flaming trash, rags, papers, and brush were carried by the wind to adjacent properties where they ignited accumulated trash and stock, then structures. The effect was similar to that seen in "rolling" brush fires in the western states. Fire was also spread by direct radiation, and by flaming brands drawn up in the thermal column above the fire, then deposited up to half a mile downwind.

The main fire was contained about 9:15 p.m. Additional fire companies were still required to relieve timed crews and broken down or fuel-short apparatus on the fire line. Companies were also required to extinguish spot fires. One spot fire broke out in City Hall about 10:30 p.m. which required a two-alarm assignment to subdue it.

By this time, fuel supplies were becoming critical. Arriving pumpers had come so far they needed fuel on arrival. Companies that had been operating for several hours also needed refueling. Fuel trucks were obtained from neighboring fire departments and local firms. In some cases, fuel was carried in the fire area in 5-gallon cans. The refueling problem was not resolved.

The first out-of-town units returned to their stations about midnight, October 14. The last returned during the afternoon of October 17.

GENERAL POPULATION

A sizeable portion of the general population, perhaps 3,500 people, had to be evacuated from their homes. This work was done by firefighters, police, and bystanders as soon as the fire was seen to be threatening houses. The occupants were usually stunned by the threat of fire to their home, and unaware of the speed at which the fire was traveling. Strenuous efforts were needed to get them out of the house safely. Some fled with nothing; others tried to save furnishings. Most grabbed a shopping bag or trash bag, filled it with clothes and food, and left.

Some of the population have lived in the area for two or three generations. These people, when evacuated, went to stay with relatives or friends out of the danger zone. Others, newly arrived in the area, knew no one to turn to, and ended up at an emergency shelter in the local armory.

A large portion of the population turned out to watch the fire. Spectators sometimes got in the way, but were also of valuable assistance in hauling hose lines and evacuating houses. Police control of spectators was not achieved until about 7:30 p.m. Police operations appeared to have little central direction. Officers came voluntarily or were sent from numerous area police departments. A command post was set up under command of a state police captain. While a force of 25 to 30 police officers stood by at this post, crowd control was left to local police and to volunteers wearing schoolboy traffic control belts.

RELIEF ACTIVITIES

Immediate relief activities including feeding of emergency workers, feeding and shelter of evacuees, and care of the injured. (There were no fatalities reported).

Action was taken to have Chelsea declared a disaster area. By Wednesday, October 17, representatives of the various federal agencies met with Chelsea officials to arrange disbursement of federal disaster aid. It was reported that this was the fastest that such relief had ever been available. About $40,000,000 will be available.

DAMAGE

At this time, losses have not been established. The damage covered 17 blocks. Dollar losses are expected to exceed the $12,000,000 loss of 1908. A detailed break-out of losses will be published when available. There were a number of businesses destroyed, employing about 600 persons. Many of these will not do business again.

Mr. KENNEDY. Mr. President, this report is chilling. The firestorm had developed by 6 in the evening, and families were stunned by the fire and unaware of how fast it was traveling. The report notes that it took strenuous efforts to get families from their homes safely.

And the preliminary report notes that an inadequate water supply was a contributing factor as the fire spread. That is why I have asked for and received the assurances of the chairman that water supply and pressure has high priority in the fire prevention and control bill. Clearly there are areas, particularly in the rural sections of this country, that are desperately in need of improvement of water systems for fire fighting.

I would like to include in the RECORD at this point an article entitled "Hydrau-

[2] See "Fire Record of Cities," July 1969, Fire Journal, Page 17 Volume 63, No. 4.

[3] See attached map.

lics for Fire Protection" which outlines the crucial need for adequate water pressures in fire control.

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

HYDRAULICS FOR FIRE PROTECTION

(By N. J. Patek)

The art of fire protection has been referred to as a study of hydraulics. Good basic fire protection consists of provision of water at adequate pressures and volumes at the start of and at the source of a fire. If this rather simple requirement could be met, fire would be held to the minimum and any resulting loss of property would be inconsequential.

As yet there is no satisfactory alternative for water in fire extinguishment. Admittedly, water has its drawbacks—it wets things down, and as a result it often causes irreparable damage. This is referred to as "water damage"—a phrase often used to attempt to discredit water extinguishment facilities such as sprinkler and standpipe systems. When water causes collapse of structures or equipment, the reason is that the design of the sprinkler or standpipe system did not take into consideration the additional weight of the water needed for extinguishment. When they are not dried out sufficiently after being wet, water can cause slow oxidation of ferrous metals. Last but not least, water can cause serious and violent reaction with certain basic metals.

However, in spite of those, and possibly other, drawbacks, water is still the most basic and the best extinguishant for a wide variety of fires. No other extinguishant offers such relatively easy, economical, fast control and extinguishment (sprinkler systems), such storage capabilities (tanks and reservoirs), such high pressure (pumps and pressure tanks), and such availability coupled with high heat absorption properties. It is therefore appropriate that those concerned with designing structures and equipment consider the problems of hydraulics as related to fire protection engineering.

In my opinion, the best place to start this discussion is at the location of a fire, for if our design assumptions and criteria have been correct, a fire will have slight consequences. If we have designed wrong, there may be a catastrophe.

One axiom of fire protection is that what is done during the first five minutes after a fire starts is more important than what may be accomplished during the next five hours. Fire loss experience files bear this out, all too graphically. Therefore it is essential to provide means of detecting and extinguishing fires at the site of origin and as speedily as possible. The most common means of accomplishing this is an automatic sprinkler system, which incorporates sprinklers actuated by preset temperature elements. The excellent performance of automatic sprinkler systems over the years is borne out by statistics; e.g., over 96 per cent of the fires in properties that have automatic sprinkler protection are extinguished or controlled by actuation of 30 or fewer sprinklers.

In order, then, to arrive at some reasonable bench mark on the amount of water required for fire-fighting, the 30-sprinkler figure seems to be in order, at least from an average statistical standpoint.

Each sprinkler has its own unique design criteria related to pressure and volume. As an average, the normal ½-inch-orifice sprinkler, which is the most common in use, discharges 25 gpm at approximately 20 psi. As the available pressures increase at the sprinkler, the greater will be the quantity of water discharge. Also, increased water pressure emanating from the sprinkler will cause greater water velocity impinging on the sprinkler deflector. This results in finer water droplets as pressure is increased. For a sprinkler to perform at optimum design—mainly quantity discharge, area coverage, and water droplet size—the acting pressure at the sprinkler must be within a given range—generally between 10 and 60 psi. Lower pressure results in the water's just spilling out, which in turn produces inadequate area coverage and droplet size much too large to absorb heat efficiently. Greater pressure results in the water's being broken into such fine mist that it has insufficient mass to overcome the vertical velocity of the heat of the fire.

Therefore the starting design criteria for an "average" water supply become approximately 17 gpm at 10 psi at the most remote sprinkler. If we take an average discharge—a fictitious assumption, as we shall see—of 17 gpm for the 30 sprinklers, the quantity of water required becomes 510 gpm.

The pressure requirement for an "average" sprinkler system at the area of the fire will be in the range of 40 psi. The actual pressure requirement at ground-floor level or in the street will depend upon the building and upon the configuration of the sprinkler system.

For a decade the Factory Insurance Association has been pioneering in advancing the principle of calculating the discharge characteristics of sprinkler systems. Up to ten years ago the sprinkler codes and the people concerned with fire protection grouped hazards under broad classifications, such as light-, ordinary-, and extra-hazard occupancies. Each sprinkler system was designed to accommodate one of the occupancy classifications, and the only task of the designer of the system or of the person reviewing plans was to determine if the system conformed to the prototype. Little if any thought was given to how the system would react under the influence of a specific water supply. The Factory Insurance Association proposed the principle of calculating sprinkler systems originally for high-hazard occupancies, and the idea met with such favor by assureds and other interested persons that calculated sprinkler systems are now provided in a variety of circumstances. The guesswork has been taken out of this phase of protection, and we are able to relate protection to hazards.

I just said that taking an "average" 17-gpm discharge is erroneous, and I would like to explain this.

Let us assume an ordinary 130-foot-per-sprinkler system having eight-sprinkler branch lines, center feed, and standard ½-inch-orifice sprinklers having a 5.7 K factor.

With a starting pressure of 10 psi, the end sprinkler would flow 17.7 gpm. As we calculate branch-line friction losses and equate resulting sprinkler discharges, the required volume pressure at the base of the first branch line riser nipple becomes 377.2 gpm, at a required pressure of 30.9 psi. Calculating cross-main pressure losses and balancing the volume and pressure requirements at the base of the second branch line riser nipple yields a demand at that point of 752.2 gpm at 50.1 psi for 30 sprinklers operating. Carrying the calculations through the system and its riser and supply main to a city water main results in a system requirement of 752.2 gpm at a required pressure of 73.6 psi. Therefore, to discharge 17 gpm at the end sprinkler with 30 sprinklers operating it is necessary that the supply yield 752.2 gpm at a residual pressure of 73.6.

To that quantity we must add hose demands. Each area of a building should be within reach of at least one hand hose stream. Calculations on hand hose nozzles indicate discharge of approximately 100 gpm at 80 psi from standard 1½-inch adjustable spray nozzles. It is not unusual for fire departments and plant fire-fighting personnel to use two, three, or more hand hose streams to extinguish the fire and to wet down adjacent areas, to keep the fire from spreading.

To arrive at the total water supply required during the course of fire-fighting, both sprinkler and hose demands must be considered cumulative. Therefore, for the facility we are discussing a combined flow of 992 gpm for both sprinkler and hose demands at a residual pressure of 73 psi is considered an average water supply.

It must be pointed out that the quantity of water discussed here would be adequate for a light-hazard occupancy in a noncombustible building, such as a light-hazard metalworking or electrical assembly plant in a masonry-walled metal-deck-roof building. Other, more hazardous occupancies, such as warehousing, rubber-working, and chemical plants require much more as a basic water supply for the sprinkler system. The sprinkler systems in those occupanices may be designed to discharge three or four times our original quantity, with a resulting increase in pressure requirements.

The next natural question is duration: For how long is it necessary to supply 992 gpm at a residual pressure of 73 psi? Experience shows that fires in industrial properties, where high pressures and large volumes of water are needed, may be of long duration. It is generally considered that high pressures and high volumes should be available for a minimum of one hour, with additional water at somewhat reduced pressure available for another three hours. Therefore a four-hour water supply is considered necessary for proper fire-fighting.

It is surprising how many communities cannot supply the necessary amounts of water for anywhere near four hours. Even city officials are surprised during flow tests from hydrants when the water stream decreases appreciably after flowing water for a relatively short time. Tall, thin standpipes and high, small gravity tanks may impress passers-by, but they are far from impressive to the fire fighter holding a dry hose stream inside a burning building. It is all-important to analyze not only momentary flow characteristics but also what is back of the entire water supply—automatic or manual pumps, size of tanks and reservoirs—and what is to replenish it.

The fact most often overlooked in predetermining water supply is that a water supply determination must be made on a specific basis. Each building complex or occupancy usually has its own water supply requirement. Not all industrial complexes are alike. The sprinkler water requirement for metalworking is quite different from that for woodworking, or an electrical works, or a solvent extraction plant. In answer to the question *What is a good water supply?* we must ask the question *What are we talking about?*

I receive numerous phone calls inquiring if a city water main capable of supplying, say, 1,500 gpm at a residual pressure of 50 psi is a good sprinkler and hose supply. Before answering such a question I must have some idea of the hazards the sprinkler system would be called upon to cope with, the configuration of the building, its construction, and its location in regard to the water supply. In many cases 1,500 gpm at a residual pressure of 50 psi would be more than enough to supply the system. In many others it would be drastically deficient. The mere fact there is a city water main connection, there is a gravity tank or pressure tank on the system, and even one pump has been provided do not necessarily mean an adequate water supply for a specific property.

For quick and self-evident determination of the adequacy of water supplies as related to specific sprinkler and hose demands we often make use of graphs. Knowing that quantities of water flowing through orifices approach mathematically the square root of the pressure (multipled by a constant), we are able to represent the flows by means of a straight line on semilog graph paper.

Plotting pressure versus volume for a given city water supply of 70-psi static pressure and 50-psi residual pressure with 1,500 gpm flowing, and plotting our sprinkler and hose demand curve, we see that the demand point is above the city supply curve. Therefore the city supply is insufficient for the required pressures and volumes. If we plot a theoretical fire pump curve of 1,000 gpm at 100 psi in relation to the demand curve, the pump is able to supply the required volumes and pressures.

Using graphs to plot water demands and supplies is a quick, easy, and readily recognizable way to determine if a given supply is sufficient for a specific property or hazard.

Too many individuals directly responsible for determining water supplies fail to take into account the water requirements to fill both the fire protection needs and the domestic needs of the specific building. The presence of an eight-inch or 10-inch city water main is considered all that is necessary, and the specific sprinkler requirement receives no further thought.

With ever-growing application of the principle of building away from large metropolitan areas, the problem of adequate water supplies has increased immeasurably. Land sites are selected and commitments consummated before any determination is made of the needs of water volume and pressure at the building sites. Building developers too often fail to take into account the large volumes and high pressures required for firefighting purposes over and above normal production and sanitary needs.

During the review of building and occupancy plans insurance companies advance the requirements for additional private water supplies. Building owners are often appalled at the prospect of having to pay for a private water supply system (with costs frequently in the vicinity of a quarter of a million dollars, which were not originally considered in the cost of the new facility) in order to achieve insurance at the lowest possible rates. This naturally arouses consternation, and fire protection is delegated the role of scapegoat. It is then realized that building in small municipalities or unincorporated areas is sometimes less economical than first envisioned. Communities that have a good, strong, reliable water supply may have land values and taxes somewhat higher than other communities, but the cost of providing and maintaining a private water supply over a period of years may well offset any original savings. When the cost of providing the necessary water supplies is considered as part of the fire protection cost of a structure, the ratio of the cost of the fire protection facilities to the cost of the total building becomes extremely high. If the area in question does not have a sufficient city water supply, the cost of fire protection is less; but in all probability taxes will be higher. The saving in taxes therefore becomes a fire protection cost. Would it not be fairer to delegate some of the cost of private water supplies to the accounting ledger column marked *municipal taxes?*

This is not intended to discredit building facilities in outlying areas. Such locations may be extremely beneficial for a given type of property. However, should such a site be selected, all the factors warrant consideration and the property owner deserves to know all the facts and all the costs. Only then should the final selection be made.

After all this has been said, we come to a matter whose logic often evades persons not directly concerned with insurance requirements: secondary water supplies for insurance purposes.

Whenever a facility has an extremely high insurable value, the underwriter feels that to underwrite it successfully a certain backup in water supplies (and possibly other forms of protection) is necessary. The exact dollar evaluation of this "breaking point" is not so important as the determination that the property does constitute a high insurable value. When a property falls into this category the underwriter will advise the assured that the water supply for the sprinkler and hose demands requires two separate and distinct supplies. In the event, under reasonably adverse circumstances, something should occur to take one of the supplies out of service (e.g., breakdown of a city water main, a pump's being down for servicing, or removal of a gravity tank for repairs or cleaning), another source capable of supplying the total sprinkler and hose demands should be available. Basically, this theory can be reduced to "how many eggs in one basket" thinking. If 1,500 gpm is considered an adequate supply for the property and the property has a high insurable value, a second source capable of delivering the 1,500 gpm would be recommended. If the sprinkler system's basic supply is provided by a pump supplied from a reservoir, the secondary supply requires another pump and another reservoir.

Again, one must bear in mind the principle of adequate supply for the hazard. Just because a property has one city connection and one gravity tank, it does not necessarily have two sources of water for its fire protection needs. It may well be that neither of the sources is adequate, and, therefore, that an additional totally distinct and separate source of water supply is necessary. It is wise to consult with insurance carriers regarding their requirements for the specific property as to whether a single or a secondary source of water supply is considered sufficient.

While we are speaking of reliability, I believe it might be well to discuss the reliability of the water supply. In years past the most reliable supply was that of the gravity tank, with nothing more than gravity and open valves being necessary for water to be delivered to the sprinkler system.

Increased floor heights and areas have meant substantial increase in the required pressures for the water supplies. To produce the necessary pressure for high-hazard areas, gravity tanks would have to be situated at extreme heights, making their original and maintenance costs prohibitive.

Over the years electric motor-driven fire pumps have proved to be extremely reliable. In fact, I do not know of one major loss directly attributable to failure of an electric fire pump. There have been situations of serious consequences because of interruption of electric current to the pump, but these were attributable to improper installation of electrical feeders and disconnects. The electric motor and its controller have had a very reputable record indeed. However, at present we face serious situations related to the reliability of the electrical supply from the utilities. Practically all sections of the country, some much more than others, face problems of reduced voltages, brownouts, or blackouts. The duration of these serious situations has varied from moments to hours and even days. The consequences of interruption of electrical power occurring at the same time as a fire are not difficult to imagine. Occurrences at the wrong time, at the wrong place, could result in a major catastrophe.

Underwriters have become increasingly concerned about properties whose major source of water supply depends on electrically driven pumps. Many communities rely almost totally on electric wells or fill or booster pumps as the source for municipal water supplies. The pumping capacities available from stand-by sources are usually negligible.

It has been with this fact in mind that diesel-driven fire pumps have been quite extensively recommended in high-valued, high-hazard properties. Over the last few years diesel-driven pumps at properties insured by the FIA have had a fine record of reliability, as a result of weekly and yearly testing conducted by our representatives. It should be pointed out to owners that maintenance of diesel engines is all-important, as is the presence within the company of at least two knowledgeable individuals. The pump should not be left for long periods out of service, awaiting service representatives.

No item of protection is so basic or so totally necessary as a good, sound, reliable water supply for sprinklers, hydrants, and hand hose connections. Determination of quantities and pressures required is not a simple or easy task, but, rather, a task requiring full knowledge of the construction and the hazards inside and outside the property.

This determination is considered so vital that Factory Insurance Association field engineers spend a large segment of their time testing and analyzing municipal and private water supplies, for it is realized that upon this one item hinges the determination of the eligibility of a property for a superior insurance rate. Our representatives are fully trained and educated to advise architects, builders, and owners of the necessary water supplies. We solicit early—as early in the planning stages as possible—inquiries regarding the water needs of a specific building and how they relate to the area's water supply.

The Factory Insurance Association has recently increased its computer facility to accommodate sprinkler design calculations. Our computers enable us to offer our policyholders quick plans review and existing sprinkler installation design criteria for a specific water supply.

Close cooperation by everyone concerned produces a well-protected facility, of which all who were involved in the building may well be proud, and, more important, wherein all may feel safe.

Mr. KENNEDY. Mr. President, the most hopeful thing about this legislation we act on today is that it shows the Congress is aware of the enormous problems involved in fire prevention and control. And that awareness is growing across the country.

We can no longer afford to waste $11 billion annually in property losses, treatment, productivity losses, and fire department operations. We can no longer live with the scars on 300,000 Americans who are injured every year by fire. And we cannot tolerate the loss of 12,000 lives every year in this country from fire injuries.

The first year cost of $42.5 million is a small price to pay if we can begin to alleviate this loss of life and economic injury.

This legislation has important provisions for burn treatment research and rehabilitation for the injured. It provides for loan guarantees for firefighting equipment for nursing homes, and $10 million for demonstration projects to find out how to prevent fires.

The people of Chelsea and all other communities in this Nation that have tragically experienced large and uncontrolled fires know the importance of the legislation we act on today. And it is for them that we take these first steps to reduce this tremendous waste in lives.

Mr. WEICKER. Mr. President, as an original sponsor of S. 1769, along with Senators MAGNUSON and COTTON, I urge my colleagues to overwhelmingly approve

this first comprehensive legislation to enhance the training and resources available to the firefighters of America.

S. 1769, the Federal Fire Prevention and Control Act, is based on the recommendations of the 2-year National Commission on Fire Prevention and Control, as well as the hearings of the Senate Commerce Committee.

In its report entitled "America Burning," the National Fire Commission has concluded that—

Appallingly, the richest and most technologically advanced nation in the world leads all the major industrialized countries in per capita deaths and property loss from fire.

The Commission estimated that more than half of the 12,000 lives and much of the $11 billion lost in fires in the United States each year could be saved through a greater effort in fire prevention and firemen training programs.

Therefore, to assure that national attention and resources are focused on the Nation's fire problem, the legislation before us today would establish within the Department of Commerce a national program for fire prevention and control—FIREPAC—to be administered by a new assistant secretary for fire prevention and control.

The secretary for FIREPAC would establish a national firefighting academy for the training of fire service personnel and the development of educational programs that may reduce the fire problem. FIREPAC would also provide increased Federal support of fire research and fire safety education programs, develop a comprehensive national fire data system to aid local fire companies, and offer technical assistance to State and local governments and volunteer firefighting organizations.

The Federal Fire Prevention and Control Act would preserve the autonomy of State and local fire departments, which would retain their initiative as innovative and vigorous parts of the community. In providing a significant opportunity for all firefighting units to improve their services and activities, this bill will further assist the development of master plans for mutual aid associations.

Firefighters in Connecticut and other States have long deserved national recognition for their selfless service. The Federal commitment embodied in this toric bill will aid the efforts of local fire departments without encroaching on their responsibilities or essential autonomy. Further, citizens and communities will be encouraged to participate in FIREPAC programs to minimize the shocking human costs and property losses caused by fire.

I urge my distinguished colleagues to afford this imperative comprehensive fire legislation speedy and affirmative consideration.

Mr. ROTH. Mr. President, I am pleased to support S. 1769, the Fire Prevention and Control Act. I have heard from a large number of people in Delaware who support this act. S. 1769 is a bill to establish a U.S. Fire Administration and a National Fire Academy in the Department of Housing and Urban Development, assist States and local governments in reducing the incidence of death, personal injury, and property damage from fire, increase the effectiveness and coordination of fire prevention and control agencies at all levels of government, and for other purposes. This legislation is based on the recommended program resulting from a 2-year study by the National Commission on Fire Prevention and Control. The Congress recognizes the need for adequate legislation to reduce the unacceptably high rate of death, injury, and property loss from fires in the United States.

The National Commission on Fire Prevention and Control points out in its report that annually in the United States, fire claims nearly 12,000 lives, leaves scars and terrifying memories on 300,000 Americans, and costs by conservative estimates at least $11.4 billion a year. The report goes on to point out that—

Appallingly, the richest and most technologically advanced nation in the world leads all the major industriallzed countries in per capita deaths and property loss from fire. While differing reporting procedures make international comparisons unreliable, the fact that the United States reports a deaths-per-million-population rate nearly twice that of second-ranking Canada (57.1 versus 29.7) leaves little doubt that this nation leads the other industrialized nations in fire deaths per capita. Similarly, in the category of economic loss per capita, the United States exceeds Canada by one-third.

Consideration to our firefighters is long overdue, especially when we think about the terrible toll of fire on them; for example, in 1971, the injury rate for firefighters was 39.6 per 100 men—far higher than that of any other profession, the death rate was 175 firefighters who died in the line of duty, and 89 died of heart attacks and 26 from lung diseases contributed to by the routine smoke hazard of their occupation.

S. 1769 is concerned with these problems. It will provide for the establishment of a National Fire Administration to supply a national focus for the fire problem. It will also establish a National Fire Academy, which will offer specialized training in fire protection, assist State and local jurisdictions in planning programs, and conduct campaigns to educate the public.

The bill also calls for the development of a National Data System to collect data on fire injuries and deaths, property losses, and other fire-related information to assist local fire departments. In addition, the bill will provide grants to States and local governments for the preparation and adoption of comprehensive master plans for fire protection. These plans will provide the opportunity for local fire departments to improve and strengthen their fire prevention and control programs.

Research and development for improving fire prevention and control and developing new methods and technology in this area are also a major part of this bill. In addition, other areas of research are included, that is, medical research, aimed at making more burn centers, burn units, and burn programs available for research, treatment, and rehabilitation of fire victims will be conducted by the Secretary of Health, Education, and Welfare through the National Institutes of Health. Fire prevention and control research and development activities will be conducted by the Secretary of Commerce.

When we pause to consider the high price we pay in human lives and losses in property, we realize that fire is such a great tragedy. We should remember that it can strike anyone of us at any time. Therefore, I add my support to this important bill, which I hope, will help in bringing about a reduction in losses due to fire.

Mr. DOLE. Mr. President, I wish to express my support for a bill which addresses a long-overlooked but vitally important concern. The prevention and control of fires in the homes, businesses, and institutional facilities of America is a matter in which everyone has a major stake. We all live in houses, apartments, or mobile homes and have too often seen flames engulf a home bringing loss and tragedy to our own communities. Most of us can recall witnessing at least one major business or industrial fire which resulted in thousands—if not millions—of dollars in losses. And often the headlines tell of major fire catastrophes involving nursing homes and similar facilities.

TRAGIC COST

It is estimated that some 7,200 destructive fires occur every day in this country. Each year 12,000 lives are lost by fire, and more than 300,000 men, women, and children suffer injuries ranging from minor burns to traumas requiring weeks and months of hospitalization and surgery.

The annual cost is a staggering $11.4 billion or more. But the real dimensions of the problem are disclosed only through recognition of the fact that the United States has the highest per capita rate of fire death and property damage of any major industrialized nation.

For a country with our standard of living, technological resources, and problem solving abilities, I feel this situation constitutes a major disgrace. There is simply no excuse for it.

Clearly, the time has come for a major effort to reduce this senseless waste of lives and property. Not only does the need to reduce such widespread human suffering and sorrow make this a cause for action, but the economics of the matter—the sheer waste involved in the present situation—demand that we act now.

PREVENTABLE LOSSES

As the committee report indicates, estimates have been made that only a 5-percent annual reduction in fire deaths, injuries, and property damage over the next 5 years would save 8,000 lives, mean 210,000 fewer injuries—with $85 million saved in hospital and medical costs—and avert some $1.9 billion in property losses.

NECESSARY APPROACH

The approaeh to formulating a meaningful and effective response to this problem is important.

The answer lies primarily with strengthening our existing system of fire

prevention and firefighting. That means emphasis must be put on assisting local governments in their efforts, for we certainly cannot create a new Federal Fire Department.

The program should be directed toward harnessing new developments in the sciences and technology which can be applied to the job of preventing fires before they happen and to putting them out once started. Better information on these developments should be made available, and special efforts should be made to stimulate innovation and improvement in the methods and techniques of fire loss prevention.

EMPHASIS ON BURN TREATMENT AND REHABILITATION

Another area which should receive attention is the treatment of fire injuries and rehabilitation of burn victims. I know that some important work in this field has been undertaken in a few research facilities—the University of Kansas medical center for one. But burns present a whole range of unique medical problems from emergency treatment, to plastic surgery, postsurgical therapy, and vocational rehabilitation. So while we work to reduce the number of injuries, we should also improve our capacity to treat those who still become burn victims.

GOOD FIRST STEP

Mr. President, the bill before us, the national fire prevention and control act, is a worthwhile and constructive first step toward reversing the present situation and bringing this country up to acceptable standards for dealing with fires and fire hazards. Its 3-year, $100 million program is not intended to be a cure-all. But it does appear to be a realistic and sensible way to go about the job at hand.

COMMERCE DEPARTMENT PROGRAMS

It places primary responsibility for this national program of fire prevention and control within the Department of Commerce. This Department, through its National Bureau of Standards, has had a long involvement in fire prevention and control research. And it is the logical location for the FIREPAC program.

I do not wish to itemize the details of the program. But I feel that appropriate emphasis is placed on research and development, technical assistance, information exchange, and availability for professionals in the field and a grant program for State FIREPAC demonstration projects.

NATIONAL FIREPAC ACADEMY

The Commerce Department would also supervise and operate a National FIREPAC Academy, for training local firefighting personnel. It would follow the concept of the highly successful program offered by the FBI Academy for State and local law enforcement officials. I feel this Academy's training opportunities would be highly valuable assets for the thousands of local, county, and volunteer fire companies around the country who make such outstanding efforts to meet their responsibilities to their communities.

LOCATED IN TOPEKA, KANS.

Incidentally, I realize that the site requirements and criteria for this Academy will not be formally determined for some time. But I would think that a central geographic location with ample room for construction of drill and training facilities, classrooms, and administrative quarters would be desirable. In this regard let me offer the suggestion that the deactivated Forbes Air Force base in Topeka, Kans., might very well be an ideal location. This base, much of which is now being considered for disposal as surplus Federal property, would seem to offer many attractive features for selection as the FIREPAC Academy's home. It has a central location. Its runway facilities will hopefully become the new Topeka Municipal Airport. It is located on major east-west and north-south interstate highways. And of course, Kansas is one of the most pleasant, friendly, and desirable places to live and work in America.

It is just a thought, but one which I believe deserves study and consideration at the appropriate stage of implementing this bill's mandate.

The bill also establishes a program within the National Institutes of Health to focus special research emphasis on the techniques of treating and rehabilitating burned victims. This program should be highly worthwhile and I would hope this could serve to stimulate additional research efforts throughout the country. The National Institutes of Health have an outstanding research record and I believe by placing this effort in this kind of Federal research community that chances for major progress can be greatly enhanced.

I also note that the bill establishes a loan guarantee program for supporting the installation of fire control equipment in nursing facilities. I feel this is an extremely important step. As the numbers of elderly in this country continue to increase special care facilities, tailored to their needs will multiply, therefore, we must assure, to the greatest possible degree, protection from fire.

The elderly often have mobility problems which makes speedy evacuation of a building impossible. Therefore, the presence of fire control equipment may spell the difference between alarm and tragedy. So I feel that this portion of the bill looks ahead to a very important and serious need.

Mr. President, I would say in conclusion that the Federal Fire Prevention and Control Act is a most constructive and fiscally responsible approach to problems which have received far too little attention, but must be dealt with if governments on the Federal, State, and local levels have to fully meet their obligation to our citizens.

ALASKA FIREFIGHTING

Mr. GRAVEL. Mr. President, I am today announcing my cosponsorship of S. 1769, legislation which will establish a coordinated program for fire prevention and control in the Department of Commerce. and a National FIREPAC Academy. The need for this legislation is painfully apparent in the report of the National Commission on Fire Prevention and Control. Perhaps the most stunning of all those contained in that report is the fact that the most technologically advanced nation in the world leads all the major industrialized countries in per capita deaths and property losses. This alone cries out for the sound legislative action represented by this bill.

My concern is also parochial. The State of Alaska's fire protection problems have been massive in the past. Symptomatic of this is the fact that each year we sustain the greatest loss of life and property damage per capita of all the States.

Alaska's unusual situation is immediately seen in the amazing figures detailing the cost of forest firefighting. According to Bureau of Land Management data, in 1972 the total amount of damage due to forest fires in Alaska was $9,406,700. Total firefighting costs for BLM was $19,259,000 in 1972, or $64.20 per capita. The total timber loss amounted to $1,890,000. When compared with national fire statistics, one sees that the annual per capita cost of all fire destruction, $54.18 is $10 under the per capita cost of just fighting forest fires in my State during 1972. The national average per capita cost of firefighting operations is $11.88, roughly 17 percent of Alaska's costs in 1972. Lastly, between 1960 and 1969, the average number of acres burned in Alaska was 13 percent of the national average, or 618,496 acres. Though these figures are distorted in some instances because of the high ratio of land mass to the number of people in my home State, I believe they are an indication of the threat fire poses for Alaskans.

However, aside from the pressing need for action in Alaska, I am supporting S. 1769 because it is a sensible approach to the problem. The stated role of the Federal Government will be that of an adviser and information coordinator for the State, local government, and volunteer fire organization. The responsibility for competent fire protection will remain with the local fire organization. This is only proper. I am confident in the case of Alaska that the insight of the local decisionmaker would be more sensitive than that of the distant Federal Government.

This brings me to what I regard as the potentially most fruitful portion of the bill. I am referring of course to the concept of State master plans for fire protection. Under the present bill, between five and eight "master plan demonstration projects" will be formulated, selected, and implemented. After a period of 3½ years the Assistant Secretary of Commerce for Fire Protection and Control will recommend to the Commerce Committee whether or not this concept should be extended to the rest of the States.

I am hopeful that the Assistant Secretary will find that every State should have a master plan for fire protection. From the Alaskan perspective, this would be just what we need. A State-operated system of coordination between the several rural, urban, State, and Federal agencies in charge of fire protection would be a major step toward the comprehensive fire protection envisioned by this legislation. Indeed, when I consider the multiplicity of fire protection facili-

ties in Alaska which would benefit from such an arrangement, I wish that we did not have to wait 3½ years.

This brief description of the hazards of fire in Alaska and what this bill could eventually mean for my State is testimony to the healthy basis for this legislation. In recognizing the importance of local decisionmaking, the Congress can at last provide States with unique fire problems like Alaska with the opportunity to effectively combat fire. The Federal Government cannot provide the panacea in this regard, and should not try. Instead, it should carefully assess its responsibility with a realistic eye directed at the most viable solution. With respect to the national attack on the fire problem and mindful of the interests of my State, I think Congress will exercise sound judgment by expeditiously accepting this legislation.

Mr. ROBERT C. BYRD. Mr. President, I regretfully wish to express my opposition to S. 1769, the Federal Fire Prevention and Control Act, which was reported from the Senate Commerce Committee on October 18, 1973.

This bill, if enacted, would establish a U.S. Fire Administration, within the Department of Housing and Urban Development, to administer the several programs authorized within S. 1769, and to carry out a national fire safety overview program. This bill also authorizes the establishment of a National Fire Academy; a national data collection center to collect information on fires; a technical assistance program for State, local, and private fire services; a master plans demonstration project; citizens participation programs; and several other relevant studies on this subject. In addition, S. 1769 authorizes and directs the Secretary of Health, Education, and Welfare to establish a research program on burn injuries and the rehabilitation of fire victims in the National Institutes of Health.

I support the objectives which are desired to be achieved in this legislation, and I compliment the committee for the thorough job they performed in compiling the report. I am, however, voting against S. 1769 because I believe that it would establish another governmental layer and further proliferate our ever-expanding Federal bureaucracy. I believe that most of the desired objectives set forth in S. 1769 could be accomplished within existing Government structures, and at a lower cost, rather than providing for these new, and in some cases, duplicative programs, which are estimated to cost over $170 million through fiscal year 1976.

I believe the time has arrived when we in the Congress are going to have to take every action possible, regardless of how unpleasant it might be, to hold Federal programs and spending within manageable bounds. If we, in the Congress, continue to authorize new programs, and their concomitant expenditures, such additional Federal spending will further fuel the fires of inflation and necessitate our voting for increased taxes. Therefore, Mr. President, I am voting against this legislation because I believe we have to draw a line at some point to keep our Federal spending in check.

Mr. MAGNUSON. Mr. President, does the Senator object to the technical amendments?

Mr. BEALL. I will join the Senator in offering them.

Mr. MAGNUSON. I have looked them over, Mr. President, and I think they provide some things to perfect the legislation. As far as I am concerned, if the Senator from Alaska agrees, we will agree to them.

Mr. STEVENS. Mr. President, we have examined the technical amendments and have no objection.

Mr. MAGNUSON. I send the technical amendments to the desk.

The PRESIDING OFFICER. The amendments will be stated.

The legislative clerk proceeded to read the amendments.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that further reading of the amendments be dispensed with.

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

The amendments are as follows:

On page 50, line 5, strike out all after "SEC. 4." and strike out lines 6, 7, 8, and 9 in their entirety.

On page 50, line 10, strike out the quotation marks.

On page 51, line 3, strike out the quotation marks.

On page 54, line 17, strike out "Interstate and Foreign Commerce" and insert in lieu thereof, "Science and Astronautics".

On page 64, line 7, between "section" and "$10,000,000" insert the following: "not to exceed".

Amend the title so as to read: "A bill to reduce the burden on interstate commerce caused by avoidable fires and fire losses, and for other purposes.".

Mr. STEVENS. I ask unanimous consent that it be in order at this time to take up these amendments, which are technical in nature.

The PRESIDING OFFICER. It is in order to take them up.

Mr. STEVENS. We do not want to yield back our time.

The PRESIDING OFFICER. Does the Senator yield back his time on the amendments?

Mr. STEVENS. Yes.

Mr. MAGNUSON. I yield back my time on the amendments.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing, en bloc, to the amendments of the Senator from Washington (Mr. MAGNUSON).

The amendments were agreed to.

Mr. MAGNUSON. Mr. President, I have nothing further to say, unless the Senator from Alaska wishes to speak.

Mr. STEVENS. Mr. President, I want to thank the chairman and the other members of our committee for including once again in this bill the proposal that we establish two classes of honorary awards for the recognition of outstanding and distinguished service by local public safety officers, whether they are law-enforcement officers or firefighters.

Twice before the Senate has passed a bill such as this, but, because of the nature of the timing in the other body, it has not become law. I am very hopeful that we will be able to see this provision become law, along with the rest of this bill, because I think it is very important for us to recognize the contributions of these people, particularly the volunteer firemen who serve so well throughout the Nation.

I also want to commend the chairman for the provision that is in this bill relating to the commitments for loans, to insure loans made by financial institutions for skilled nursing facilities and intermediate care facilities to give them the opportunity to purchase and install fire safety equipment. This is one of the most significant problems we face in rural areas of the country, particularly in my State, where we have very old and in many instances outdated hospitals and care facilities. Now we do have some capability to install fire prevention equipment. All too often the people in those areas cannot afford them, and I think it is particularly important that the National Housing Act be amended as provided in section 20.

I commend the Senator from Washington also. He and I were the two Members of this body who were named to be advisers to the National Commission on Fire Prevention and Control, and I think that the leadership in this field of my colleague from Washington, our distinguished southern neighbor, whether in the area of fire prevention and control or in the area of flammable fabrics, is universally recognized. We all know of the long and distinguished record of the Senator from Washington in this area, and I am most pleased to be associated with him in the presentation of this bill to the Senate.

I have no further remarks at this time.

Mr. MAGNUSON. Mr. President, I understand that the distinguished assistant majority leader wants to have a roll call.

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. ROBERT C. BYRD. The yeas and nays have been ordered. Under the agreement, the vote would occur not later than 12:30, and could come at any time.

The PRESIDING OFFICER (Mr. NUNN). The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

Mr. MAGNUSON. Mr. President, I think some Senators thought the vote might be a little later than now. Therefore, I suggest the absence of a quorum at this time to put them on notice.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. MAGNUSON. Mr. President, I understand that the distinguished Senator from Massachusetts (Mr. KENNEDY), wants to ask a couple of questions on the bill.

Mr. KENNEDY. Mr. President, I want to commend the distinguished chairman and originator of this legislation. It is extremely important. It is imaginative.

It is legislation which will have a real impact on saving lives in this country of ours. It will also be helpful in assisting local communities and those who are economically affected or injured by fires.

As the Senator from Washington would understand, we had, a little over 2 weeks ago, a most grievous fire in Massachusetts, probably the most serious fire in the history of our State. The fire destroyed more than 1,200 structures, and more than 250 families were left homeless.

One of the factors that contributed to the widespread expansion of the fire was the lack of water pressure within the municipal system. This was reported to me by the mayor and by the firefighters and has been supported by the National Fire Protection Association in their preliminary report on the Chelsea fire. Fortunately, no lives were lost, which is a great tribute to the firefighters, to the police, and to the local officials.

I should like to ask the distinguished chairman and floor manager of the bill whether, in the demonstration programs, as outlined in this legislation, water pressures in municipalities will be one of the factors that will be considered in the master plan. I come from an old part of this country, and I know that the problems of water pressure are of great importance and consequence. We find in a number of communities that there has been a serious problem in maintaining the pressure which is absolutely fundamental and basic in controlling fires.

I wonder whether this will be a feature of the demonstration projects—whether the Senator feels, first of all, that this feature would be useful and, second, whether it is so included.

Mr. MAGNUSON. I say to the Senator from Massachusetts that I am familiar with the terrible disaster in Massachusetts. Probably, they will find that there was an inadequacy of water pressure.

The Senator raises an excellent point. I am familiar with the problems encountered by firefighters in combating the blaze in Chelsea. I would hope that the Firepac program would take a good hard look at that fire to determine what preventive steps could have been taken.

Certainly the water pressure in a municipality's water system is an integral component in combating blazes. Since the master plan program is designed to examine, on a systemwide basis, fire prevention and suppression plans, adequate water pressure would be a component of the master plan.

This could be done in a master plan demonstration project or a research project. The National Bureau of Standards, which would probably conduct most of the research effort under this bill, has an outstanding plumbing laboratory to study the question.

Mr. KENNEDY. I thank the Senator for those assurances. In reviewing the proposed legislation, it seemed to me that these were consistent with the thrust and purpose of the measure. This bill is an enormously imaginative piece of legislation that can make a great deal of difference in this whole problem area of fire prevention and control.

I again commend the Senator and thank him for his assurances.

Mr. MAGNUSON. The Senator from Massachusetts must agree with me that the tragedy that happened in his State is probably one of the best reasons why we should have this kind of bill.

Mr. KENNEDY. The Senator is correct. If such legislation had been enacted years before, it might have been instrumental in saving a good deal of property and industry in an old part of an old community in Massachusetts. Hopefully, it will be implemented, and we can avoid this type of disaster in the future.

I urge my colleagues to support the measure.

Mr. HARRY F. BYRD, JR. Mr. President, the Senate considers today S. 1769, captioned "The Federal Fire Prevention and Control Act of 1973."

The Senator from Virginia has been a strong supporter of the firemen in my State. I have been a strong supporter of volunteer fire organizations and there are many throughout Virginia.

The fire companies and their personnel render a very important service to their fellow citizens in the communities in which they are located. For more than 25 years, I have taken an active interest in the local fire companies, and I have endeavored to be helpful in every way I could.

We come to today's measure, which establishes a new program—a new Federal program—dealing with fire prevention and authorizing the appropriation of $127.5 million over a period of 3 years.

Mr. President, I am deeply concerned about the condition of the Federal Treasury. Unfortunately, Government finance is a subject with which many people are not acquainted. Yet, it affects the lives of all Americans. The Federal Government, in my judgment, has become involved in too many programs. It is trying to spend too much of the taxpayers' money, and it has run up smashing deficits.

The deficit this year, by the Government's own figures, will be almost $20 billion. Last year, it was more than $20 billion. The year before that, it was more than $20 billion. The year before that, it was more than $20 billion. And the same the year before that. In a period of 5 years ending next June 30, the total accumulated deficits of our Federal Government will be $116 billion. That means that during a 5-year period, 25 percent of the total national debt will have been accumulated. It is a very serious matter. It is the major cause of inflation. Inflation is a hidden tax which is eating heavily into every housewife's grocery dollar and into every wage earner's paycheck. Until we get Federal spending under control, we are not going to get inflation under control.

I have reached the conclusion that I must oppose new Federal spending programs unless Congress and the President are willing to cut out other programs. There are many existing programs which are not working, which are highly expensive, which are wasteful, and which are extravagant. Until we do cut out some existing programs, I submit that it is unwise to go into new programs.

Much as I want to help in every way possible and to cooperate in every way possible with our magnificent fellow Americans who are in the fire protection profession, I do not feel that I can vote for a new program of establishing the expenditure of $127.5 million over the next 3 years. The question of fire companies and fire fighting is about as local as any function of government. Yet, the Senate is considering establishing a new program, the initial cost of which will be $127.5 million, for an essentially local function. I question the wisdom and desirability at this time in our history of having the Federal Government undertake such a local endeavor.

Mr. MAGNUSON. Mr. President, I yield back the remainder of my time.

Mr. STEVENS. I yield back my time.

The PRESIDING OFFICER. All time has been yielded back.

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. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FANNIN. On this vote I have a live pair with the Senator from South Carolina (Mr. THURMOND). If he were present and voting, he would vote "yea." I have already voted "nay." I withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Nevada (Mr. BIBLE), the Senator from Idaho (Mr. CHURCH), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Michigan (Mr. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Maine (Mr. HATHAWAY), the Senator from Iowa (Mr. HUGHES), the Senator from Wyoming (Mr. MCGEE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), and the Senator from Louisiana (Mr. LONG) are necessarily absent.

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH) and the Senator from Wyoming (Mr. MCGEE) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Vermont (Mr. AIKEN), the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), the Senator from New Jersey (Mr. CASE), the Senator from Kentucky (Mr. COOK), the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from Maryland (Mr. MATHIAS), the Senator from Oregon (Mr. PACKWOOD), the Senator from Kansas (Mr. PEARSON), the Senator from Illinois (Mr. PERCY), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I further announce that the Senator from Colorado (Mr. DOMINICK) is absent on official business.

I further announce that, if present and voting, the Senator from New Jersey

(Mr. CASE) and the Senator from New Mexico (Mr. DOMENICI) would each vote "yea."

I further announce that the pair of the Senator from South Carolina (Mr. THURMOND) has been previously announced.

The result was announced—yeas 62, nays 7, as follows:

[No. 475 Leg.]

YEAS—62

Abourezk	Hansen	Nunn
Allen	Hatfield	Pastore
Bartlett	Helms	Pell
Beall	Hollings	Randolph
Bennett	Hruska	Ribicoff
Biden	Huddleston	Roth
Brooke	Humphrey	Saxbe
Burdick	Inouye	Schweiker
Cannon	Jackson	Scott, Hugh
Chiles	Javits	Sparkman
Clark	Johnston	Stafford
Cotton	Kennedy	Stennis
Cranston	Magnuson	Stevens
Curtis	Mansfield	Stevenson
Dole	McClellan	Symington
Ervin	McGovern	Talmadge
Fong	McIntyre	Tunney
Fulbright	Metcalf	Weicker
Gravel	Mondale	Williams
Griffin	Muskie	Young
Gurney	Nelson	

NAYS—7

Byrd, Harry F., Jr.	Haskell	Scott, William L.
Byrd, Robert C.	McClure	Taft
	Proxmire	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Fannin, against

NOT VOTING—30

Aiken	Cook	Long
Baker	Domenici	Mathias
Bayh	Dominick	McGee
Bellmon	Eagleton	Montoya
Bentsen	Eastland	Moss
Bible	Goldwater	Packwood
Brock	Hart	Pearson
Buckley	Hartke	Percy
Case	Hathaway	Thurmond
Church	Hughes	Tower

So the bill (S. 1769) was passed, as follows:

S. 1769

An act to reduce the burden on interstate commerce caused by avoidable fires and fire losses, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Fire Prevention and Control Act."

DECLARATION OF POLICY

SEC. 2. (a) FINDINGS.—The Congress finds and declares that—

(1) The National Commission on Fire Prevention and Control, established pursuant to Public Law 90-259, has made an exhaustive and comprehensive examination of the Nation's fire problem, has made detailed findings as to the extent of this problem in terms of human suffering and loss of life and property, and has made ninety thoughtful recommendations. The National Commission concluded that while fire prevention and control is and should remain a State and local responsibility, "the Federal Government must . . . help . . . if any significant reduction in fire losses is to be achieved."

(2) The United States today has the highest per capita rate of death and property loss from fire of all the major industrialized nations in the world (57.1 deaths per million versus only 29.7 deaths per million for the industrialized nation with the next to the worst record).

(3) Fire constitutes a major burden affecting interstate commerce. Fire kills twelve thousand and scars and injures three hundred thousand Americans each year, including fifty thousand individuals who must be hospitalized for periods lasting from six weeks to two years. Almost $3,000,000,000 worth of property is destroyed by fire annually, and the total economic cost of destructive fire has been conservatively estimated by the National Commission to be $11,400,000,000 per year. Firefighting is the Nation's most hazardous profession, with a death rate 15 per centum higher than that of the next most dangerous occupation.

(4) The National Commission concluded that the fire problem is exacerbated by—

(A) "the indifference with which Americans confront the subject";

(B) the Nation's failure to undertake significant amounts of scientific research and development into fire and fire-related problems;

(C) the inadequate facilities and resources available to train firefighters in fire prevention and control techniques;

(D) the scarcity of reliable data and information;

(E) the fact that designers and purchasers of building and products generally give only minimal attention to fire safety ("many communities are without adequate building and fire prevention codes");

(F) the fact that many local fire departments appear concerned only with fire suppression and rescuing victims rather than with being at least equally concerned with fire prevention, inspection, and code-enforcement programs ("about 95 cents of every dollar spent on the fire services is used to extinguish fires; only about 5 cents is spent on efforts . . . to prevent fires from starting"); and

(G) the limited number of places in the United States that have been burn centers which are properly equipped and staffed to save lives and rehabilitate the victims of fires.

(5) The unacceptably high death, injury, and property losses from fires can be reduced if the Federal Government establishes a coordinated program to support and reinforce the fire prevention and control activities of State and local governments.

(b) PURPOSES.—Therefore it is declared to be the purposes of Congress in this Act to—

(1) establish the office of Assistant Secretary of Commerce for Fire Prevention and Control;

(2) direct the Secretary of Commerce to establish a national Program for Fire Prevention and Control (FIREPAC) and to authorize him to initiate, support, and maintain programs and activities to reduce the Nation's fire problem;

(3) direct the National Institutes of Health to conduct an intensified program of research into the treatment of burn injuries and the rehabilitation of victims of fires; and

(4) authorize fire protection assistance.

DEFINITIONS

SEC. 3. As used in this Act—

(1) "Academy" means the National Academy for Fire Prevention and Control (FIREPAC Academy), authorized under section 6 of this Act.

(2) "Fire service" means a department, bureau, commission, board, or other agency established by a Federal, State, or local government or by a volunteer organization for the purpose of preventing or controlling fires or loss and damage from fire.

(3) "Local" means of or pertaining to any city, county, special purpose district, or other political subdivision of a State.

(4) "Program" means the Program for Fire Prevention and Control, established pursuant to section 5 of this Act.

(5) "Secretary" means the Secretary of Commerce.

(6) "State" means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Canal Zone, Guam, American Samoa, the Trust Territory of the Pacific Islands, or any other territory or possession of the United States.

ASSISTANT SECRETARY OF COMMERCE FOR FIRE PREVENTION AND CONTROL

SEC. 4. There shall be in the Department of Commerce, in addition to the Assistant Secretaries now provided by law, one additional Assistant Secretary of Commerce who shall be known as the Assistant Secretary of Commerce for Fire Prevention and Control. This Assistant Secretary shall be appointed by the President, by and with the advice and consent of the Senate. The Assistant Secretary of Commerce for Fire Prevention and Control shall receive compensation at the rate prescribed by law for Assistant Secretaries of Commerce, shall be responsible for carrying out the provisions of the Federal Fire Prevention and Control Act under the direction of the Secretary of Commerce, and shall perform such other duties as the Secretary of Commerce shall prescribe. In carrying out such responsibilities, the Assistant Secretary of Commerce for Fire Prevention and Control shall consult, be guided by, and implement, so far as practicable, the recommendations of the National Commission on Fire Prevention and Control, to the extent not inconsistent with this Act.

FIRE PREVENTION AND CONTROL PROGRAM

SEC. 5. (a) ESTABLISHMENT.—The Secretary is authorized and directed to establish a national Program for Fire Prevention and Control (FIREPAC). The Program shall consist of all relevant programs and activities heretofore established in the Department of Commerce together with all programs and activities authorized or mandated to be established under this Act. The Program shall be administered, under the direction of the Secretary, by the Assistant Secretary of Commerce for Fire Prevention and Control.

(b) CONTENT.—The Program may consist of—

(1) the FIREPAC Academy, authorized to be established by the Secretary under section 6 of this Act;

(2) research and development programs, pursuant to section 7 of this Act;

(3) an annual conference of professionals in fire prevention, fire control, and treatment of burn injuries, pursuant to section 8 of this Act;

(4) a national data center on fire prevention and control, pursuant to section 9 of this Act;

(5) a fire services assistance program, pursuant to section 10 of this Act;

(6) State demonstration projects, pursuant to section 11 of this Act;

(7) citizens' participation programs, pursuant to section 12 of this Act;

(8) relevant studies, as directed by section 13 of this Act;

(9) an annual report, as directed by section 14 of this Act;

(10) an awards program, as directed by section 16 of this Act; and

(11) such other programs and activities as in the judgment of the Secretary are likely to reduce the Nation's losses from fires.

FIREPAC ACADEMY

SEC. 6. (a) AUTHORIZATION.—The Secretary is authorized to establish a National Academy for Fire Prevention and Control (FIREPAC Academy). The Secretary is authorized, pursuant to this section, to develop and revise curricula, standards of admission and performance, and criteria for the awarding of degrees and certificates. He is further authorized to appoint a Director, faculty members, and consultants for the Academy with-

out regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and, with respect to temporary and intermittent services, to make appointments to the same extent as is authorized by section 3109 of title 5, United States Code.

(b) PURPOSES.—The Academy is authorized to conduct appropriate educational and research programs to—

(1) train fire service personnel in such skills and knowledge as may be useful to advance their ability to prevent and control fires;

(2) develop model curricula, training programs, and other educational materials suitable for use at other educational institutions, and to make such materials available without charge;

(3) develop and administer a program of correspondence courses to advance the knowledge and skills of fire service personnel;

(4) develop and distribute to appropriate officials model questions suitable for use in conducting entrance and promotional examinations for fire service personnel; and

(5) reduce the Nation's fire problem.

(c) BOARD OF OVERSEERS.—Upon establishment of the Academy, the Secretary shall establish a procedure for the selection of professionals in the field of fire safety, fire prevention, fire control, research and development in fire protection, treatment and rehabilitation of fire victims, or local government services management to serve as members of a Board of Overseers for the Academy. Pursuant to such procedure, the Secretary shall select the members of the Board of Overseers. Each member of such Board shall each year independently inspect and evaluate the Academy and report his findings and recommendations to the Secretary. The Board of Overseers shall meet from time to time and shall advise the Secretary on all questions pertinent to the Academy.

(d) PLACEMENT SERVICE.—The Secretary shall maintain at the Academy a placement and promotion-opportunities program for firefighters in cooperation with fire services.

(e) CONSTRUCTION APPROVAL.—(1) No appropriation shall be made for the planning or construction of facilities for the Academy involving an expenditure in excess of $100,000 if such planning or construction has not been approved by resolutions adopted in substantially the same form by the Committee on Science and Astronautics of the House of Representatives and by the Committee on Commerce of the Senate. For the purpose of securing consideration of such approval, the Secretary shall transmit to Congress a prospectus of the proposed facility including (but not limited to)—

(A) a brief description of the facility to be planned or constructed;

(B) the location of the facility, and an estimate of the maximum cost of the facility;

(C) a statement of those agencies, private and public, which will use such facility, together with the contribution to be made by each such agency toward the cost of facility; and

(D) a statement of justification of the need for such facility.

(2) The estimated maximum cost of any facility approved under this subsection as set forth in the prospectus may be increased by the amount equal to the percentage increase, if any, as determined by the Secretary, in construction costs, from the date of transmittal of such prospectus to Congress, but in no event shall the increase authorized by this paragraph exceed 10 per centum of such estimated maximum cost.

FIRE RESEARCH AND DEVELOPMENT PROGRAM

SEC. 7. The Secretary is authorized to conduct directly or through contracts—

(a) a program of basic and applied fire research for the purpose of arriving at an understanding of the fundamental processes underlying all aspects of fire. Such program shall include scientific investigations of—

(1) the physics and chemistry of combustion processes;

(2) the dynamics of flame ignition, flame spread, and flame extinguishment;

(3) the composition of combustion products developed by various sources and under various environmental conditions;

(4) the early stages of fires in buildings and other structures, structural subsystems, and structural components and all other types of fires, including, but not limited to forest fires, fires underground, oil blowout fires, and waterborne fires with the aim of improving early detection capability;

(5) the behavior of fires involving all types of buildings and other structures and their contents, (including mobile homes and high-rise buildings, construction materials, floor and wall coverings, coatings, furnishings, and other combustible materials); and all other types of fires (including forest fires, fires underground, oil blowout fires, and waterborne fires);

(6) the unique aspects of fire hazards arising from the transportation and use in industrial and professional practices of combustible gases, fluids, and materials;

(7) development of design concepts for providing increased fire safety consistent with habitability, comfort, and human impact, in buildings and other structures; and

(8) such other aspects of the fire process as are deemed useful for pursuing the objectives of the fire research program;

(b) research into the biological, physiological factors affecting human victims of fire and the performance of individual members of fire services and research to develop clothing and protective equipment to reduce the risk of injury to firefighters;

(c) studies of the operations and management aspects of fire services, including operations research, management economics, cost effectiveness studies, and such other techniques as are found applicable and useful. Such studies shall include, but not be limited to, the allocation of resources, the manner of resources, the manner of responding to alarms, the operation of citywide and regional fire dispatch centers, and the effectiveness, frequency, and methods of building inspections; and

(d) operation tests, demonstration projects, and fire investigations in support of the activities set forth in this section.

ANNUAL CONFERENCE

SEC. 8. The Secretary is authorized to organize or participate in organizing an annual conference on fire prevention and control. He may pay in whole or in part the costs of such conference and the expenses of some or all of the participants. All the Nation's fire services shall be eligible to send representatives to each such conference to discuss, exchange ideas, and participate in educational programs on new techniques in fire prevention and control. Such conference shall be open to the public.

NATIONAL DATA CENTER

SEC. 9. The Secretary is authorized by—

(a) operate directly or through contracts an integrated comprehensive fire data program based on the collection, analysis, publication, and dissemination of information related to the prevention, occurrence, control, and results of fires of all types. The program shall be designed to provide an accurate national picture of the fire problem, identify major problem areas, assist in setting priorities, determine possible solutions to problems, and monitor progress of programs to reduce fire losses. To carry out these functions, the program shall include—

(1) information on the frequency, causes, spread, and extinguishment of fires;

(2) information on the number of inquiries and deaths resulting from fires, including the maximum available information on the specific causes and nature of such injuries and deaths, and information on property losses;

(3) information on the occupational hazards of firemen including the causes of death and injury to firemen arising directly and indirectly from firefighting activities;

(4) information on all types of fire prevention activities including inspection practices;

(5) technical information related to building construction, fire properties of materials, and other similar information;

(6) information on fire prevention and control laws, systems, methods, techniques, and administrative structures used in foreign nations;

(7) information on the causes, behavior, and best method of control of other types of fires, including, but not limited to, forest fires, fires underground, oil blowout fires, and waterborne fires; and

(8) such other information and data as is judged useful and applicable;

(b) develop standardized data reporting methods and to encourage and assist State, local, and other agencies, public and private, in developing and reporting fire-related information;

(c) make full use of existing data, data gathering and analysis organizations, both public and private; and

(d) insure dissemination to the maximum possible extent of fire data collected and developed under this section.

FIRE SERVICES ASSISTANCE PROGRAM

SEC. 10. The Secretary is authorized to assist the Nation's fire services, directly or through grants, contracts, or other forms of assistance, to—

(a) advance the professional development of fire service personnel;

(b) assist in conducting or supplementing, at the request of a fire service, local and regional programs for the training of fire personnel;

(c) develop model fire training and educational programs, curricula, and information materials;

(d) develop new or improved approaches, techniques, systems, equipment, and devices to improve fire prevention and control;

(e) conduct such development, testing, and demonstration projects as are deemed necessary to introduce new technology standards, operating methods, command techniques, and management systems into use in the fire services;

(f) provide, establish, and support specialized and advanced education and training programs and facilities for fire service personnel;

(g) measure and evaluate, on a cost-benefit basis, the effectiveness of the programs and activities of each fire service and the predictable consequences on the applicable local fire services of coordination or combination, in whole or in part, in a regional, metropolitan, or State-wide fire service; and

(h) sponsor and encourage research into approaches, techniques, systems, and equipment to improve and strengthen fire prevention and control in the rural and remote areas of the Nation.

MASTER PLAN DEMONSTRATION PROJECTS

SEC. 11. (a) GENERAL.—The Secretary is authorized and directed to establish master plan demonstration projects which shall commence not later than eighteen months after the date of enactment of this Act. Not less than five nor more than eight demonstration projects may be assisted by the Secretary under this section. Any demonstration project under this section shall be conducted by, or under the supervision of, a State in accordance with the application of the State submitted under subsection (c) of this section. Whenever any such State includes a Standard Metropolitan Statistical Area, as defined by the Bureau of the Census, the geographical boundaries of which include

two or more States, then such State shall include the entire such Standard Metropolitan Statistical Area in its master plan demonstration project.

(b) ELIGIBILITY FOR GRANTS.—The Secretary is authorized to establish criteria of eligibility for awarding master plan demonstration project grants. In awarding such project grants, the Secretary shall select projects which are unique in terms of—

(1) The characteristics of the States, including, but not limited to, density and distribution of population; ratio of volunteer versus paid fire services; geographic location, topography and climate; per capita rate of death and property loss from fire; size and characteristics of political subdivisions of the State; and socio-economic composition; and

(2) The approach to development and implementation of the master plan which is proposed to be developed with Federal assistance under this section. Such approaches may include central planning by a State agency, regionalized planning within a State coordinated by a State agency, or local planning supplemented and coordinated by a State agency.

(c) PROCEDURE FOR AWARDING GRANTS.—A grant under this section may be obtained upon an application by a State at such time, in such manner, and containing such information as the Secretary shall require. Upon the approval of any such application, the Secretary may make a grant to the State to pay each fiscal year an amount not in excess of 80 per centum of the total cost of such project. Not more than 50 per centum of the amount of each grant shall be allocated to the planning and development of the master plan and the remainder to partial or total implementation. Payments under this subsection may be made in advance, in installments, or by way of reimbursement.

(d) MASTER PLAN.—(1) Each demonstration project established pursuant to this section shall result in the planning and implementation of a comprehensive master plan for fire protection for each State funded thereunder. Each such master plan shall contain:

(A) a survey of the resources and personnel of existing fire services and an analysis of fire and building codes effectiveness in the State;

(B) an analysis of short- and long-term fire prevention and control needs in the State;

(C) a plan to meet the fire prevention and control needs of the State; and

(D) an estimate of costs and a realistic plan for financing implementation of the plan and operation on a continuing basis, and a summary of problems that are anticipated in implementing such plan.

(2) Forty-two months after the date of enactment of this Act, the Secretary shall submit to Congress a summary and evaluation of the master plans prepared pursuant to this section. Such report shall also assess the costs and benefits of the master plan program and recommend to Congress whether Federal financial assistance should be authorized in order that master plans can be developed in all States.

(e) AUTHORIZATION FOR APPROPRIATION.—There is authorized to be appropriated to carry out the provisions of this section not to exceed $10,000,000. Not more than 20 per centum of the amount appropriated under this section for any fiscal year may be granted for projects in any one State.

CITIZEN PARTICIPATION

SEC. 12. (a) GENERAL.—The Secretary is authorized to take all steps necessary to educate the public and to overcome public indifference as to fire safety and fire prevention. Such steps may include, but are not limited to, publications, audio-visual presentations, and demonstrations.

(b) FIRE SAFETY EFFECTIVENESS STATEMENTS.—The Secretary is authorized to encourage owners and managers of residential multiple-unit, commercial, industrial, and transportation structures to prepare and submit to him for evaluation and certification a Fire Safety Effectiveness Statement pursuant to standards, forms, rules, and regulations to be developed and issued by the Secretary. A copy of such statement and evaluation shall be submitted to the applicable local fire service and, in the case of transportation structures, to the Secretary of Transportation. Any person who submits such a statement and receives certification may attach the following statement to any contract of sale or lease or any advertisement or notice which pertains to the structure as to which such statement has been submitted: "A Fire Safety Effectiveness Statement has been prepared regarding this structure and this structure has been certified as meeting the requirements of the United States Department of Commerce.".

(c) REVIEW.—The Secretary is authorized to review, evaluate, and suggest improvements in State and local fire prevention and building codes, fire services, and any relevant Federal or private codes, regulations, and fire services. He shall annually submit to Congress a summary of such reviews, evaluations, and suggestions. In evaluating such a code or codes, the Secretary shall consider the human impact of all code requirements, standards, and provisions in terms of comfort and habitability for residents or employees as well as the fire prevention and control value or potential of each such requirement, standard, and provision.

(d) ASSISTANCE.—The Secretary shall assist the Consumer Product Safety Commission in the development of fire safety standards or codes for consumer products, as defined in the Consumer Product Safety Act (15 U.S.C. 2051 et seq.).

(e) PUBLIC ACCESS TO INFORMATION.—(1) Copies of any document, report, statement, or information received or sent by the Program for Fire Prevention and Control shall be made available to the public upon identifiable request, and at reasonable cost, unless such information may not be publicly released pursuant to paragraph (2) of this subsection. Nothing contained in this subsection shall be deemed to require the release of any information described by subsection (b) of section 552 of title 5, United States Code, or which is otherwise protected by law from disclosure to the public.

(2) The Secretary shall not disclose information obtained by him under this Act which concerns or relates to a trade secret referred to in section 1905 of title 18, United States Code, except that such information may be disclosed—

(A) upon request, to other Federal Government departments and agencies for official use;

(B) upon request, to any committee of Congress having jurisdiction over the subject matter to which the information relates;

(C) in any judicial proceeding under a court order formulated to preserve the confidentiality of such information without impairing the proceedings; and

(D) to the public in order to protect health and safety after notice and opportunity for comment in writing or for discussion in closed session within fifteen days by the party to which the information pertains (if the delay resulting from such notice and opportunity for comment would not be detrimental to health and safety).

STUDIES

SEC. 13. (a) FISCAL STUDY.—The Comptroller General of the United States is authorized and directed to study the financing of the Nation's fire services and to report to the Congress on whether the moneys available to the various fire services through State and local taxation and Federal-State revenue sharing is adequate to meet the Nation's need to minimize human and property losses from fire, or whether the Congress should authorize a grant-in-aid program to prevent and reduce fire losses. The results of such study shall be reported to the Congress not more than three years after the date of enactment of this Act and shall not be subject to prior review, clearance, or approval by any officer or agency of the United States.

(b) FIREFIGHTER STUDY.—The Secretary is authorized and directed to prepare a comprehensive study of the organization and operation of the Nation's fire services as they affect individual firefighters, including, but not limited to, rates of pay; retirement benefits; working conditions; training requirements; entrance and promotional systems, standards, requirements, and opportunities; number of hours spent on active service; employment opportunities for women and members of minority groups; the impact on individual firefighters of coordinating and combining local fire services into regional, metropolitan, or statewide fire services; risk of injury or death during active service; and recommendations for improvements. The results of such study shall be reported to the Congress not more than two years after the date of enactment of this Act; thereafter, such results shall be updated as part of the annual report of the Secretary required by section 14 of this Act.

ANNUAL REPORT

SEC. 14. The Secretary shall report to the Congress and the President not later than June 30 of the year following the date of enactment of this Act and each year thereafter on all activities of the Program for Fire Prevention and Control and all measures taken to implement and carry out this Act undertaken during the preceding calendar year. Such report shall include, but is not limited to—

(a) a thorough appraisal, including statistical analysis, estimates, and long-term projections of the human and economic losses due to fire;

(b) a survey and summary, in such detail as is deemed advisable, of the research undertaken or sponsored pursuant to this Act;

(c) a summary of the activities of the National Academy for Fire Prevention and Control, for the preceding twelve months, including, but not limited to—

(1) an explanation of the curriculum of study;

(2) a description of the standards of admission and performance;

(3) the criteria for the awarding of degrees and certificates; and

(4) a statistical compilation of the number of students attending the Academy and receiving degrees or certificates;

(d) a summary of the activities undertaken to assist to the Nation's fire services, pursuant to section 10 of this Act;

(e) a summary of the citizens' participation programs undertaken during the preceding twelve months;

(f) an analysis of the extent of participation by owners of residential multiple-unit, commercial, industrial, and transportation structures in preparing and submitting a Fire Safety Effectiveness Statement pursuant to section 11 of this Act;

(g) a summary of outstanding problems confronting the administration of this Act, in order of priority;

(h) such recommendations for additional legislation as are deemed necessary to carry out the declaration of policy of this Act; and

(i) all other information required to be submitted to Congress pursuant to other provisions of this Act.

ADMINISTRATIVE PROVISIONS

SEC. 15. (a) ASSISTANCE.—Each department, agency, and instrumentality of the executive branch of the Federal Government and each independent regulatory agency of the United States is authorized and directed to

furnish to the Secretary, upon written request, on a reimbursable basis or otherwise, such assistance as the Secretary deems necessary to carry out his functions and duties pursuant to this Act including, but not limited to, transfer of personnel with their consent and without prejudice to their position and rating.

(b) POWERS.—With respect to this Act, the Secretary is authorized to—

(1) enter into, without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), such contracts, leases, cooperative agreements, or other transactions as may be necessary to carry out the provisions of this Act;

(2) accept gifts and voluntary and uncompensated services, notwithstanding the provisions of section 3679 of the Revised Statutes (31 U.S.C. 665(b));

(3) purchase, lease, or otherwise acquire, own, hold, improve, use, or deal in and with any property (real, personal, or mixed, tangible or intangible) or interest in property, wherever situated; and to sell, convey, mortgage, pledge, lease, exchange, or otherwise dispose of property and assets;

(4) procure temporary and intermittent services to the same extent as is authorized under section 3109 of title 5, United States Code, but at rates not to exceed $100 a day for qualified experts; and

(5) establish such rules, regulations, and procedures as are necessary to carry out the provisions of this Act.

(c) COORDINATION.—To the extent possible and consistent with the declaration of policy of this Act, the Secretary shall utilize existing programs, data, information, and facilities already available in other Federal Government departments and agencies, and where appropriate, existing private research organizations, centers, and universities. The Secretary shall provide liaison at an appropriate organization level to assure coordination of its activities with State and local government agencies, departments, bureaus, or offices concerned with any matter related to the Program for Fire Prevention and Control and with private and other Federal organizations and offices so concerned.

PUBLIC SAFETY AWARDS

SEC. 16. (a) ESTABLISHMENT.—There are established two classes of honorary awards for the recognition of outstanding and distinguished service by public safety officers—

(1) the President's Award For Outstanding Public Safety Service ("President's Award"); and

(2) the Secretary's Award For Distinguished Public Safety Service ("Secretary's Award.")

(b) DESCRIPTION.—(1) The President's Award shall be presented by the President of the United States to public safety officers for extraordinary valor in the line of duty or for outstanding contribution to the field of public safety.

(2) The Secretary's Award shall be presented by the Secretary or by the Attorney General to public safety officers for distinguished service in the field of public safety.

(c) SELECTION.—The Secretary and the Attorney General shall advise and assist the President in the selection of individuals to whom the President's Award shall be tendered. In performing this function, the Secretary and the Attorney General shall seek and review recommendations submitted to them by Federal, State, county, and local government officials. The Secretary and the Attorney General shall transmit to the President the names of those individuals determined by them to merit the award, together with the reasons therefor. Recipients of the President's Award shall be selected by the President.

(d) LIMITATION.—(1) There shall not be awarded in any one calendar year in excess of twelve President's Awards.

(2) There shall be no limit on the number of the Secretary's Awards presented.

(e) AWARD.—(1) Each President's Award shall consist of—

(A) a medal suitably inscribed, bearing such devices and emblems, and struck from such material as the Secretary of the Treasury, after consultation with the Secretary and the Attorney General, deems appropriate. The Secretary of the Treasury shall cause the medal to be struck and furnished to the President; and

(B) an appropriate citation.

(2) Each Secretary's Award shall consist of an appropriate citation.

(f) REGULATIONS.—The Secretary and the Attorney General are authorized and directed to issue jointly such regulations as may be necessary to carry out this section.

(g) DEFINITIONS.—As used in this section, the term "public safety officer" means a person serving a public agency, with or without compensation, as—

(1) a firefighter; or

(2) a law enforcement officer, including a corrections or a court officer.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 17. There are hereby authorized to be appropriated to carry out the foregoing provisions of this Act, except section 11 of this Act, such sums as are necessary, not to exceed $25,000,000 for the fiscal year ending June 30, 1974, $30,000,000 for the fiscal year ending June 30, 1975, and $35,000,000 for the fiscal year ending June 30, 1976.

CONFORMING AMENDMENTS

SEC. 18. (a) Chapter 552 of the Act of February 14, 1903, as amended (15 U.S.C. 1511) is amended to read as follows:

"BUREAUS IN DEPARTMENT

"The following named bureaus, administrations, services, offices, and programs of the public service, and all that pertains thereto, shall be under the jurisdiction and subject to the control of the Secretary of Commerce:

"(a) National Oceanic and Atmospheric Administration;

"(b) United States Travel Service;

"(c) Maritime Administration;

"(d) National Bureau of Standards;

"(e) Patent Office;

"(f) Bureau of the Census;

"(g) Program for Fire Prevention and Control; and

"(h) such other bureaus or other organizational units as the Secretary of Commerce may from time to time establish in accordance with law.

(b) Paragraph 12 of section 5315 of title 5, United States, is amended by striking out "(6)" and inserting in lieu thereof "(7)".

(c) Title I of the Fire Research and Safety Act of 1968 (Act of March 1, 1968, 82 Stat. 34; 15 U.S.C. 278 f, g) is repealed.

VICTIMS OF FIRE

SEC. 19. The Secretary of Health, Education, and Welfare is authorized and directed to establish, within the National Institutes of Health and in cooperation with the Secretary, an expanded program of research on burns, treatment of burn injuries, and rehabilitation of victims of fires. The National Institutes of Health shall—

(a) sponsor and encourage the establishment throughout the Nation of twenty-five additional burn centers, which shall comprise separate hospital facilities providing specialized burn treatment and including research and teaching programs, and, twenty-five additional burn units, which shall comprise specialized facilities in general hospitals used only for burn victims;

(b) provide training and continuing support of specialists to staff the new burn centers and burn units;

(c) sponsor and encourage the establishment in general hospitals of ninety burn programs, which comprise staffs of burn injury specialists;

(d) provide special training in emergency care for burn victims;

(e) augment sponsorship of research on burns and burn treatment;

(f) administer and support a systematic program of research concerning smoke inhalation injuries; and

(g) sponsor and support other research and training programs in the treatment and rehabilitataion of burn injury victims.

For purposes of this section, there are authorized to be appropriated not to exceed $7,500,000 for the fiscal year ending June 30, 1974, $10,000,000 for the fiscal year ending June 30, 1975, and $10,000,000 for the fiscal year ending June 30, 1976.

FIRE PROTECTION ASSISTANCE

SEC. 20. Section 232 of the National Housing Act (12 U.S.C. 1715w) is amended by adding at the end thereof the following new subsection:

"(i)(1) The Secretary is authorized upon such terms and conditions as he may prescribe to make commitments to insure loans made by financial institutions to skilled nursing facilities and intermediate care facilities to provide for the purchase and installation of fire safety equipment necessary for compliance with the latest edition of the Life Safety Code of the National Fire Protection Association, as modified in accordance with evaluation by the Secretary of Commerce under the Federal Fire Prevention and Control Act or which are recognized by the Secretary of Health, Education, and Welfare as conditions of participation for providers of services under title XVIII and title XIX of the Social Security Act, as modified in accordance with evaluations by the Secretary of Commerce under such Act.

"(2) To be eligible for insurance under this subsection a loan shall—

"(A) have a principal amount not to exceed $50,000;

"(B) bear interest at a rate not to exceed the rate prescribed by the Secretary;

"(C) have a maturity satisfactory to the Secretary, but not to exceed twelve years from the beginning of the amortization of the loan or three-quarters of the remaining economic life of the structure in which the equipment is to be installed, whichever is less; and

"(D) comply with other such terms, conditions, and restrictions as the Secretary, in consultation with the Secretary of Commerce, may prescribe.

"(3) The provisions of paragraphs (5), (6), (7), (9), and (10) of section 220(h) shall be applicable to loans insured under this subsection, except that all references to 'home improvement loans' shall be construed to refer to loans under this subsection.

"(4) The provisions of subsections (c), (d), and (h) of section 2 shall apply to loans insured under this subsection, and for the purpose of this subsection references in such subsections to 'this section' or 'this title' shall be construed to refer to this subsection.".

The title was amended so as to read: "A bill to reduce the burden on interstate commerce caused by avoidable fires and fire losses, and for other purposes.".

Mr. MAGNUSON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The PRESIDING OFFICER (Mr. BIDEN). The question is on agreeing to the motion to lay on the table.

The motion to lay on the table was agreed to.

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.

FINANCIAL ASSISTANCE TO DEVELOPING COUNTRIES—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. ABOUREZK) laid before the Senate the following message from the President of the United States, which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

As their role in conveying financial assistance to developing countries has steadily enlarged in recent years, multilateral lending institutions have become vital to our hopes for constructing a new international economic order.

One of the most important of these institutions is the International Development Association, a subsidiary of the World Bank that provides long-term loans at low interest rates to the world's poorest nations. During the 13 years of its operation, IDA has provided over $6.1 billion of development credits to nearly 70 of the least developed countries of the world. Two dozen countries have contributed funds for this effort.

By next June, however, the International Development Association will be out of funds unless it is replenished. As a result of an understanding reached in recent international negotiations, I am today proposing to the Congress that the United States join with other major industrialized nations in pledging significant new funds to this organization. Specifically, I am requesting that the Congress authorize for future appropriation the sum of $1.5 billion for the fourth replenishment of IDA. Initial payments would be made in fiscal year 1976 and the full amount would be paid out over a period of years.

I am also requesting that the Congress authorize an additional $50 million for the Special Funds of the Asian Development Bank. The bank is one of the major regional banks in the world that complements the work of the International Development Association and the World Bank.

Legislation for both of these authorities is being submitted to the Congress today by the Secretary of the Treasury.

STRENGTHENING THE INTERNATIONAL ECONOMIC SYSTEM

Just over a year ago, in September 1972 at the annual meeting in Washington of the International Monetary Fund and the World Bank, I stressed the urgent need to build a secure structure of peace, not only in the political realm but in the economic realm as well. I stated then that the time had come for action across the entire front of international economic problems, and I emphasized that recurring monetary crises, incorrect alignments, distorted trading arrangements, and great disparities in development not only injured our economies, but also created political tensions that subvert the cause of peace. I urged that all nations come together to deal promptly with these fundamental problems.

I am happy to be able to report that since that 1972 meeting, we have made encouraging progress toward updating and revising the basic rules for the conduct of international financial and trade affairs that have guided us since the end of World War II. Monetary reform negotiations, begun last year, are now well advanced toward forging a new and stronger international monetary system. A date of July 31, 1974, has been set as a realistic deadline for completing a basic agreement among nations on the new system.

Concurrently, we are taking the fundamental steps at home and abroad that will lead to needed improvement in the international trading system. On September 14, while meeting in Tokyo, the world's major trading nations launched new multilateral trade negotiations which could lead to a significant reduction of world trade barriers and reform of our rules for trade. The Congress is now considering trade reform legislation that is essential to allow the United States to participate effectively in these negotiations.

ESSENTIAL ROLE OF DEVELOPMENT ASSISTANCE

While there is great promise in both the trade and monetary negotiations, it is important that strong efforts also be made in the international effort to support economic development—particularly in providing reasonable amounts of new funds for international lending institutions.

A stable and flexible monetary system, a fairer and more efficient system of trade and investment, and a solid structure of cooperation in economic development are the essential components of international economic relations. We must act in each of these interdependent areas. If we fail or fall behind in one, we weaken the entire effort. We need an economic system that is balanced and responsive in all its parts, along with international institutions that reinforce the principles and rules we negotiate.

We cannot expect other nations—developed or developing—to respond fully to our call for stronger and more efficient trading and monetary systems, if at the same time we are not willing to assume our share of the effort to ensure that the interests of the poorer nations are taken into account. Our position as a leader in promoting a more reasonable world order and our credibility as a negotiator would be seriously weakened if we do not take decisive and responsible action to assist those nations to achieve their aspirations toward economic development.

There are some two dozen non-communist countries which provide assistance to developing countries. About 20 percent of the total aid flow from these countries is now channeled through multilateral lending institutions such as the World Bank group—which includes IDA—and the regional development banks.

These multilateral lending institutions play an important role in American foreign policy. By encouraging developing countries to participate in a joint effort to raise their living standards, they help to make those countries more self reliant. They provide a pool of unmatched technical expertise. And they provide a useful vehicle for encouraging other industrialized countries to take a larger responsibility for the future of the developing world, which in turn enables us to reduce our direct assistance.

The American economy also benefits from our support of international development. Developing countries today provide one-third of our raw material imports, and we will increasingly rely upon them in the future for essential materials. These developing countries are also good customers, buying more from us than we do from them.

NEW PROPOSALS FOR MULTILATERAL ASSISTANCE

Because multilateral lending institutions make such a substantial contribution to world peace, it must be a matter of concern for the United States that the International Development Association will be out of funds by June 30, 1974, if its resources are not replenished.

The developing world now looks to the replenishment of IDA's resources as a key test of the willingness of industrialized, developed nations to cooperate in assuring the fuller participation of developing countries in the international economy. At the Nairobi meeting of the World Bank last month, it was agreed by 25 donor countries to submit for approval of their legislatures a proposal to authorize $4.5 billion of new resources to IDA. Under this proposal, the share of the United States in the replenishment would drop from 40 percent to 33 percent. This represents a significant accomplishment in distributing responsibility for development more equitably. Other countries would put up $3 billion, twice the proposed United States contribution of $1.5 billion. Furthermore, to reduce annual appropriations requirements, our payments can be made in installments at the rate of $375 million a year for 4 years, beginning in fiscal year 1976.

We have also been negotiating with other participating nations to increase funds for the long-term, low-interest operation of the Asian Development Bank. As a result of these negotiations, I am requesting the Congress to authorize $50 million of additional contributions to the ADB by the United States—beyond a $100 million contribution already approved. These new funds would be associated with additional contributions of about $350 million from other nations.

MEETING OUR RESPONSIBILITIES

In addition to these proposals for pledging future funds, I would point out that the Congress also has before it appropriations requests for fiscal year 1974—a year that is already one-third completed—for bilateral and multilateral assistance to support our role in international cooperation. It is my profound conviction that it is in our own best interest that the Congress move quickly to enact these pending appropriations requests. We are now behind

schedule in providing our contributions to the International Development Association, the Inter-American Development Bank and the Asian Development Bank, so that we are not keeping our part of the bargain. We must show other nations that the United States will continue to meet its international responsibilities.

All nations which enjoy advanced stages of industrial development have a grave responsibility to assist those countries whose major development lies ahead. By providing support for international economic assistance on an equitable basis, we are helping others to help themselves and at the same time building effective institutions for international cooperation in the critical years ahead. I urge the Congress to act promptly on these proposals.

RICHARD NIXON.

THE WHITE HOUSE, *October 31, 1973.*

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. ABOUREZK) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

JACK GOLDBERG

Mr. MAGNUSON. Mr. President, the auto safety program in the United States suffered a recent setback. There will be no notice in the Federal Register or headlines in the daily newspaper indicating the setback, but it occurred nonetheless with the untimely demise of Jack Goldberg, Associate Administrator for Planning and Programing of the National Highway Traffic Safety Administration.

Those of us who knew Jack Goldberg and worked with him on auto safety matters realize how much he contributed to our efforts to save lives and prevent injuries on the Nation's highways. His services will be missed by both the Department of Transportation and the Congress.

During his tenure in the Federal service, in both the Department of the Navy and the NHTSA, Mr. Goldberg achieved the remarkable feat of receiving outstanding performance ratings almost a half dozen times. In 1971, Secretary Volpe recognized Mr. Goldberg's dedication by presenting him with the "Secretary's Award for Meritorious Achievement."

I wish at this time to publicly recognize his contributions to auto safety and to extend my personal condolences to his wife, son, and daughter.

ARREST OF MECHANIC FOR "THEFT BY FRAUD"

Mr. MAGNUSON. Mr. President, from time to time we are reminded that the very best protection for the Nation's consumers is the integrity of business organizations. Perhaps a minor, but telling, example of such integrity crossed my desk recently in the form of the in-house newspaper for the Goodyear Tire & Rubber Co. retail stores division. In the October 8 edition of the Stores the company ran the story of the arrest of one of its own mechanics for "theft by fraud" for billing a customer $105 for repairs to a car which had been certified mechanically perfect.

Not only did Goodyear publish the articles as an obvious warning for its other employees but it included this statement as an editor's note:

It is the policy of The Goodyear Tire and Rubber Company to sell only needed parts and service to customers. There are no exceptions to this policy.

On October 22, the lead article in Stores announced the dismissal of the mechanic and the demotion of the store manager.

I ask unanimous consent that the articles be printed at this point in the RECORD.

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

MECHANIC DISMISSED, STORE MANAGER AND ADM–R DEMOTED IN BALL JOINT INCIDENT

A Gretna, La., store mechanic has been dismissed and the store manager and an ADM–R demoted for failure to comply with company policy in the sale of automobile ball joints.

The action resulted when an undercover car from the Jefferson Parish Consumer Protection Agency was sent to the store, where the mechanic said the vehicle needed new ball joints and shock absorbers.

After the repairs were made, the mechanic was arrested and charged with theft by fraud.

Goodyear's policy for inspection of all ball joints is clearly specified in many places, including the company's hire package given to all store mechanics:

1.) Measure the ball joint looseness with a dial indicator guage.

2.) Indicate to the customer the looseness as compared to the manufacturer's specifications.

3.) Record this measurement, plus the manufacturer's specification, on all copies of the invoice.

The company emphasizes that it is essential that its mechanics follow these three steps in all ball joint inspections.

"By indicating to the customer the looseness of the ball joints as compared with manufacturer's specifications, the mechanic is graphically demonstrating the need for the repairs," the company says. "And if the mechanic does not follow the stated policy, he is subject to immediate dismissal."

A company investigation of the Gretna incident revealed that the mechanic had measured the ball joints with a dial indicator but that he had failed to record these measurements, along with the manufacturer's specifications, on all copies of the invoice.

Thus, after the new parts were installed, the mechanic was unable to prove the old ball joints were measured prior to being removed.

The mechanic was dismissed because of this violation of stated company policy.

In addition, the company determined that the mechanic was not properly trained in Goodyear's ball joint policy and, as a result both the store manager and ADM–R were demoted.

MECHANIC ARRESTED FOR ORDERING REPAIRS ON "PERFECT" AUTOMOBILE

(EDITOR'S NOTE.—It is the policy of The Goodyear Tire & Rubber Company to sell only needed parts and service to customers. There are no exceptions to this policy. The following story is from the New Orleans Times-Picayune of Thursday, Sept. 27.)

A Gretna, La., automobile mechanic has been arrested and charged with theft by fraud for making unneeded repairs on a car, it was announced Wednesday night by the Jefferson Parish district attorney's office.

The mechanic was an employe of the Goodyear store in Gretna.

According to Ernest Barrow, director of the Consumer Protection Department of the district attorney's office, letters were sent to auto repairs shops about six weeks ago notifying them a car which has been certified mechanically perfect would be sent to repair shops in the parish without warning.

If unneeded repairs were made on the car, the letter stated, the district attorney would prosecute for theft by fraud.

The car was taken to the Goodyear Tire Center Wednesday, where the mechanic said it needed new ball joints, shock absorbers and "the works" Barrow said. The repairs totaled $105.

The mechanic was arrested by Sergeant Elie Lyons of the Parish Sheriff's Department, who has been assigned to the Consumer Protection Department.

Barrow said the mechanically perfect car has been sent to seven Jefferson Parish garages thus far.

The Goodyear mechanic's arrest was the first under the program.

NORTHWEST ENERGY CONSERVATION PROGRAM

Mr. MAGNUSON. Mr. President, the Pacific Northwest has been encountering severe energy shortages due mostly to low water levels on the Columbia River, which is responsible for much or our region's power generation. Until recently, we in the Northwest thought we were unluckier than the rest of the country, but now it appears that the east coast and Middle West may experience a similarly difficult energy situation due to cutoffs and slowdowns of distillate imports from Europe and crude oil imports from Arab nations.

The Northwest appears to be successfully managing its reduced energy budget and can provide leadership for other parts of the country in which severe shortages may come in the next few months. I invite my colleagues to review an account of how the Northwest has kept on top of its problems in the October 22, 1973, issue of Energy, the weekly journal for energy consumers, and ask unanimous consent to have it printed in the RECORD.

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

CONSERVATION LAB: PACIFIC NORTHWEST

With European nations cutting the U.S. off from heating oil and other distillate imports which this country must obtain to get thru winter in the style to which it is accustomed, the Pacific Northwest has become a laboratory for an experiment in coping with a severe energy shortage.

The area is suffering because much of its energy is supplied by hydro-electric power which is being hard hit by drought. It also recently began encountering problems with its natural gas supplies from Canada, although these are minor compared with the hydro difficulties.

OREGON SUCCEEDS

Oregon's mandatory curtailment of electrical consumption—the first such statewide program in the nation—apparently has been

a success. The Bonneville Power Administration reports demand has fallen steadily. It was about 1.5% below normal when the curtailment ended its first week on Sept. 13 and had fallen by 7% by the end of the third week.

There are reports that Gov. Tom McCall may modify his executive order curtailing outdoor display advertising and decorative lighting in answer to pleas from business, particularly restaurant and motel owners. They want permission to light outdoor signs if they can balance the consumption with savings elsewhere in their establishments.

McCall turned them down at the start of the curtailment because, said an aide, "people wouldn't be aware there's an energy shortage if we let the signs stay on." But with demand continuing to drop, the governor may be willing to make concessions, such as returning the handles for hot water faucets that were removed when the campaign began.

While there have been the inevitable complaints about the program, there have been no court suits challenging McCall and his office claims letters received on the subject back the governor's program 10–1.

Perhaps the most monumental conservation program in Oregon was an "in-house" effort by the city utility of Springfield which claims to have cut its consumption 61.8%. The utility's headquarters had been a showcase for energy use that was lighted 24 hours a day. Springfield said it achieved the 61.8% figure by elimination of non-essential lights and adjusting thermostats.

WASHINGTON TRIES

In Washington state, Snohomish County utility officials have been conducting a campaign to reduce electricity usage by 7% among the District's 106,000 industrial, commercial and residential customers in the hopes that the voluntary curtailment program will eliminate the necessity of mandatory curtailment later.

The utility is making an effort to set a good example during the current power shortage and for several weeks has curtailed all nonessential night lighting; and by reducing the lighting, heating and cooling level in buildings. Employees have been encouraged to conserve on use of electricity in their homes and the large industrial and commercial businesses in the County have been requested to reduce electrical loads by at least 7%.

The Okanogan County, Wash., public utility has supplemented its voluntary conservation program by banning the installation of municipal street lights or rural yard lights except in emergency situations requiring light for safety or security. It has conducted a newspaper and radio campaign to promote voluntary curtailment of power use and has also requested larger customers to do what they can to cut back on energy consumption.

The Grant County utility in Ephrata, WA. has been conducting an extensive conservation program urging all users to participate in the curtailment plan. It has used direct mail, the news media and personal contact to provide commercial and residential customers with information and advice on how they can reduce use of electricity. One official of the utility said that "our own employees are one of our best means of communication with our customers, and we intend to keep them informed of the need to conserve energy."

Meanwhile, Bonneville Power Administrator Donald Hodel warned in Seattle that energy conservation will be a way of life in the Pacific Northwest "from now on." He praised Seattle City Light for its "Kill-A-Watt" program for curtailing use of electricity.

SUCCESS ABROAD

New Zealand and the Pacific Northwest have very similar power problems of hydro power being endangered by droughts. New Zealand seems to be resolving its difficulties thru voluntary power conservation, a three-week long mandatory conservation program and voltage reductions of 5%–10%.

Officials there say their conservation program probably will continue for the next several years. There will also be a public education campaign for power conservation.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Senators may speak out of order during the afternoon. There is no business before the Senate. I ask unanimous consent that there be a time limitation of 15 minutes on such statements.

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

WAR POWERS RESOLUTION

Mr. STENNIS. Mr. President, I regret that the President vetoed the war powers resolution. This measure is more properly called, I think, the "Congressional Responsibility Bill as to the War-Making Power." The measure is the outgrowth of a long and careful legislative procedure which was begun with the introduction in both 1970 and 1971 of separate war powers bills by the Senator from New York (Mr. JAVITS), the Senator from Missouri (Mr. EAGLETON), and myself.

The House of Representatives later passed a joint resolution, the Senate passed a different version, and the House-Senate Conference approved this compromise version last October 4.

I believe the resolution approved by the Conferees was a responsible bill. As I have said before, the most important thing about this issue is that a procedure needs to be established to insure that Congress recognizes and accepts its own responsibility on the question of committing this Nation to war. As a matter of fact, as I have indicated before, I prefer to discuss this issue in terms of responsibility rather than power.

Until Congress specifically outlines procedures for accepting such responsibility in times of crisis, this whole issue will remain fraught with ambiguity and confusion—and I emphasize the word "remain."

Unless we have specific procedures it will always be argued by some, in a crisis, that there is no need for Congress to act because the executive branch has the authority to act alone. As long as it is unclear whether the Executive may properly act solely on its own authority, it will be unclear whether congressional support is necessary or superfluous. This is one of the great lessons of the Gulf of Tonkin resolution passed in 1964.

I am not one to be critical of that resolution or those who voted for it. I was one who did.

I was a Member of the Senate in 1964, and I firmly believe that, if it had been clear in 1964 that Congress had the responsibility to decide for or against war, there would at least have been a vote by the Congress. If the Congress had favored war, the people would have understood and supported the war to a far greater extent than was true.

But fundamentally and apart from all of that, I think it is a clear, positive, spelled-out duty that the Congress, and the Congress only, has the power to declare war, and that means the responsibility.

It is important to note that by its terms this joint resolution gives the executive branch the power to respond to an emergency—and this, I submit, covers the only real basic criticism to the bill—and the further power to extend an emergency period for purposes of protecting the safety of American forces. This is a necessary—of course it is necessary—and desirable feature of any legislation in this area, and I believe this resolution offers ample safeguards to permit the President to deal with a crisis. I know that I certainly would not want to limit his authority in an emergency. And I assume that no other Member of Congress would want to limit that authority and power. Certainly it is the intention of those of us who have backed this legislation to provide ample safeguards and authority to permit a President to deal with a crisis.

The measure has a special added virtue. In place of the confusion and contradiction of court cases and executive orders extending over a period of almost 200 years, we would have a definite, positive, clearly written-down, and recently enacted recognition of just where the power of the President is and also where the responsibility of the Congress is.

For example, during the recent Mideast crisis the President used his authority as Commander in Chief to order the Armed Forces to a higher level of alert than that in which they are normally placed. He also ordered extra ships into the Mediterranean. These were not precipitous acts, but a careful and responsible use of his powers as Commander in Chief. The Armed Forces were not ordered to a state of alert so high as to prepare them for imminent war, but leaves were canceled and readiness was improved. If it had been necessary in the President's judgment for him to go an additional step to meet what he thought was an emergency or a crisis, of course without any further written law he would had the authority under this bill to have gone further. The deployment of the ships did not clearly indicate that was imminent, but the location of some ships was changed to improve general readiness. By these changes in the alert status and deployments of our forces throughout the world the President showed his resolve, and I believe that such steps materially assisted in the agreement in the Security Council of the United Nations on a resolution establishing a cease-fire policed by nations other than the United States and the Soviet Union.

As one who is somewhat disappointed because I expected too much of the United Nations, I would point out that we should never forget and never let anyone fool us in this matter. The United Nations did render a service in those critical hours, in that day or two just a

short 2 weeks ago when things were uncertain and when anything could have happened. Let me reassure my colleagues that in my opinion nothing in the war powers resolution would hinder the President from taking these types of steps in the future on his own authority as Commander in Chief, and nothing in the resolution would require congressional approval of such decisions. Moreover, nothing in the resolution would even require the reporting of most such actions, although I believe the President was wise during this crisis to consult with the Congress and I would hope that he will continue to consult with the Congress regardless of whether or not a so-called War Powers Act—I always want to correct it and say congressional responsibility—were the law of the land, or whether its provisions were applicable in a specific case.

But the point is that his ability to respond to an emergency in the way he responded last week would not be inhibited nor limited by this type of legislation. Under the resolution certain deployments of combat-equipped U.S. forces into a foreign nation's territory, airspace, or waters must be reported to the Congress. In addition, if U.S. forces are introduced into hostilities or into situations such that "imminent involvement in hostilities is clearly indicated by the circumstances" then congressional approval is required within 60 days. There is our cooling time, time in which to make adjustments if possible. And it is a generous time in this era in which we live. The deployments and alerts of U.S. forces during the recent crisis clearly do not require congressional approval.

This resolution deals with involvement in war, and imminent war, not with this type of moderate change in readiness and deployment.

Turning to the President's veto message, one feature of which I particularly disagree with, is the emphasis which it places upon the possibility that Congress would take no action to approve the use of the Armed Forces in an emergency.

In a situation in which there is no emergency Congress could, under the resolution as passed, take considerable time to deliberate if the President requested the authority to go to war. This is as it should be. In the absence of an emergency the Congress should not be forced to act quickly on such a momentous question as war or peace. The veto message is quite incorrect, however, insofar as it implies that Congress would fail to act in a true emergency. Quite apart from the patriotism and responsible character of the Members of Congress themselves, it is quite clear that there are stringent procedures in the resolution to insure that, in a true emergency, committee consideration and votes in both Houses would be accomplished relatively quickly. I would urge any interested Senator to study carefully the detailed provisions of the bill which insure prompt consideration of authorizing legislation during a crisis.

Mr. President, am I speaking under a time limitation?

The PRESIDING OFFICER. The Senator from Mississippi is speaking under a 15-minute time limitation.

Mr. ROBERT C. BYRD. Mr. President, I would point out that any number of Senators would be glad to get time and to yield the Senator from Mississippi their time.

Mr. HANSEN. Mr. President, I ask unanimous consent that I might yield my time to the distinguished Senator from Mississippi.

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

Mr. STENNIS. Mr. President, I thank the Senator from Wyoming very much. I ask the Chair to call me at the end of 4 minutes.

Mr. President, in summary I believe the resolution approved overwhelmingly in both the House and Senate is a responsible one and one which establishes the necessary procedures to insure that Congress and the President will assume their responsibility together in any future circumstances where the commitment to war is in question. I urge my colleagues in both Houses to vote to override the President's veto.

Mr. President, we are not going to get into an approved war without the concurrence of both the President and the Congress on this resolution. I remember when Woodrow Wilson asked for a declaration of war or recommended it in 1917. I remember again in 1941 when Franklin Delano Roosevelt did the same thing. And that is the last declared war we have had.

It takes the cooperation and the power and the responsibility and the urgency and the patriotism of all of those officials in addition to the terrific power of the people throughout the country.

I have no doubt that in the proper circumstances the people will always be willing to go to war to defend our country.

I feel like I know—and this is with all due deference to everyone—that if we had had one more safeguard, perhaps we could have gotten the war in South Vietnam settled before it started, and before they started the actual fighting. I am not trying to change history or look back, and I did not offer a resolution at that time to this effect. I am just pointing out that to go to war did not require a single affirmative act by the Congress. Not one.

We already had a draft act passed. We already had selectees in battalions and divisions, and the Navy and the Air Force. We already had all the essential things that have to be legislated in motion and passed, a fait accompli.

The only real test that came was a good long time after that war had started, when the direct issue arose on an appropriation bill. Mr. President, I was the floor manager of that appropriation bill, and held the hearings on it, and I could not get them to make a request for the estimated amount that they desired for the fiscal year that we were already in, for the fighting of the war.

Finally, after I spoke on the subject—and I deserve no credit; I should have done more, of course, and I will never be able to forget it—a request came over for $1.7 billion, or perhaps $1.8 billion.

I just said, "Not enough."

Someone else said, "Well, how much would it take?"

I did not know, of course. The Secretary of Defense said he did not know how to figure it. There was no recommendation at all. But anyway, I finally came up with a figure of $12 billion, and the requirement was just a little more than that. It shows how offbase we were, the people were and everyone was, as to the spoken words, publicly at least, about the cost of the war.

I want to emphasize, Mr. President, that I am just as guilty of error and misjudgment as anyone could be, because I was a Member here during all the build-up and background for that war. I am not crying over spilled milk. But we have a chance now, as I see it, to put on the books something that is fresh and current, and is an expression, after these 200 years that we have existed already as a nation, that we can spell out something. I think the exact language does not make a lot of difference, as long as it is certain that the President can act in an emergency, particularly to head off a crisis, and then leave the responsibility directly in the lap of Congress.

Mr. HARRY F. BYRD, JR. Mr. President, I am in full accord with the comments just made by the distinguished Senator from Mississippi. It seems to me that the so-called War Powers Act, which the distinguished Senator from Mississippi and the distinguished Senator from New York had so much to do with writing, is a reasonable measure. It is one which should have the approval and has had the approval of Congress.

I, too, regret, just as the Senator from Mississippi has expressed his regret, that the President did not see fit to sign that legislation, but I think the arguments made this morning by the able Senator from Mississippi point out the need for the legislation, the reasons for it, and why it is important that it be enacted by this Congress, even though that requires that the veto of the President be overridden.

Mr. STENNIS. I thank the Senator from Virginia. I feel greatly encouraged by his remarks.

Mr. JAVITS. Mr. President, if it will not unduly tire the Senator from Mississippi, I would like him to hear these words.

At a time of division in this country, and a time of deep trouble for our confidence in Government, I deeply feel that Americans should note the way that Congress, with particular reference to the Senate, has closed ranks on this measure. This is the clear, specific measure by which Congress has opted, at long last, to assert its sense of reponsibility in respect to this awful decision of going to war.

When the chairman of the Armed Services Committee, which is generally considered to be the most hawkish committee in Congress, and when the individual Senator whom the President himself says he trusts beyond any other Member of this body for objectivity in respect to a matter of the greatest sensitivity to him, takes this position, I think in terms of American patriotism, it is time for the country to sit up and listen.

Mr. STENNIS. Mr. President, I thank the Senator for his remarks, and I say with deference to all the others that the Senator from New York has put in more time, work, effort, and leadership on this

measure than any other Member of Congress, and many have contributed to it substantially. I congratulate him as well as thank him for his leadership.

If I may so state, I think it is an amazing thing, Mr. President, that such a large percentage of the entire Congress, the House of Representatives and the Senate, would find a common ground, first, in feeling the need for such legislation, and second, in being able to agree on the key words.

Mr. JAVITS. Exactly.

Mr. STENNIS. I thank the Senator from New York.

Mr. JAVITS. Mr. President, if I may make just one other observation, the effort has been made in this veto message, in my judgment, to make us feel that a President would be hampered in an emergency.

I think, as the Senator from Mississippi has brilliantly shown in his own brief speech this morning, the very emergency which has just occurred has indicated that the bill would have done nothing except facilitate, in terms of the greatest national authority, should we have resorted to it, the ultimate deployment of forces in this matter where they would have been in imminent danger of hostilities, and that in everything else the President was left absolutely free, and that is exactly the way it ought to be.

So, I thank my colleague very much for his enormous contribution this morning at such a critical point in the consideration of this measure, and wish to add further that we are engaged, Mr. President, in an enormous struggle for American freedom. As far as I am concerned, and I know as far as the Senator from Mississippi is concerned, we will pursue it until that freedom is assured in respect of the power to make war.

I thank my colleague very much.

The PRESIDING OFFICER (Mr. BIDEN). What is the will of the Senate?

ORDER FOR THE RECOGNITION OF SENATORS GRIFFIN AND ROBERT C. BYRD ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday, following the remarks of the distinguished Senator from New Mexico (Mr. DOMENICI), the distinguished assistant Republican leader (Mr. GRIFFIN) be recognized for not to exceed 15 minutes, and that he be followed by the junior Senator from West Virginia for not to exceed 15 minutes.

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

LIMITATION ON STATEMENTS DURING THE CONSIDERATION OF ROUTINE MORNING BUSINESS ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that statements during the period for the transaction of routine morning business on Monday next be limited to 3 minutes.

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

Mr. JAVITS. Mr. President, will the Senator from West Virginia yield?

Mr. ROBERT C. BYRD. I yield.

Mr. JAVITS. Tuesday is election day in my State and in many other States. I just wondered what the Senator could tell us about the program for Tuesday next.

Mr. ROBERT C. BYRD. As of this moment, it would appear that the Senate probably would not be in session on Tuesday, but I am unable to say definitely in that regard. It would depend on what developed over the weekend and what we would have on Monday by way of conference reports, and so forth, that could be called up on Tuesday. But, as of this moment, it would appear that the Senate would go over from Monday until Wednesday next.

Mr. JAVITS. I thank the Senator very much.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, on Monday the Senate will convene at the hour of 12 o'clock noon.

After the two leaders or their designees have been recognized under the standing order, the following Senators will be recognized, each for not to exceed 15 minutes and in the order stated: Mr. DOMENICI, Mr. GRIFFIN, and Mr. ROBERT C. BYRD.

There will then be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements therein limited to 3 minutes, at the conclusion of which the Senate will proceed to the consideration of the conference report on the military procurement authorization bill, H.R. 9286.

Mr. President, there will be a yea-and-nay vote on the adoption of the conference report on the military procurement authorization bill on Monday.

ADJOURNMENT TO MONDAY

Mr. HARRY F. BYRD, JR. Mr. President, in accordance with the previous order, I move that the Senate stand in adjournment until 12 noon on Monday, November 5, 1973.

The motion was agreed to; and at 1:15 p.m. the Senate adjourned until Monday, November 5, 1973, at 12 meridian.

NOMINATIONS

Executive nominations received by the Senate November 2, 1973:

DEPARTMENT OF JUSTICE

Lincoln C. Almond, of Rhode Island, to be U.S. attorney for the district of Rhode Island for the term of 4 years, reappointment.

Elmer J. Reis, of Ohio, to be U.S. marshal for the southern district of Ohio for the term of 4 years, vice Donald M. Horn, resigned.

DEPARTMENT OF THE INTERIOR

Morris Thompson, of Alaska, to be Commissioner of Indian Affairs, vice Louis R. Bruce, resigned.

FEDERAL POWER COMMISSION

Don S. Smith, of Arkansas, to be a member of the Feedral Power Commission for the remainder of the term expiring June 22, 1978, vice John A. Carver, Jr.

DEPARTMENT OF STATE

The following-named person for reappointment in the Foreign Service as a Foreign Service officer of class 3, a consular officer, and a secretary in the diplomatic service of the United States of America:

Sidney Leonard Woollons, of California.

For appointment as a Foreign Service officer of class 3, a consular officer, and a secretary in the diplomatic service of the United States of America:

John A. Murtha, of Washington.

For reappointment in the Foreign Service as Foreign Service officers of class 4, consular officers, and secretaries in the diplomatic service of the United States of America:

Joe L. Alarid, of Oklahoma.

Thomas Robert Kresse, of Ohio.

For appointment as Foreign Service Officers of class 4, consular officers, and secretaries in the diplomatic service of the United States of America:

Gerald C. Mull, of Michigan.

James J. Young, of Georgia.

For reappointment in the Foreign Service as a Foreign Service information officer of class 5, a consular officer, and a secretary in the diplomatic service of the United States of America:

Robert Douglas Jones, of Maryland.

For appointment as Foreign Service officers of class 5, consular officers, and secretaries in the diplomatic service of the United States of America:

Johnnie Carson, of Illinois.
Joseph P. Cheevers, of Kansas.
Jacques Cook, of the District of Columbia.
Richard F. Crehan, of Rhode Island.
William Rogers Gray, of California.
J. Alexander Mannings Jackson, of Pennsylvania.
Patricia Ann Langford, of Mississippi.
Kenneth Walter Luecke, of Illinois.
James Alexander Smith, of New York.

For promotion from Foreign Service officers of class 7 to class 6:

Robert D. Arthur, of California.
Edwin L. Brawn, of Maine.
Donald S. Bryfogle, of Virginia.
Edward Brynn, of California.
Landon C. Carter, of Virginia.
William Harrison Courtney, of West Virginia.
Ann E. Darbyshire, of Hawaii.
John R. Dobrin, of Tennessee.
Arlene I. Gemmil, of New York.
James Hogan, Glenn, of Nebraska.
Dennis M. Grimmer, of Wisconsin.
Judith M. Heimann, of Connecticut.
James R. Hooper, of Michigan.
Joseph S. Hulings III, of South Carolina.
Therese Ann Kleinkauf, of New York.
Richard P. Livingston, of Tennessee.
Ronald L. Main, of Oklahoma.
Thomas H. Martin, of Illinois.
Lauralee M. Peters, of Minnesota.
Roger Keith Rutledge, of Tennessee.
Joseph Philip Saba, of Pennsylvania.
James Gary Seyster, of California.
Charles R. Sten, of Washington.
Gregory D. Strong, of Montana.
Philip Bates Taylor III, of Texas.
Eugene C. Zajac, of Illinois.

For promotion from Foreign Service information officers of class 7 to class 6:

John F. Kerr, of Texas.
Patricia H. Kushlis, of the District of Columbia.
Gary P. Elhiney, of Massachusetts.
Lezetta J. Moyer, of Massachusetts.
Diane M. Murphy, of Ohio.
Veda B. Wilson, of the District of Columbia.

For appointment as Foreign Service officers of class 6, consular officers, and secretaries in the diplomatic service of the United States of America:

Victor A. Abeyta, of New Mexico.
Norman F. Del Gigante, of Rhode Island.
Ellen G. Joyner, of North Carolina.
Grace A. Rafaj, of California.
Eleanor M. Ridge, of Massachusetts.

Lucy G. Silverthorne, of New York.
Joan Veronica Smith, of the District of Columbia.
Mary Elizabeth Snapp, of Virginia.
George C. Stephenson, of Ohio.
Lyle A. van Ravenswaay, of Missouri.

For promotion from Foreign Service officers of class 8 to class 7:

Marshall P. Adair, of California.
Ryan Clark Crocker, of Washington.
Arnold Jackson Croddy, Jr., of Maryland.
Bonnie Ann Frank, of Oklahoma.
John E. Hope, of California.
B. Sue Wood, of Mississippi.

For promotion from Foreign Service information officers of class 8 to class 7:

Frank Dietrich Buchholz, of New York.
Ann Hume Loikow, of Virginia.

For appointment as Foreign Service officers of class 7, consular officers, and secretaries in the diplomatic service of the United States of America:

Vittorio A. Brod, of New York.
Richard A. Christenson, of Wisconsin.
Robert E. Gribbin III, of Alabama.
Michael J. Guignard, of Maine.
Jon Gundersen, of New York.
Paul Hacker, of New York.
Thomas R. Hanson, of Virginia.
Patrick R. Hayes, of Virginia.
Michael J. Heilman, of Wisconsin.
Douglas Randall Hunter, of Illinois.
James A. Larocco, of Illinois.
Paul B. Larsen, of Hawaii.
John W. Limbert, of Massachusetts.
John P. Londono, of Colorado.
Michael John McLaughlin, Jr., of New York.
Michael D. Metelits, of California.
Peter B. Morrissey, of Hawaii.
David R. Pozorski, of Illinois.
Elizabeth Raspolic, of Arizona.
Richard Allan Roth, of Michigan.
Eugene David Schmiel, of Pennsylvania.
Gregory M. Talcott, of Hawaii.
David K. Thompson, of the District of Columbia.
Thomas C. Tighe, of Florida.
Gary S. Usrey, of Maryland.
Carol E. Wheeler, of New York.
Donald E. Willett, of Illinois.
David W. Williams, of California.

For appointment as Foreign Service officers of class 8, consular officers, and secretaries in the diplomatic service of the United States of America:

Robert L. Craven, of Oregon.
Georgia J. DeBell, of California.
George Anthony Dies III, of New York.
James R. Doyle, of Massachusetts.
Peter D. Eicher, of Connecticut.
Mary Lee K. Garrison, of New Jersey.
Wayne G. Griffith, of Virginia.
Donald S. Hays, of Virginia.
John W. Helm, of Tennessee.
Kevin E. Honan, of New Jersey.
MaryAnn Love, of Connecticut.
Steven Rolf Ordal, of California.
Robert Jefferson Roehr, of Rhode Island.
Brenda Therese Saunders, of Ohio.
Andrew William Spisak, of New Jersey.
Wayne Edward White, of Pennsylvania.
James D. Whitten, of California.
Anne Brevard Woods, of Arkansas.

Foreign Service Reserve officer to be a consular officer of the United States of America:

Fred C. Thomas, Jr., of Pennsylvania.

Foreign Service Reserve officers to be consular officers and secretaries in the diplomatic service of the United States of America:

Albert N. Alexander, of Maryland.
Donald Arbona, of Virginia.
Eric John Carlson, of Virginia.
Edward J. Carroll III, of Virginia.
Norman M. Descoteaux, of Florida.
Paul L. Dillon, of Virginia.
Lillian G. Dobsa, of Maine.
Gary E. Erb, of Montana.
Earl Ferguson, of New York.
William E. Hager, of California.
William C. Hamilton, Jr., of Florida.
Martin C. Hawkins III, of Arkansas.
Jane B. Hoerrner, of New Jersey.
Robert W. Hultslander, of Virginia.
Carolyn J. King, of Georgia.
James R. Lilley, of Maryland.
Danny M. Loftin, of Virginia.
Clyde L. McClelland, of Ohio.
Robert F. Mock, of Virginia.
James D. Montgomery, of Tennessee.
Kenneth P. Moorefield, of Maryland.
Sheila K. O'Neill, of Virginia.
Joseph Pettinelli, of Virginia.
Russell G. Phipps, of Virginia.
Robert H. Riefe, of Connecticut.
Patricia A. Stahl, of Wisconsin.
William R. Stanley, of Florida.
Neyle C. Theriault, of Georgia.
James Webb, Jr., of California.

Foreign Service Reserve officers to be secretaries in the diplomatic service of the United States of America:

Edward W. Coy, of California.
Thomas Franklin Olmsted, of New York.
Elias K. Zughaib, of Maryland.

Foreign Service Staff officers to be Consular officers of the United States of America:

Patrick W. Brennan, of Washington.
Edmund P. Glowen, Jr., of Washington.
Joan McKerness, of Florida.
John H. St. Denis, of California.
Patsy G. Stephens, of California.

IN THE NAVY

The following-named officers of the U.S. Navy for temporary promotion to the grade of captain in the staff corps, as indicated, subject to qualification therefor as provided by law:

MEDICAL CORPS

Akin, Richard Walter
Bellinger, Sidney Baldwin
Bingham, George Conley
Brannon, William Lester
Brodhead, Charles L.
Carr, John Eddington
Cefalo, Robert Charles
Chenault, Oran Ward, Jr.
Davis, Reginald Maurice
Delisser, Robert Bache
Fout, Larry Roy
Freeman, Edward Everett
Henderson, John Arthur
James, David Roger
Kostinas, John Eugene
Mammen, Robert Eugene
Marlor, Russell Larry
Meaders, Robert Hogan
Morioka, Wilfred Toshiy
Mullins, Wallace Rodney
O'Brien, Robert Mullings
Palumbo, Ralph Richard
Philip, Gordon Wallace
Pohle, George Alexander
Publicchio, Louis Umil
Pursch, Joseph Arthur
Raffaelly, Nicholas Ral
Randels, Paul Harmon
Simmons, William Wells
Smith, Joe Purser, Jr.
Smith, John Parker
Smith Jose Caunabo
Solomon, Alexandre
Viola, Francis Vincent
Williams, Wilfred Leroy
Woodall, Martin Anthony
Zimble, James Allen

SUPPLY CORPS

Alderman, Charles Bennett
Badger, George Raymond
Bledsoe, William Marvin
Corn, James Raymond
Dempster, Darrell Dean
Dollard, Paul Alan
Eastwood, William O. Car, Jr.
Ebert, Scott Ward
Fiske, Leon Sangster, Jr.
Gilmore, Roger West
Girod, Roy Oscar
Goodwin, Earl Eugen
Johnson, Millard Jerry
Kispert, Lane Arthu
Larson, Nelson Siegfred
Lindsay, William Earl
Lovell, W. B.
Mason, Albert Grant
McNeill, Neil Edward
Mercier, Arthur Gerald
Morehouse, Charles William
O'Neil, Raymond Leo
Ott, Matthew James
Paul, John William
Perry, Robert Phili
Recher, Bernard Louis
Ross, William Thomas, Jr.
Sansone, Joseph Sarto, Jr.
Stumbaugh, David Charles
Taylor, Robert Roe
Trimble, Philip
Vogel, Ralph Herber
Waid, Stanley Bevan
Weber, Robert Josep
White, Frank Lewis

CHAPLAIN CORPS

Chambliss, Carroll Randolph
Fitzgerald, Owen Ray
Kinlaw, Dennis Charles
McAlister, Fred Ranson, Jr.
Miller, Stanley Dean
Schneider, Otto
Slejzer, Ferdinand Edward
Warren, Robert Hagen

CIVIL ENGINEER CORPS

Anderson, Warren Harry
Brooks, Kenneth Donald
Burns, William John, Jr.
Falk, Harvey Alfred, Jr.
Gates, Charles William
Haynes, Howard Homer
Hines, John Charles
Jones, John Paul, Jr.
Jones, Thomas Kennedy
Lake, George
Lawson, Leroy Donnell
Lewis, Frank Herbert, Jr.
Mitchell, Thomas Jerome
Robinson, Charles Francis
Smith, George Lee
Trunz, Joseph Paul, Jr.
Wolf, Robert Bruce
Yoshihara, Takeshi

JUDGE ADVOCATE GENERAL'S CORPS

Lapin, Robinson
Lynch, William Christopher
Mirtsching, Leonard Charles
Price, Oliver Leon
Rawls, Roy Jeff
Zitani, Genius Ares

DENTAL CORPS

Albers, Delmar Dean
Allen, Robert William
Allman, Daryl Manley
Applegate, Donald Ells
Altman, Richard Stuart
Amato, Angelo Emanuel
Anderson, Dale Marvin
Atkinson, Robert Arnold
Barlow, Doil Earl
Biron, George Albert
Bodner, Joseph Andrew
Bottomley, William Kent
Bradford, Paul Laymond
Brenyo, Michael, Jr.
Brown, Charles Anderson
Burch, Meredith Sibley
Burke, Joseph Harold
Cagle, John David
Carrothers, Richard Loc
Castronovo, Sam
Christian, James Tod
Connole, Peter William
Corio, Russell Lawrence
Cummings, Matthew Rolla
Cunningham, Charles Jo
Davis, Malcolm Scott
Deaton, Herbert Clenton
Devos, Brice Jay
Diem, Charles Robert

Dodds, Ronald Neil
Duncan, Donald Eric
Eden, George Taylor
Edwards, Richard Cunlif
Fenner, David Thomas
Fenster, Robert Keith
Gibson, William Vernon
Gomer, Ronald Morris
Gonder, Donald Cook
Goska, John R.
Grimsley, William Arthu
Grisius, Richard Joseph
Grove, David Malley
Hanson, Richard Keith
Hegley, John Howard
Hill, Ronald Kevin
Hoffman, Robert Martin
Holcomb, John Burnett
Holroyd, Samuel Vernon
Howe, Robert Edward
Huestis, Ralph Parke
Kennedy, Paul Thomas
Kieny, Richard Joseph
Kitzmiller, John Stanle
Koss, Ronald Joseph
Leonard, Walter Prudden
Lessig, John Frank
Little, Earl Ernest, Jr.
Loizeaux, Alfred Drew
Lucker, Ronald Wayne
Magnus, Walt Wolfgang
Mark, Leonard Edward
Martin, William Richard
McCann, Thomas Francis
McMurdock, Robert C., Jr.
Messer, Eugene Joseph
Miller, James Earl
Moore, Dorsey Jerome
Moore, Robert Eugene
Morse, Ronald Prescott
Muldrow, Lewis Martin
Neagley, Ross Lynn, Jr.
Osetek, Edward Marion
Parsons, Richard Lee
Pines, Barry Edward
Pirie, George David
Plump, Ellsworth Herman
Prince, Richard Daniel
Reed, Wilbur Guy
Rice, George William, Jr.
Richter, Henry Edward
Roper, David Ardell
Scharpf, Herbert Otto
Semler, Harry Edwin, Jr.
Shaffer, Richard Glenn
Shoemaker, O. L.
Short, George Allen
Smith, David Joseph
Spearman, Glyn Moore, Jr.
Stallworth, Henry Arnol
Stanton, George Addison
Stepnick, Robert James
Strange, Charles Gilber
Stump, Thomas Eugene
Sugg, William Everett
Sullivan, William Clint
Swaim, Bobby Lee
Thomas, Robert Edwin
Tibbetts, Van Roger
Voyles, Wesley Loyd
Walsh, John David
Walters, Ray Alan
Watson, William James
Wilkie, Noel David
Williams, Frederick Bro
Workman, James Leroy
Zustiak, Michael

MEDICAL SERVICE CORPS

Beckwith, Joan May
Connery, Horace Joseph
Feith, Joseph
Petoletti, Angelo Romulus
Steward, Edgar Thornton
Scrimshaw, Paul Wesley
Wetzel, Orval Benjamin

NURSE CORPS

Furmanchik, Helen Imelda
Pfeffer, Elizabeth Marie
Shea, Frances Teresa
Wilson, Katherine
Zabel, Kathryn Elizabeth

The following-named Reserve officers of the U.S. Navy, for temporary promotion to the grade of captain in the staff corps, as indicated, subject to qualification therefor as provided by law:

MEDICAL CORPS

Drewyer, Richard Glenn
Valeri, Cesare Robert

CHAPLAIN CORPS

Bolles, Hebert Winslow
Senieur, Jude Richard

Comdr. Winifred L. Copeland, Nurse Corps, U.S. Naval Reserve, for temporary promotion to the grade of captain in the Nurse Corps, U.S. Naval Reserve, subject to qualification therefor as provided by law.

Comdr. Helen R. Levin, Supply Corps, U.S. Navy, for permanent promotion to the grade of captain in the Supply Corps, U.S. Navy, subject to qualification therefor as provided by law.

IN THE NAVY

The following-named officers of the Navy for permanent promotion to the grade of Captain:

Captain

LINE

Abelein, Herman Carl
Ackerman, Eugene Berthold
Ackley, Alfred Russell
Adler, Robert Earl
Agnew, Richard Scott
Anderson, Stanley Joseph
Angleman, Cornell Carpenter
Anglim, Daniel Francis, Jr.
Ashurst, Albert Joseph
Aslund, Roland Erhard
Axell, Charles Leroy
Ayres, William Harvey, Jr.
Backstrom, Robert Irving
Baggett, Lee, Jr.
Bailey, Henry Gordon
Bakke, Harlan James
Barkalow, Gerald Hyde
Barker, Franklin Hess
Barker, Harold Drake
Barker, Raymond Haydn
Barnette, Curtis Levon
Barrineau, Edwin
Barron, Joseph Michael
Barunas, George Aloysius, Jr.
Baty, Edward McCoy
Bauer, Edward Clark
Beasley, James Wiley
Beesley, Howard Leslie
Beitzer, Francis Joseph
Belter, Robert Herman
Benton, Hugh Arthur
Bergstrom, James Howard
Berthier, Neil Eugene
Block, Peter Fitzgibbon
Borgstrom, Charles Olaf, Jr.
Bortner, James Augustine
Boston, Leo
Bowen, Jack Winnree
Bowersox, Earl Charles, Jr.
Boyd, David Stuart
Branch, Alvin Deon
Bres, John Henry
Brettschneider, Carl A.
Brick, John Henderer
Bryan, Gordon Redman, Jr.
Buck, Roger Leonard
Burden, James Dineen
Burkhalter, Edward Allen, Jr.
Burt, Alexander Roy, Jr.
Burton, Herbert Oran
Bush, Charles Leroy
Buteau, Bernard Lamothe
Butts, John Lewis
Caldwell, Ronald Harry
Cameron, Allan Kenzie, Jr.
Canaan, Gerald Clyde
Cariker, Jess Lee, Jr.
Carius, Robert Wilhelm
Carlson, Burford Arlen
Carlton, George Arthur
Carr, William Kelly
Carter, Edward Walter, III
Cassilly, Frank Rodes
Cawley, Thomas Joseph
Cernan, Eugene Andrew
Choyce, Charles Van
Christenson, Donald Allen
Church, Clifford Ellison, Jr.
Church, George Andrew
Clark, Fred Preston, Jr.
Clark, Wyndham Stokes, Jr.
Clayton, John Edwin
Cochran, James Alexander
Cole, Charles Wesley
Colenda, Herbert Fentriss
Colvin, Robert Doyle
Compton, Bryan Whitfield, Jr.
Conlon, Frank Stevenson
Cooney, David Martin
Cooper, Carleton Robert
Cooper, David Lawson
Cossaboom, William Miner, II
Cramblet, Frank
Crawley, Don Edward
Cross, Daniel Frank
Crow, Edwin Monroe
Culbertson, Richard Knox
Cumbie, Lorendo Andrew
Davey, Richard Byrd
Day, Lawrence Calvin
Demers, William Henry, II
Dewitt, Duane Darrell
Dickens, Richard Amos
Diehl, William Francis
Dittmar, Louis Clinton
Doak, Samuel Lawall
Dood, Robert Lee
Draddy, John Mangin
Dreesen, Robert Fitch
Driscoll, Jerome Maher
Duke, Marvin Leonard
Dunn, Robert Francis
Dunnan, Neville Deon
Dunning, Frederick Samuel, J.
Dwyer, Laurence Albert
Easterling, Crawford Alan
Eckert, Richard Holvey
Eckstein, John Richard
Edwards, Frederick A., Jr.
Elfelt, James Sidle
Elliott, James Donald
Ellison, David Joe
Engle, Raymond Edwin
Fahland, Frank Richard
Falkenstein, Rudolph F.
Fanning, Frank Leon
Farrell, John Roger
Feagin, Frederick King
Feit, Harry Hartman, Jr.
Finley, Alden Gordon
Fitzpatrick, Joseph Anthony
Flynn, Richard Edward
Foley, Sylvester Robert, Jr.
Forbes, Donald Kerry
Forsyth, Robert Joseph
Foster, James Richard
Fox, Albert Daniel
Fox, Richard Thornton
Fraasa, Donald Gordon
Franklin, Billy Dean
Friesen, Edwin J.
Frudden, Mark Perrin
Fuller, Robert Byron
Gamache, Samuel Cresswell
Gardner, Richard Carner
Geitz, Kenneth Lloyd
Gercken, Otto Edward
Gibbons, Paul Coy, Jr.
Gilchrist, John Foster, II
Gillespie, Charles R., Jr.
Gooding, Niles Russell, Jr.
Gottschalk, Arthur W., Jr.
Goulds, Ralph John
Green, John Neal
Green, Richard Wayne
Griffin, Jack Ross
Grigg, William Hunter
Grosvenor, Alexander G. B.
Grunwald, Edward Albert
Gureck, William Alexander
Gurney, Sumner
Haff, William Burton
Halleland, Henry Lloyd
Hallett, Edward Reveley
Hamer, Robert Reginald, Jr.

Hardgrave, James Barton, Sr.
Harkness, Vinton Orris, Jr.
Harris, Robert Doughtry, Jr.
Hart, William Daniel
Hartell, Ronald Dale
Hayes, James Thomas
Heerwagen, David Dupuy
Heigl, John Theodore, Jr.
Herbig, Henry Frank
Herndon, William James, Jr.
Hibson, Leo Anthony, Jr.
Hicks, Lawrence Frederick
Higginbotham, Leonard Howar
Hill, Allen Edward
Hill, James Colson
Hilscher, Carl Charles
Hines, Gulmer Augustus, Jr.
Hofstra, Edward Jacob
Holman, Rockwell
Holt, Robert Edwin
Hoover, Richard Martin
Hopkins, Clifford David
Hughes, Ray Stewart
Hugo, William Peter
Huth, Ralph Lee
Inman, Bobby Ray
Ismay, Arthur Peter
Jacobsen, Adolf M. B.
Jansen, Alan Lester
Jarrell, Donald Lee
Jennings, John Staff
Jensen, Donald Lavar
Jensen, Wayne Leroy
Jermann, Donald Robert
Jett, William Starke, III
Johnson, Ian Jarvis
Johnson, Joseph Jefferson
Johnson, Richard Charles
Johnson, Robert Whitman
Johnson, Willard Edward
Jones, Ray Paul
Jordan, Watt William, Jr.
Kamm, Thomas Allen
Kamrad, Joseph George
Kaune, James Edward
Keach, Donald Leigh
Kelly, Ronald Thomas
Kelsey, Robert Lee
Kempf, Cecil Joseph
Kennedy, James Roger, Jr.
Ketchmark, Giles Jerome
Kidd, Owen Austin
Kinsley, Donald Taylor
Kittrell, Jack Charleston
Kjeldgaard, Peter Dean
Klett, George Jacob
Kollmorgen, Leland Stanford
Kolstad, Tom Irby
Krantzman, Harry Morris
Lacy, James Ernest
Larry, Walter Charles
Lasell, Max Henry
Lasley, William Ward
Lautermilch, Paul Anthony J.
Lawrence, William Porter
Lechleiter, Mark Bernard Jr.
Lee, Byron Albert
Leis, Alfred Charles
Lemon, Robert Taylor
Lester, Louis Rhea, Jr.
Leue, David Ernest
Lewis, James Richard
Lockwood, Harold Raymond
Long, Charles Remington
Longhi, William John
Loux, Raymond Eugene
Lovelace, Robert Henry
Loyd, Rupert Harb
Luskin, Arthur George
Lytle, James Hunter
Mahon, Richard Burton
Maice, Lee, Jr.
Malan, Max Edward
Malloy, John Edward
Manning, Richard Thomas
Mantz, Roy Trafford
Martin, Richard William
Martin, William Kinne
Massa, Emiddio
Matson, Willis Arthur, II
Maxwell, Daryl Orville
Mazzolini, John Andrew
McAulty, David John
McArthur, John Chester
McCarthy, Richard Leland
McCall, Charles Richard
McClain, Kirby Larue, III
McDonough, William D., Jr.
McGarrah, William Erwin, Jr.
McGlaughlin, Thomas Howard
McGlohn, Robin Hollie, Jr.
McKellar, Edwin Daniel, Jr.
McKnight, Jesse Eddie, Jr.
McNally, John Joseph, Jr.
McNerney, James Francis
McQueston, Jack Edward
McQuillan, John Parker
Mealy, Daniel Nelson
Meeks, Robert Benjamin, Jr.
Merchant, Paul Glenn
Metcalf, Joseph, III
Miguel, Theodore, Jr.
Miller, Richard Archibald
Miller, William Anthony
Minnigerode, John H. B.
Mitchell, Joe Cephus
Molzan, Edward Werner
Montague, Lloyd Lee
Moore, William Franklin
Morin, Gene Douglas
Morris, Robert Eastin
Morrissey, John Noel
Mow, Douglas Farris
Muck, Floyd Robert
Mull, Charles Leroy, II
Murphy, Frank M., Jr.
Murray, Douglas Vrooman
Muto, Charles John
Neander, Stanley Brown
Neiger, Ralph Eugene
Newark, Theodore Elmer
Nolan, Joseph Dunstan
Nordan, Emile Earl
Norton, Curtis Ralph, Jr.
Nunneley, James Kenneth
Nunneley, John Kerwin
Nyce, William Edward
O'Connor, Francis Edward
O'Donnell, George Joseph, Jr.
O'Donnell, John Joseph
O'Drain, John Edward
O'Hara, Jack Franklin
Ohlrich, Walter Ernest, Jr.
Orem, John Bohannon, Jr.
Ostrand, Allen Eugean
O'Toole, Kevin James
Ozburn, Forrest Cline, Jr.
Palmquist, John Richard
Parce, James Robert
Parrish, William Isaac
Paulk, Joseph McDonald
Peterson, Richard Eugene
Pettigrew, Raymond Arthur
Pezzei, Engelbert George
Pfeiffer, King Woodward
Phillips, Alan Randolph
Phillips, Charles Thomas
Piraino, Daniel
Platte, William Allan
Powell, James Richard, Jr.
Profilet, Leo Twyman
Puccini, Joseph Elmer, Jr.
Putnum, Charles Lancaster
Quigley, Donovan Bernard
Quinn, Jack Quentin
Radcliffe, Roderick Thomas
Radja, James Eugene
Rau, William Franklin
Redman, James Richard
Redmon, John Gerald
Reed, Robert Kendall
Rentz, Frank Leslie, Jr.
Replogle, Thomas Harvey
Resek, Lawrence Harmon
Reynolds, Kenneth Clay
Robinson, Robert Bruce
Robisch, Herbert Eugene
Rockwell, Richard Frederick
Rockwood, Jerred Rushton
Rogers, Thomas Stevenson, Jr.
Ross, Thomas Hugh
Roth, Franklin Herold
Rough, Jimmie Lynn
Rowley, Reginald Charles
Ruble, Byron Craffe
Russ, Jack Elder
Rutherford, Ralph Baillie
Rutledge, Howard Elmer
Ryan, John James, Jr.
Ryan, Philip Joseph
Sagerholm, James Alvin
Salin, Robert Sven
Sample, Richard John
Sandsberry, Jack Coleman
Sarosdy, Louis Robert
Sattler, Donald Charles
Schenker, Marvin Leonard
Schlank, John James, Jr.
Schneider, Arthur Frederick
Schriber, John Charles
Schuller, Gordon Joseph
Schulte, Richard Joseph
Schultz, Milton John, Jr.
Schuster, Robert James
Schwab, Robert William
Schwartz, Sheldon Omar
Schwarz, Ira Norton
Scribner, Henry Irving, Jr.
Seay, Wesley Herman, Jr.
Self, William Henry Cowles
Shafer, Walter Richard
Shaffer, Guy Henry B.
Shartel, Howard Austin
Shaughnessy, William David
Shaver, Frank Trenton
Sheridan, William Raymond
Sherman, Peter Woodbury
Sherman, Thomas Hanson, Jr.
Shrine, Bertram Jr.
Simmons, Robert Raymond
Skinner, Clifford Admiral J.
Small, Robert Holderman
Smedberg, William Renwick I.
Smith, Maurice Edward
Smith, Thomas Mitchell
Snyder, Carl Sampson, Jr.
Snyder, Roy Dietrich, Jr.
Soracco, David Louis
Space, David Jewell
Spayde, Keith Crawford, Jr.
Speer, Paul Harold
Spiller, John Herman, Jr.
Springer, Roy Marinor, Jr.
Stanley, Richard Mervin
Stapp, Aron Lawrence
Stewart, Thomas Phillip
Stone, Bruce Goodwin
Storeide, Arthur Julius
Strand, John Alexander, Jr.
Stratmann, Charles Immanuel
Stull, Donald
Sullivan, Don Michel
Sundt, Wilbur Allan
Surovik, George Alfred
Swadener, John Richard
Swanberg, John Marvick
Swenson, Erick Noak
Terrell, Fred Worrell, Jr.
Thamm, Tom Brobeck
Thomas, Gerald Eustis
Thomas, John Keith
Thomas, Robert Lee
Thomas, Walter Russell
Tomb, Paul David
Toy, Frank Evans
Tregurtha, James David, Jr.
Tuomela, Clyde Henry
Turnbull, James Robert
Twite, Martin Jerome, Jr.
Tyson, James Jordan, Jr.
Underwood, Leland Jack
Utterback, Paul Wilson
Vahsen, George Martin
Vankleeck, Justin Laing
Vanreeth, Eugene William
Wagner, Robert Henry
Wales, John Renison
Wallace, Kenneth Richard
Ward, Thomas Martin, Jr.
Warwick, William Bertram
Watson, Peter James
Whaley, William Semmes

Wheeler, Donad Lytel
White, Steven Angelo
Whitman, Donald Louis
Wigent, Richard Andrew
Wikeen, Donald Bruce
Wilbur, Harley Dexter
Wilkins, James Rudyard, Jr.
Wilkinson, Edward Lewis
Williams, Allen Dean
Williams William Albert, II
Williford, James Richard, II
Willson, Donald Merritt
Wilson, Alexander Blake
Wilson, Joseph William
Wilson, William Wellington
Winberg, William, III
Winnefeld, James Alexander
Wisenbaker, Eugene Morgan
Woolcock, Thomas Edward
Wooldridge, Edmund Tyler, Jr.
Worchesek, Robert Roman
Young, John Watts
Zeisel, Richard Stephen
Zendler, Edwin Earl
Zink, Stewart Taylor
Zoehrer, Herbert Alfred

SUPPLY CORPS

Armstrong, George Kornegay
Ball, Thomas Fauntleroy, Jr.
Barber, Ray Cleveland
Bray, Joseph Alfred, Jr.
Brown, Robert Michael
Burbank, Donald Dean
Cloutier, Norman Lewis
Davis, James Bly
Dickson, Holton Carroll, Jr.
Donley, Harold Clement, Jr.
Ely, William Benjamin, Jr.
Evans, William Henry, Jr.
Foster, Paul Lowe
Gordon, Donald Bedell
Gove, Jack Edwin
Greenberg, Edwin Gilbert
Henderson, John Merrill
Hutchinson, Arthur Edward
James, Billy Mink
Killebrew, Thomas Edgar
Lynn, James William
McClintock, Harry Clayton
Mitchell, William Frederick
Porter, Orland Ainsworth, Jr.
Ringhausen, Robert Leo
Rixey, Charles Woodford
Ryan, William Jardine
Smith, Herbert Richard
Stratton, Dene Brian
Stubbs, Raymond Cooper
Wasson, John Arthur
Weisskopf, William Malvin
Wirsing, John Arnold
White, George Handford

CHAPLAIN CORPS

Conte, James William
Dimino, Joseph Thomas
Frimenko, Michael
Fuller, William Calvin
Geary, Joseph Francis
Grace, Patrick Joseph
Hardage, Owen Allen, Jr.
Heath, Robert Hubbell
Howard, William Raymond
Huffman, William Wyland
Ingebretson, Ervin Duane
Jones, Asa Wallace
Keen, Homer Eugene, Jr.
Lemaster, Donald Calvin
Moore, Withers McAlister
Roberts, Maurice Edward
Ryan, Joseph Emmet
Samuel, William Roy
Simmons, David Eugene
Sire, Elwin Norton
Veltman, Dean Kay
Wootten, Thomas Joseph

CIVIL ENGINEER CORPS

Courtright, Carl
DeGroot, Ward Walton, III
Forehand, Paul Warren
Olson, Paul David
Phelps, Pharo Alfred
Trueblood, Donald Richard
Wagner, Walter Richard
Whipple, Caryll Robbins
Wingast, Stanley
Zobel, William Marshall

JUDGE ADVOCATE GENERAL'S CORPS

Cedarburg, Owen Lee
Conkey, Carlton Glen
Davis, William Johnson
Driscoll, William Thomas, Jr.
Dunbar, John Peter
Hantzes, Savas
Hawk, James Thomas
Jimmerson, Thomas J., Jr.
Palau, Henry Stuart
Phillips, Lawrence Edwin
Root, John Bernard, Jr.
Sabalos, Nicholas
Selby, Donald Eugene

DENTAL CORPS

Abbott, Paul Lamar
Ainley, James Edward, Jr.
Anderson, John T.
Bowers, Gerald Miles
Elliott, James Roy
Enoch, James Duncan
Falcone, Philip Russell
Fields, Robert Earl
Flagg, Roger Holmes
Gorman, Walter James
Grandich, Russell Anthony
Granger, Ronald Grant
Hardin, Jefferson Frederic
Hiatt, William Robert
Hodson, Harold Wade
Hoffius, Edwin Laurine
Holmes, John Bernard
Hyde, Jack Elgin
Johnson, Dean Leroy
Kelley, John Philip
Lawrence, Joseph James, Jr.
Luther, Norman Kennedy
McKinnon, John Alexander, Jr.
Orrahood, Robert Howard
Pebley, Harry Calvin
Pinkley, Virgil Alvin
Pistocco, Louis Robert
Prange, William Herbert
Reid, Albert Francis
Ruliffson, Franklin Russell
Schultz, Chester John, Jr.
Shirley, Robert Edwards
Slagle, Lowell Elwood
Slater, Robert William
Smith, Albert Ritchie
Stanley, James Howard
Sydow, Paul John
Taylor, B. Frank
Tenca, Joseph Ignatius
Terry, Bill Carlton
Thomason, Robert Richard
Whatley, Thomas Luther
Wilson, James McClelland
Wooden, Robert Aubrey
Woodland, Everan C., Jr.

MEDICAL SERVICE CORPS

Akers, Thomas Gilbert
Barkley, Lucien Edward
Boggs, Clifford Walter
Jones, William Henry
Kaufman, Louis Richard
Laedtke, Ralph Harold
McKearly, Georgia Mae
McMichael, Allen Edgar
Miller, Edwin Bartley
Pruitt, John Dallas
Rudolph, Henry Steven
Still, Donald Eugene
Testa, Michele Joseph
Tober, Theodore Wendel

NURSE CORPS

Butler, Ann Teresa
Byrnes, Anna Marie
Conder, Maxine
Davis, Alice Louise
Gardill, Norma Helen
Parent, Shirley Marie
Weeter, Bessie Racheal

EXTENSIONS OF REMARKS

ENERGY CONSERVATION IN PUBLIC BUILDINGS

HON. DICK CLARK

OF IOWA

IN THE SENATE OF THE UNITED STATES

Friday, November 2, 1973

Mr. CLARK. Mr. President, in the midst of the continuing Watergate scandal, the conflict in the Middle East, and the resignation of the Vice President, our attention has once again been turned away from the country's critical energy crisis.

That crisis is still very much with us and we cannot afford to delay our search for a balanced and an effective approach to a national energy policy. We have already faced shortages of petroleum products earlier this year, and even more severe shortages are predicted in the winter months ahead. Cutbacks in imports from Arab nations will aggravate these shortages.

Energy conservation could substantially help mitigate fuel shortages. We must assess current patterns of energy consumption, and then take the steps necessary to eliminate wasteful practices.

One area in which a great deal of energy could be saved is in the operation and maintenance of the buildings in which we live and work. It is encouraging to see that, in this field at least, the Federal Government is taking a leading role.

In a recent speech, Larry F. Roush, Commissioner of the Public Buildings Services, makes an excellent presentation of the steps being taken by the General Services Administration to conserve energy in Federal buildings throughout the Nation. GSA is obviously making a concerted effort to deal with the energy crisis—an example that should be followed not only by other agencies, but by private industry as well. I commend Mr. Roush's speech to my colleagues for their earnest consideration.

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

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

ENERGY CONSERVATION IN BUILDINGS

(By Larry F. Roush)

For the people present in this meeting today, the word "conservation" needs no definition in ordinary conversation. It is my contention, however, that as we develop an energy conservation policy for public office buildings, the general understanding of "conservation" is not enough. We have recognized that this word means more than just "sav-