NAGA, Mr. MITCHELL of Maryland, Mr. PODELL, Mr. RANGEL, Mr. REES, Mr. ROSENTHAL, Mr. SEIBERLING, and Mr. WRIGHT):

H.R. 11781. A bill to amend the Internal Revenue Code of 1954 to provide for an energy conservation tax and an increase in the tax on gasoline, to establish the Energy Department and Supply Trust Fund, and for other purposes; to the Committee on Ways and Means.

By Mr. MOAKLEY:

H.J. Res. 843. Joint resolution relating to sudden infant death syndrome; to the Committee on Interstate and Foreign Commerce.

By Mr. ECKHARDT:

H. Con. Res. 391. Concurrent resolution relative to U.S. military involvement in Southeast Asia; to the Committee on Foreign Affairs.

By Mr. FASCELL (for himself and Mr. BINGHAM):

H. Con. Res. 392. Concurrent resolution expressing the sense of the Congress that the President, acting through the United Nations or other appropriate international organization, should call for international conferences to consider the present world energy crisis; to the Committee on Foreign Affairs.

By Mr. BAKER (for himself, Mr. WON PAT, Mr. ERLENBORN, Mr. NICHOLS, Mr. KETCHUM, Mr. WHITEHURST, Mr. ROBISON of New York, Mr. DON H. CLAUSEN, and Mr. RINALDO):

H. Res 732. Resolution commending the President of the United States for his actions in the Middle East; to the Committee on Foreign Affairs.

By Mr. CULVER:

H. Res. 733. Resolution to provide for the printing of additional copies of the hearings before the subcommittee on Foreign Economic Policy entitled "Foreign Policy Implications of the Energy Crisis"; to the Committee on House Administration.

By Mr. RANGEL (for himself, Ms. ABZUG, Mr. CLAY, Mr. MITCHELL of Maryland, Mr. MOAKLEY, and Mr. STARK):

H. Res. 734. Resolution to request the resignation of the President of the United States; to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of rule XXII,

327. The SPEAKER presented a memorial of the Legislature of the Territory of Guam, relative to the age limit for membership in the Guam Legislature; to the Committee on Interior and Insular Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. RANGEL introduced a bill (H.R. 11782) to authorize the burial of the remains of Matthew A. Henson in the Arlington National Cemetery, Va., which was referred to the Committee on Veterans' Affairs.

SENATE—*Tuesday, December 4, 1973*

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

PRAYER

Dr. Frank E. Gaebelein, head master emeritus, the Stony Brook School, Stony Brook, N.Y., offered the following prayer:

Our God and Father, Thou who art the giver of every good and perfect gift, help us to realize anew our dependence in all things upon Thee. Thy judgments are unsearchable and Thy ways past finding out. Give us that reverence for Thee, O Lord, that is the beginning of wisdom.

Amid the problems and uncertainties that face our Nation and the world, grant to each Member of this body the insight and the special measure of Thy grace needed for the duties of this day. Thou hast promised in the Scriptures to give wisdom to those who ask Thee for it and who ask without wavering. Help us, therefore, so to look to Thee in steadfast trust that we may understand Thy purpose for us. And in the manifold responsibilities of the day, do Thou be pleased, O God, to grant all who serve Thee here a sense of Thy joy which is our strength.

Through Jesus Christ our Lord. Amen.

ENROLLED BILL SIGNED—MESSAGE FROM THE HOUSE RECEIVED DURING ADJOURNMENT

Under authority of the order of the Senate of December 3, 1973, the Secretary of the Senate, on December 3, 1973, received the following message from the House of Representatives:

That the Speaker had affixed his signature to the enrolled bill (H.R. 11104) to provide for a temporary increase of $10,700,000,000 in the public debt limit and to extend the period to which this temporary limit applies to June 30, 1974.

Under authority of the order of the Senate of December 3, 1973, the Acting President pro tempore (Mr. METCALF) signed the enrolled bill.

REPORT OF COMMITTEE SUBMITTED DURING ADJOURNMENT

Under authority of the order of the Senate of December 3, 1973, Mr. HARTKE, from the Committee on Commerce, reported an original bill (S. 2767) to authorize and direct the maintenance of adequate and efficient rail services in the Midwest and Northeast region of the United States, and for other purposes.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had passed, without amendment, the following bills and joint resolution of the Senate:

S. 1618. An act to name the headquarters building in the Geological Survey National Center under construction in Reston, Va., as the "John Wesley Powell Federal Building";

S. 2503. An act to name a Federal office building in Dallas, Tex., the "Earle Cabell Federal Building";

S. 2611. An act to confer jurisdiction upon the district court of the United States of certain civil actions brought by the Senate Select Committee on Presidential Campaign Activities, and for other purposes; and

S.J. Res. 155. A joint resolution authorizing the securing of storage space for the U.S. Senate, the U.S. House of Representatives, and the Office of the Architect of the Capitol.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6768) to provide for participation by the United States in the United Nations environment program.

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILLS

Messages in writing from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries, and he announced that November 29, 1973, the President had approved and signed the following acts:

S. 2408. An act to authorize certain construction at military installations, and for other purposes; and

S. 2681. An act to authorize appropriations for the U.S. Information Agency.

EXECUTIVE MESSAGES REFERRED

As in executive session,

The PRESIDING OFFICER (Mr. HATHAWAY) 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 Senate proceedings.)

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, December 3, 1973, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

LEAVE OF ABSENCE

Mr. CURTIS. Mr. President, I ask unanimous consent that I may be excused from attending the session of the Senate from 3:30 p.m. today until my return to the city on Thursday, in order that I may attend a meeting of the National Association of Sugar Beet Growers, which I find it necessary to attend on official business.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

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

ADDITION OF THE NAMES OF ALASKA AND HAWAII TO BE INSCRIBED ON THE WALLS OF THE LINCOLN NATIONAL MEMORIAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 570, S. 903.

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

The assistant legislative clerk read as follows:

S. 903, a bill to provide for the addition of the names of the States of Alaska and Hawaii to the list of the 48 States inscribed upon the walls of the Lincoln National Memorial.

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

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Interior and Insular Affairs with amendments on page 2, line 1, after the word "and", strike out "Hawaii." and insert "Hawaii: *Provided*, That such authorization is contingent on approval of the design and plans for such inscriptions by the Commission of Fine Arts, the National Capital Planning Commission, and the Advisory Council on Historic Preservation."; and, after line 5, insert a new section, as follows:

SEC. 2. There are authorized to be appropriated not to exceed $12,000 to carry out the purposes of this Act.

So as to make the bill read:

S. 903

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purpose of adding the names of the States of Alaska and Hawaii to the existing list of names of the forty-eight States inscribed on the walls of the Lincoln National Memorial, the Secretary of the Interior is authorized and directed to take such action as may be necessary to inscribe on the walls of such memorial, at an appropriate place and in a manner and style consistent with the existing inscriptions of the names of the forty-eight States, the names of the States of Alaska and Hawaii: *Provided*, That such authorization is contingent on approval of the design and plans for such inscriptions by the Commission of Fine Arts, the National Capital Planning Commission, and the Advisory Council on Historic Preservation.

SEC. 2. There are authorized to be appropriated not to exceed $12,000 to carry out the purposes of this Act.

The amendments were agreed to.

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

ORDER OF BUSINESS

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

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum with the time to be taken out of the time allotted to me.

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

The second assistant legislative clerk proceeded to call the roll.

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

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

PRIVATE PENSION AND WELFARE REFORM

Mr. JAVITS. Mr. President, I had in mind this morning to discuss with the Senate and bring to the attention of the country a situation which has developed respecting the major measure which passed this body by a vote of 93 to 0, an extraordinary legislative development respecting the reform of pension and welfare funds.

Today I was slated to make a speech before the International Foundation of Employee Benefit Plans at the Mayflower Hotel during the noon hour.

As I went through the speech, it occurred to me that the message which it contained was so important, because I believe that so many millions of Americans are looking to pension and welfare plan reform as one of the great developments in Federal legislation, that it should be put before the Senate, and from the Senate floor, before the country.

Mr. President, notwithstanding the fact that this is what has been colloquially called one of the hottest bills in Congress, and a bill which passed this body unanimously, though it is an extremely complex measure, the leadership in the other body has announced that pension reform legislation will be put off until January of next year.

Of course, this decision was a great disappointment to all of us in the Nation and the Senate who have worked so hard and thus far successfully together to attempt to bring to fruition a meaningful pension reform law. This action—judging by my mail—was even more of a disappointment to many American workers who were looking forward to enactment into law this year of the Senate-passed pension reform bill, H.R. 4200.

But I would like to make it clear to all those who have written me and have otherwise expressed their concern over the disposition of this vital legislation, that I still predict completed enactment into law by the early months of 1974—if and it is a big if—the workers affected now make themselves heard as they did to the U.S. Senate for 2 years prior to passage of the bill there.

While I do not minimize the problems, it is a fact that we had similar problems in the Senate, but were able to work them out successfully. But it is important that we should mark the true significance of what has been transpiring before it gets imbedded in a congressional product. What I am referring to is the rather systematic effort on the part of opponents of this legislation to weaken it and dilute its effectiveness. That is a much more serious development—even than the delay—and though not entirely unexpected, one which will have the most important and I feel adverse bearing on the future of private pension plans.

Before examining some of the major problem areas in the legislation that seem to be emerging, a few general observations about the recent lobbying tactics seem to be in order.

After the Senate bill was passed on September 19, an effort was seemingly mounted to convince the Congress that the Senate bill was unduly complex and replete with technical errors. It appears, however, that very little has been done so far to make the legislation less "complex" or to cure technical deficiencies in the Senate bill. Instead, indications of action so far have proceeded to create the very complex and formidable proposal charged against the Senate bill by its opponents and to create new technical problems in place of the alleged old ones. Thus, it is apparent that opposition to the Senate-passed bill based on grounds of complexity and technical inadequacies was merely an indirect way taken by the opponents of the legislation who felt that the bill was too effective for them.

The principal parts of the Senate bill which have drawn the fire of its opponents seem to be those involving the treatment of multiemployer plans under the bill, the plan termination insurance program, the fiduciary standards, the portability program, and the provisions limiting tax deductions. I would like to comment briefly on these matters.

A. TREATMENT OF MULTIEMPLOYER PLANS

Opposition to the Senate bill on behalf of multiemployer plans has been led apparently by the Building and Construction Trades Department of the AFL–CIO. This opposition has been spearheaded by Martin Segal & Co., the actuaries and pension benefit consultants for the building and construction trade unions. Although originally this opposition focused on attempting to remove multiemployer plans from the application of the vesting, funding, and termination insurance provisions, it has now moderated to the point where the unions appear to concede the need for some coverage under the vesting and funding provisions, but still oppose plan termination insurance coverage except on a voluntary basis.

It is, of course, widely known that Martin Segal & Co. are longstanding opponents of pension reform legislation. As early as 1967 in testimony before the Joint Economic Committee a senior vice president of that company outlined all the basic objections to comprehensive pension reform legislation that have since become so familiar. And, as late as June 11, 1973, in the New York Law Journal, the president of that company argued for a limited benefit system of compulsory private pension plans for every employer in the country, which would be an additional layer on social security. Beyond the requirements of this compulsory limited benefit system he argued there should be no regulation of private pension plans at all.

As to vesting, it still seems clear that the Building Trades Department would prefer no minimum vesting requirements at all to apply to multiemployer plans even though according to the Bureau of

Labor Statistics 53 percent of all multiemployer plans lack vesting provisions. By way of contrast, 24 percent of all the plans in the country lack any vesting provisions. Thus, it is clear that in terms of vesting, the need in multiemployer plans is perhaps the greatest.

If the multiemployer plans are not successful in eliminating the application of the vesting standards to such plans, it appears that their effort is then directed toward providing for much later vesting in multiemployer plans, for longer transitional periods before a multiemployer plan needs to come into compliance with vesting standards and for more open-ended rules concerning vesting of part-time workers and calculating break-in service requirements.

Granted that there may be some difficulty in applying the vesting and eligibility rules to some multiemployer plans, it still remains to be demonstrated persuasively that workers in multiemployer plans in general should be treated differently than workers in single-employer plans. Since it is difficult—if not impossible—to demonstrate that proposition, the other tactic is to come out with the weakest vesting standards for all plans in order to accommodate the specialized treatment sought by the multiemployer plans.

In the House Labor Committee bill, H.R. 2, the pension plans are given three vesting options: First, they can vest on the basis of 100 percent at the end of 10 years; second, they can vest 30 percent at 8 years going up by 10-percent increments until 100-percent vesting is reached at the end of 15 years; or, third, they can vest under the so-called rule of 45, that is, when a worker's age and service add up to 45 he is 50 percent vested and 100 percent vested within 5 years thereafter.

The basic difficulty with this approach is that it would permit the plans to choose the most inequitable vesting standard from the point of view of the worker, that is, the "rule of 45," which is really a warmed-over version of the administration's "rule of 50," and is hardest on older workers coming into the plans.

Nor does H.R. 2 tell us how employees are to vest and in what amounts when a plan switches from one vesting option to another and this, standing by itself, could result in major complications and unfairness to employees. In any event, it seems clear that a vesting rule ought to be "age-neutral" and it ought to be as uniform as possible if workers are to know where they stand. I do not understand and I do not think workers will understand why it is they get one kind of vesting under law if they are in one kind of plan and another kind of vesting in another kind of plan.

The same thing holds true with respect to plan termination insurance. Admittedly the loss of pension benefits due to plan terminations is relatively small and the loss of such benefits in multiemployer plan terminations is even smaller. Still, when it does happen, the consequences to the workers affected are tragic and this gives a "black eye" to private pension plans in general and hurts worker morale, which is a critical factor nowadays.

The building and construction trades argue that there never has been a multiemployer plan termination in that industry and, therefore, they do not need the insurance. What my staff has unearthed challenges that assertion. For example, I am informed by the Labor Department that Plasterers' Local 314, Long Island City, N.Y., had a plan which terminated in 1972. On termination the plan had $257,000 in benefit liabilities and was only able to cover $17,000 of that amount. Thus, the participants in that plan may have lost over 90 percent of their benefits.

Even more important, however, is the fact that data for benefit losses resulting from "partial terminations" in multiemployer plans is almost completely lacking. The recent final report prepared by the Departments of the Treasury and Labor, entitled "Study of Pension Plan Terminations, 1972," at page 69, that because partially terminated multiemployer plans were not included in the study, "the survey may understate the number of participants involved and extent of benefit losses in all multiemployer pension plan terminations."

The Senate Labor Subcommittee had a classic example of a multiemployer plan "partial termination" which was not reported in the Labor-Treasury Department survey—see page 52 of that report for the reasons. That case involved the "partial termination" of the New Jersey Brewery Employees' Pension Plan caused by the closure of P. Ballantine & Sons. The plant closure by P. Ballantine & Sons and the firm's consequent withdrawal from the plan in March, 1972, caused a reduction in the plan's benefit formula. It is estimated that employees lost benefits with a present value of about $8 million; 450 nonretired workers lost benefits with a present value of about $4.5 million, and about 300 employees eligible for immediate retirement lost benefits with a present value of about $3.5 million.

What happened in the multiemployer New Jersey Brewery Employees' Pension Plan is much more typical of what could happen in multiemployer plans generally. Every industry is likely to experience its ups and downs, resulting in significant employer withdrawals from multiemployer plans and hardship to employees and/or financial problems for the remaining employers contributing to the plan who have to shoulder the burden created by the withdrawing employers. Section 463(d) of H.R. 4200—the Senate bill—specifically recognizes this problem and provides for special insurance protection to multiemployer plans in these circumstances.

The invaluable protection that would be afforded under this provision has been clearly recognized. In testimony before the Senate Labor Committee, on S. 3598—a predecessor of H.R. 4200—Andrew Biemiller, director, Department of Legislation, AFL–CIO, testified:

> Although not included in title IV, section 217(e) (1), (2), and (3) would also appear to have special significance in relation to the bill's proposed reinsurance program. This provision is new and not included in any other bill.
>
> The purpose of the section would be to make a multi-employer plan whole were one or more employers to withdraw from the plan with the result of causing a significant reduction in the rate of aggregate contributions to the plan. We strongly support this provision." (see Hearings before Subcommittee on Labor on S. 3598, Part 3, June 28 & 29, 1972, 92nd Congress, 2nd Session, at p. 1112).

The building trades argue that multiemployer plans ought to be able to join the insurance program on a voluntary basis. Even this suggestion implies a recognition that there might be some need for multiemployer insurance protection. I doubt, however, that adequate reserves to cover partial terminations of multiemployer plans could be supported on a voluntary basis. There needs to be a much wider dispersal of the risk, and that can only be accomplished on a compulsory basis.

Again, it is difficult to understand why multiemployer plan unions would not want their members also to be covered by valuable insurance protection—protection that may be needed now more than ever in light of the energy crisis and its potential economic consequences. The cost of this insurance protection is fantastically low and may be made even lower for multiemployer plans.

B. PLAN TERMINATION INSURANCE

In addition to the opposition of multiemployer plans and others to plan termination insurance, there has developed as a proposal, a plan termination insurance program that would be administered and enforced through a privately run insurance corporation. Committee Print No. 1, the Ways and Means Committee tentative draft for November 21, 1973, would establish such a private insurance corporation with provisions for a takeover by the public corporation established under the Senate's H.R. 4200 and administered within the Labor Department, if the private insurance approach did not work out. This proposal was offered too late in the day for either the Senate Labor Committee or the Senate Finance Committee to consider it.

I do not find objectionable the idea that the private insurance sector could play a role in the plan termination insurance program. Indeed, the Senate bill provides such an opportunity in connection with insurance of the employer's contingent liability on plan termination. But I believe that the proposal has got the situation backwards. Why is not the more appropriate approach at this time to set in motion the public insurance program in H.R. 4200—Senate—and have the corporation established by that bill study the feasibility of operating in whole or in part through the private insurance route? It seems to me that that would relieve a great deal of the uncertainty that would be generated by setting in motion first a private insurance to see whether that is feasible, and then 2 or 3 years later arguing among ourselves whether it is or is not. We know the approach in H.R. 3200 is feasible because it is essentially the same approach that has been used for insurance of bank deposits, mortgage loans, and similar matters and we ought to start with assurance not uncertainty.

It needs to be appreciated fully that the plan termination insurance agency performs a regulatory as well as an insurance function. Decisions have to be made as to when a plan is terminated, as to the extent of employer liability, if any, as to conformity with fiduciary and actuarial requirements, as to adherence with the funding standards, and many other things. The private insurance proposal would appear to turn over all these functions to a board which is dominated by representatives of the pension industry itself. Thus, in the area of plan terminations the industry would be called upon to self-police itself when it has had no previous history or tradition of such self-policing. Therefore, standing as it does now, this proposal raises many troublesome questions even though the idea of private plan termination insurance it attractive and ought to be and would be studied further, if the provision of H.R. 4200 became law. I have, therefore, concluded that, at this time, the termination insurance approach offered by the Senate bill is more effectively designed to provide the kind of guarantees that workers need and ought to have.

C. FIDUCIARY STANDARDS

Perhaps the most objectionable feature of H.R. 2, in my judgment, is its fiduciary provisions. H.R. 2 as reported by the House Labor Committee permits fiduciaries to deal with parties-in-interest in the plan provided the transaction is for "adequate consideration." This approach constitutes, I feel, no improvement over existing law whatsoever, since essentially that is the current standard employed by the Internal Revenue Service under the prohibited transactions section of the Internal Revenue Code. And, it is the weakness inherent in the approach of the Internal Revenue Code which has led to much of the conflict of interest abuse which we have seen evidenced in the Senate hearings.

For example, it will be recalled that in the Senate Labor Subcommittee hearings of 1971 there was testimony that the pension funds of Genesco Inc. had engaged in sizable real estate leaseback arrangements with the S. S. Kress Department Stores which had been acquired by Genesco. Indeed, most of the acquisition activities of Genesco, including S. S. Kress, were financed through the Genesco pension funds.

According to the Magazine Pensions and Investments of October 29, it now appears that Genesco will close 110 Kress Department Stores owned by the pension fund and that because many of these stores are in poor locations or in decaying suburbs, millions of dollars could be wiped off the value of the pension trust's assets. Now the article further indicates that Genesco will reimburse the pension fund from its corporate assets of any losses the pension fund sustains as a result of the closing of these unprofitable stores. If true, that decision represents a needed element of corporate responsibility, but can that kind of responsibility be counted on from others when it is entirely voluntary and not required by law?

Unfortunately there may be many other corporations which would not or could not subsidize losses sustained by their pension funds as a result of such flagrant self-dealing. Not only are these provisions in my judgment unwise as fiduciary law—they would also undermine completely a viable plan termination insurance program and would call into question the wisdom of preempting State law on this subject. After all, there is no point in preempting State law if the Federal provisions are so loose as to protect inadequately the interests of workers in their pension funds.

D. PORTABILITY AND TAX DEDUCTION LIMITATIONS

There also has appeared a tendency to jettison the voluntary portability provisions of H.R. 4200—Senate—and to rewrite the title VII—tax deduction limitations provisions. With respect to the former, it has been suggested that it is not needed because present provisions of the Internal Revenue Code permit voluntary tax-free transfers between tax qualified plans. The trouble is that no one really has ever utilized the provisions of the code to attain portability between tax qualified plans because of the actuarial considerations involved, particularly insofar as defined benefit plans are concerned. The clearinghouse format established by the Senate bill would permit the development of appropriate actuarial techniques at a lower unit cost because all those participating in the fund would share in this expense. The dropping of this very mild provision in the Senate bill is, I feel most undesirable, notwithstanding the clamor against the provision.

Insofar as the tax-deduction limitations are concerned, the principal controversy appears to be over the $75,000 limitation on tax qualified executive pensions. I believe that is a fair and responsible limit and that it is unreasonable to expect so substantial a figure to result, as is charged in drying up executive incentives or impeding the growth of American business.

Up to now, the dominant voices heard since H.R. 4200 passed the Senate seem to be those of pension reform opponents and special pleaders. The voices of the affected workers need to be heard in the coming months loud and clear, particularly as the impact of the energy crisis is felt. And their message must be: "Let us get on with the pension reform bill and get an effective one passed." I believe that the future of private pension plans—a vital element in the productivity and morale of the American worker—may well depend on that message getting through.

Mr. President, in conclusion, I have laid these arguments before the Senate so that they might appear in the RECORD; because this matter is so critically important to 35 million American workers covered by private pension plans that it is highly desirable that these problems be called to the attention of the country and of all Members of Congress, rather than be allowed to wait until some very serious mistake is made, with resultant embarrassment and delay in this critically important legislation.

So I hope very much that our colleagues in both Houses will read these remarks very carefully and that they may have a constructive effect.

ORDER OF BUSINESS

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time allotted to Mr. STENNIS be given to me for my control.

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

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum. I ask that the time be taken out of the time under my control.

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

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. ROBERT C. BYRD. Mr. President, I yield such time as he may require to the Senator from North Carolina, out of my time.

The ACTING PRESIDENT pro tempore. The Senator from North Carolina is recognized.

INCREASE IN SUMS ALLOTTED TO THE SENATE SELECT COMMITTEE ON PRESIDENTIAL CAMPAIGN ACTIVITIES

Mr. ERVIN. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Senate Resolution 209.

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

The assistant legislative clerk read as follows:

A resolution (S. Res. 209) to increase the sums allotted to the Senate Select Committee on Presidential Campaign Activities for the expenses of conducting the investigation and study authorized and directed by Senate Resolution 60 which was adopted on February 7, 1973.

Mr. ERVIN. Mr. President, this resolution was submitted by Senator BAKER, the vice chairman of the Senate Select Committee on Presidential Campaign Activities, and myself, by the authority of a unanimous vote of all members of the select committee. The members of the select committee recognize that the committee needs this additional money in order to complete the mission entrusted to it by the unanimous vote of the Senate in adopting Senate Resolution 60.

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

Mr. ERVIN. I yield.

Mr. ALLEN. I hasten to say that I support the resolution. I ask the distinguished Senator from North Carolina if it is part of the directive that the Senate gave to the so-called Watergate Comlaw to overcome abuses in campaign mittee to recommend changes in the practices.

Mr. ERVIN. Yes. That was the primary reason why the committee was established.

The committee proposes to do that and is now studying proposed changes in the law which the committee thinks would tend to forestall the occurrence or reoccurrence of the kind of tragedies known collectively as the Watergate affair.

Mr. ALLEN. Could the Senator, as a matter of information to the Senator from Alabama and the Senate give some estimate of the time when it might be anticipated that that report would be made?

Mr. ERVIN. I hope the committee will be in a position to make a report and recommendations to the Senate not later than the expiration date of the committee, which is February 28, 1974, under the resolution.

I might state we have been handicapped by the fact that the White House has refused to submit to the committee tapes requested of the White House by the committee, and has refused to submit to the committee documents containing evidence relevant to the committee's investigation, and also, at the present time, by the fact that certain witnesses have refused on the advice of their counsel to appear before the committee and testify.

Mr. ALLEN. In all likelihood, may I ask the Senator, those recommendations will be made available to the Senate to consider along with legislation which was discussed on the floor yesterday that might possibly come from the Committee on Rules and Administration?

Mr. ERVIN. Oh, yes. I think that the investigation discloses a drastic need for some very substantial legislation in this field. I might add that during the early stages of the investigation the distinguished Senator from Nevada (Mr. CANNON), the chairman of the Committee on Rules and Administration, introduced and piloted through the Senate a very fine election reform bill which incorporates some of these reforms which, in my opinion, are necessary.

Mr. ALLEN. That is S. 372?

Mr. ERVIN. Yes, I believe that is the number.

Mr. ALLEN. I thank the distinguished Senator from North Carolina. I wish to commend him for the fine work which he and his fellow members of the Watergate committee have done, and the great service they have rendered to the country. Certainly the Senator from Alabama looks forward with great interest to the recommendations that this committee will make as to legislation that it feels is necessary to cure some of the campaign ills.

Mr. ERVIN. I thank the Senator.

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

Mr. ERVIN. Yes.

Mr. CURTIS. At the appropriate time I would like to make a few inquiries concerning the work of the committee and concerning the resolution, but I will forego those until such time as the distinguished chairman of the committee has completed his statement.

Mr. ERVIN. I have completed my presentation.

Mr. CURTIS. Very well.

Mr. ERVIN. I will yield the floor.

Mr. ROBERT C. BYRD. Mr. President, I will yield such time of my remaining time as the Senator may require.

Mr. CURTIS. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. CURTIS. Mr. President, are we under controlled time on this?

The ACTING PRESIDENT pro tempore. We are under controlled time. The Senator from West Virginia yielded his time to the Senator from North Carolina, and the Chair said that without objection we would proceed under the time that was yielded.

Mr. CURTIS. Mr. President, a further parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. CURTIS. Has any unanimous consent been stated and agreed to that limits the time for the consideration of Senate Resolution 209?

The ACTING PRESIDENT pro tempore. No.

Mr. CURTIS. Then, we are not under controlled time?

Mr. ROBERT C. BYRD. Mr. President, may I respond to the Senator?

The ACTING PRESIDENT pro tempore. Yesterday a series of orders for the recognition of Senators, as is customary, was adopted. We are under that series of orders at this time. If we do not finish the business on this measure in the time yielded to the Senator from North Carolina, then there would then be no further time left for its consideration.

Mr. CURTIS. Very well.

The ACTING PRESIDENT pro tempore. The Senator may proceed.

Mr. CURTIS. Mr. President, I would like to ask the distinguished chairman how much money already has been made available to this select committee?

Mr. ERVIN. $1 million, which is $1.8 million less than the Special Prosecutor has been allotted, and the Special Prosecutor has the FBI to assist him in his investigation, whereas we have to employ our own investigators.

Mr. CURTIS. I did not get the amount.

Mr. ERVIN. $1 million.

Mr. CURTIS. $1 million.

Mr. ERVIN. As I say, the Special Prosecutor has been allocated $2.8 million for the purpose of conducting his investigation.

Mr. CURTIS. The Special Prosecutor has not been——

Mr. ERVIN. And he has the assistance of the FBI, and we have no free assistance whatever.

Mr. CURTIS. But the Special Prosecutor has no interest in S. Res. 209.

Mr. ERVIN. No, none whatever.

Mr. CURTIS. How much of the $1 million remains?

Mr. ERVIN. Well, a relatively small amount; about enough to meet the next payroll.

Mr. CURTIS. How much of that has been spent on salaries of investigators?

Mr. ERVIN. I cannot tell the Senator. There has been a good deal spent on investigations, but our staff is much smaller than the staff of the Special Prosecutor. Also we do not have the FBI to go out and conduct our investigations. We have to send investigators all over this country, and we have to pay the expense and the per diem of hundreds and hundreds of witnesses who are interviewed by the committee staff as well as those who testify before the committee.

Mr. CURTIS. The Senator does not know how much has been spent on salaries for investigators?

Mr. ERVIN. I do not have the figures in my mind. To me it is immaterial how the money is spent, just so it is spent to accomplish our mission.

Mr. CURTIS. What is the mission?

Mr. ERVIN. To determine the truth in respect to the matters mentioned in the resolution and to make recommendations for legislation to the Senate which in the opinion of the committee the results of the investigation indicate to be necessary or desirable.

Mr. CURTIS. Does the distinguished Senator subscribe to the doctrine or principle that legislative investigations are for the purpose of securing information to legislate?

Mr. ERVIN. Oh, yes.

Mr. CURTIS. Does the Senator contend that a legislative committee has authority to expose for the sake of exposure?

Mr. ERVIN. Well, the most knowledgeable student of the American Constitution whoever occupied the White House was Woodrow Wilson, and Woodrow Wilson said that a congressional committee has the power under the Constitution to conduct an investigation for three purposes: First, to determine whether existing laws ought to be amended, or repealed, or supplemented by new laws; second, to ascertain whether the executive branch of government is faithfully executing existing laws; and third, to inform the American people as to how persons vested with great governmental power and great political power are conducting themselves.

I might say to the distinguished Senator from Nebraska that the present occupant of the White House on a number of occasions has quoted with great approval and great emphasis what Woodrow Wilson had to say on these points.

Mr. CURTIS. My question is this: After you get sufficient information upon which to make legislative recommendations does the Senator feel his committee is vested with power to expose wrongdoing just for the sake of exposure?

Mr. ERVIN. I claim the Select Committee has not completed the task imposed upon it by the unanimous vote of every Senator, including the distinguished Senator from Nebraska.

Mr. CURTIS. Would the Senator repeat, I did not get that.

Mr. ERVIN. I claim—and I think that my view is shared by virtually every member of the select committee—that the select committee has not yet been able to complete the task imposed upon it by the unanimous vote of every Member of the Senate, including the Senator from Nebraska.

The ACTING PRESIDENT pro tempore. The time yielded to the Senator from North Carolina has expired.

Under the previous order the Senator from Washington (Mr. JACKSON) is recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the remainder——

The ACTING PRESIDENT pro tempore. Does the Senator from Washington yield to the Senator from West Virginia?

Mr. JACKSON. Mr. President, I am willing to accommodate the Senator from North Carolina, and I yield.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the remaining time allotted to the distinguished majority leader be allotted to the distinguished Senator from North Carolina at this time, without prejudice to the distinguished Senator from Washington.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is asking that item No. 6 be advanced and that the time of the Senator from Montana (Mr. MANSFIELD) be yielded to the Senator from North Carolina. Is there objection? No objection is heard, and the Senator from North Carolina is recognized for 15 minutes.

Did the Senator from West Virginia want to yield that time to the Senator from North Carolina?

Mr. ROBERT C. BYRD. I yield to the Senator from North Carolina. He may yield to the Senator from Nebraska.

Mr. CURTIS. Mr. President, will the Senator yield for a few more questions?

Mr. ERVIN. I yield to the Senator from Nebraska.

Mr. CURTIS. How much of this $1 million that the committee received has been spent on travel?

Mr. ERVIN. I would say a great deal of it has been spent on travel because we have sent out investigators to various areas of the country to interview witnesses and we have to transport witnesses from various areas of the country to Washington to appear before the staff of the committee and before the committee.

Mr. CURTIS. Has any part of this $1 million been used to provide for the maintenance of witnesses either before, during, or after their testimony?

Mr. ERVIN. Under the law we have to pay a witness fee, and we have been paying witness fees.

Mr. CURTIS. Have any payments been made to any witnesses beyond the regular witness fee and the mileage?

Mr. ERVIN. They have been paid their witness fees and their expenses of attending before the committee and traveling to and from Washington.

Mr. CURTIS. And what does the Senator mean by "expenses"? Is that his hotel and other expenses here in Washington?

Mr. ERVIN. Yes; we have paid the expenses of witnesses.

Mr. CURTIS. Have those expenses extended beyond the time that they were testifying?

Mr. ERVIN. Not so far as I have ever heard. Of course when we discharge them we pay their expenses back to their homes.

Mr. CURTIS. How many months has the committee operated?

Mr. ERVIN. The committee started its work on the 17th day of May 1973, and it has held, I think, about 43 days of hearings.

Mr. CURTIS. And on the basis of that, the Senator contends now that he needs 50 percent more than he has already spent. Is that correct?

Mr. ERVIN. We contend really that we have done this work very cheaply as compared with the Special Prosecutor.

Mr. CURTIS. I do not know that that is much to the committee's credit. The Special Prosecutor has had a lot of money. He had 81 assistants. All they have gotten out of it is 3 defendants who pled guilty to 1 count of an indictment and 3 similar cases against corporations and 1 other indictment, which is not much showing for 81 lawyers.

Mr. ERVIN. After he got to the point where he was able to go forward, the first Special Prosecutor was fired and the Department of Justice had to bring in a new Special Prosecutor.

Mr. CURTIS. Could the distinguished chairman give us a copy of the financial report that was presented to the Committee on Rules and Administration showing the expenditures of this $1 million?

Mr. ERVIN. The Senator from Nebraska can go to the offices of the select committee where he will find the financial records which are a matter of public record.

Mr. CURTIS. Does the Senator mean that the Rules Committee and the Senate having, some months ago, given the committee $1 million——

Mr. ERVIN. The Rules Committee has never given us anything. All the money that has been given us was given us directly by the Senate.

Mr. CURTIS. Does the Senator mean that Senate Resolution 209 has not been before the Rules Committee?

Mr. ERVIN. Absolutely not. None of the resolutions have been before the Rules Committee.

Mr. CURTIS. Is there any particular reason for that?

Mr. ERVIN. Yes, because the Senate adopted the original resolution, Senate Resolution 60, by unanimous vote.

Mr. CURTIS. A number of resolutions and laws may be adopted by unanimous vote, but that certainly does not alter the appropriating process.

Is it not true that the orderly way would have been to have Senate Resolution 209 referred to the Rules Committee, the Rules Committee hold hearings, take testimony concerning the expenditures in the past, and then give the Senate the benefit of its recommendations?

Mr. ERVIN. There are two ways in which the committee could proceed under the rules of the Senate. One would be to introduce a resolution and have it referred to the Rules Committee. The other would be to do exactly what the committee has done, that is, present the Senate to do that. My question was simimediate consideration or unanimous consent that it be placed on the calendar.

All the resolutions relating to funds for the select committee have been placed on the calendar by unanimous consent of the Senate, which adopted Senate Resolution 60 by unanimous vote.

Mr. CURTIS. Yes, I have been aware that that was a unanimous vote, but that is not carte blanche authority to disregard all other laws and procedures.

The question is this: Has the select committee filed a financial report with the Rules Commitee or the Senate itself at all concerning the $1 million?

Mr. ERVIN. There is no obligation on the part of the select committee to file a finance report with the Rules Committee or with the Senate at this time.

Mr. CURTIS. Well, has the committee filed it?

Mr. ERVIN. No. If the Senator is interested in the financial activities of the committee, he can find the records relating to them in the committee's offices.

Mr. CURTIS. It is not a question of what the Senator from Nebraska wants. We are the custodians of the public funds, and whenever one of our own committees or a Government department is given a sum of money, they come back for more. I maintain it is not only orderly procedure but an obligation that we have to expect a report on the money already granted and a written schedule of the anticipated expenditures for which the additional money will be used.

Mr. ERVIN. The anticipated expenditures have been set out twice previously in the resolutions.

Mr. CURTIS. I would like the RECORD to show that the junior Senator from Nebraska served on the Rules Committee many, many years, and our practice has always been, on the special and select committees, to have these resolutions go through the Rules Committee. When someone comes in for a new request, evidence is taken as to what they plan in the way of a budget, and then when they appear for additional money, a report is made showing, not in minute detail but in general detail, the expenditures and what has been done with the money and what they need the additional money for.

Do I understand the distinguished chairman to say that no report has been made to either the Committee on Rules and Administration or to the Senate?

Mr. ERVIN. Mr. President, I know of no law which requires us to make a report to either the Rules Committee or the Senate under the circumstances now existing.

Mr. CURTIS. Mr. President, the Senator from North Carolina is a distinguished jurist. He knows that answer is not responsive.

Mr. ERVIN. The answer is responsive.

Mr. CURTIS. Has there been a report?

Mr. ERVIN. Will the Senator from Nebraska point out any law which requires us to make a report to the Committee on Rules and Administration concerning a matter with which the Rules and Administration Committee has had nothing to do?

Mr. CURTIS. I cannot point out the statutory requirement. However, I can point to the continued procedure of the Senate the resolution and ask for its ple. Has the select committee made any kind of written report to the Commit-

tee on Rules and Administration or to the Senate? The answer is "No." Is that not right?

Mr. ERVIN. The Senator is correct. I answered that question some time ago.

Mr. CURTIS. No. The Senator has given me a lecture on what the law is.

Mr. ERVIN. No. I have been receiving lectures from the Senator from Nebraska.

Mr. CURTIS. No. No.

Mr. ERVIN. I have been receiving lectures from the Senator from Nebraska as to why I ought not to pursue rules of the Senate of which he disapproves.

Mr. CURTIS. No. The Senator from Nebraska suggests that we follow the usual procedure and that these money resolutions go to the Committee on Rules and Administration, and that the committee asking for the money file reports and that they also file an anticipated budget. That is one of the reasons why I find it necessary to make an inquiry here as to what is going on.

If the Senator can run the committee from last spring until now and have a little bit of funds left, I do not know why it would take another $1.5 million to run from now until February.

It may be that the figures are correct as stated. However, the only way I can find out is by following the orderly procedure. How many people are employed by the committee?

Mr. ERVIN. The number has varied from time to time. The number of committee employees have usually been between 60 and 65.

Mr. CURTIS. How many of those employees are lawyers?

Mr. ERVIN. I would say perhaps 20 of them.

Mr. CURTIS. And in what category or occupation would the other 43 or 44 fall?

Mr. ERVIN. Some of them are secretaries, some of them are investigators.

Mr. CURTIS. Would the Senator give the Senate the benefit of the names of the individual consultants who have been employed by the committee?

Mr. ERVIN. There have been very few consultants. Prof. Arthur S. Miller, of the George Washington Law School, has been one of the principal consultants. But we have also at times consulted others, including Prof. Philip Kurland, of Chicago University and Prof. Alex Bickel, of Yale Law School on rare occasions.

Mr. CURTIS. None of those has been full time?

Mr. ERVIN. The Senator is correct.

Mr. CURTIS. The resolution says:

Of which amount not to exceed $50,000 shall be available for the procurement of the services of individual consultants or organizations thereof.

What organizations has the committee employed on a consulting basis heretofore?

Mr. ERVIN. None. So far as I can recall.

Mr. CURTIS. What one does the committee have in mind employing?

Mr. ERVIN. I do not have any in mind.

Mr. CURTIS. What is the purpose of the authorization in the resolution setting aside $50,000 to be available for the procurement of services of individual consultants or organizations thereof?

Mr. ERVIN. So that the resolution will conform to the desires of the Senator from Nebraska and be in the customary form.

Mr. CURTIS. What organizations does the committee have in mind consulting?

Mr. ERVIN. I told the Senator a minute ago that I had none in mind.

That was put in the resolution so that the committe could do that at some future date if it decided to do so.

Mr. CURTIS. Have any organizations consulted without fee with the committee?

Mr. ERVIN. There has been some effort to persuade various organizations to make recommendations as to what they think the committee ought to recommend as to legislation. However, I have not been very active personally in that effort. So far as I know, no organization has consulted us.

The PRESIDING OFFICER (Mr. ALLEN). The time allotted to the Senator from North Carolina has expired.

Mr. MANSFIELD. Mr. President, if I have any time remaining, I would be glad to yield it to the Senator.

The PRESIDING OFFICER. The Senator from Montana has no time remaining. Time is available to the Senator from Michigan.

Mr. GRIFFIN. Mr. President, would the Senator from Washington care to yield to the Senator?

Mr. JACKSON. Mr. President, I am chairing a committee meeting. I wanted to be fair about the matter. I have given up 15 minutes already. I have a meeting of the Committee on Interior and Insular Affairs. If the Senator would not mind, I have a statement that I would like to make. I have been here since 10:30 with the understanding that that was when I would speak. How much longer would the Senator take? I have a 15-minute speech.

Mr. CURTIS. Mr. President, I have no exact idea on that. I assume that much of the information I am trying to seek would be in the report. However, it is not.

Mr. JACKSON. Mr. President, I wanted to be fair about the matter.

Mr. CURTIS. Mr. President, I certainly think that the distinguished Senator from Washington ought to proceed.

The PRESIDING OFFICER. In accordance with the previous order, the Chair recognizes the distinguished Senator from Washington (Mr. JACKSON) for not to exceed 15 minutes.

SALT: AN ANALYSIS AND A PROPOSAL

Mr. JACKSON. Mr. President, it is now 4 years since the negotiations to limit strategic arms opened in Helsinki and over a year since the second phase of these negotiations began in Geneva. In the period since November 1969, the strategic balance between the United States and the Soviet Union has undergone a radical transformation: American superiority in the numbers of strategic launchers, their throw weight and their ability to deliver independently targetable warheads has given way to Soviet superiority in the first two categories and to competition in the third—competition that, by the nature of the base upon which each of us is building, must be assumed to lead eventually to Soviet superiority in numbers of warheads consistent with the Soviet advantage in numbers of missiles and their size.

A few weeks ago the Soviet Union proposed a draft treaty at the SALT talks in Geneva. This Soviet proposal, which is so one-sided as to be completely unacceptable to the United States, actually represents a step backwards in the search for a more stable strategic balance and a more peaceful world. With this unfortunate step in the wrong direction, the SALT talks have reached an impasse.

I believe, Mr. President, that we ought to make a determined effort to end this impasse by moving from arms control proposals that serve the interests of one side only to a proposal for serious and far-reaching disarmament that would leave both sides in a position of strategic equality. To accomplish this objective I have formulated a specific proposal—one that would mean an immediate reduction in the strategic arsenals of both the United States and the Soviet Union so that the combined intercontinental strategic forces of the two countries would be reduced by about one-third.

SALT AND STABILITY

From the beginning I have supported the objective of a stable strategic balance between the United States and the Soviet Union—a balance that, by containing the risks of nuclear war, would enable the United States to enhance the security of its people and the interests of its allies. Like most of my colleagues and the overwhelming majority of my fellow citizens, I have considered that serious negotiations with the Soviet Union offer one avenue to the attainment of such stability; and I have therefore supported—and, in my capacity as chairman of the Subcommittee on Arms Control I have closely followed—the Strategic Arms Limitation Talks.

If I have supported the SALT negotiations with greater caution than some of my Senate colleagues, it is because I am constantly mindful of the extraordinary difficulty, under the best of circumstances, of achieving a stable military balance between adversaries. Between two nations as fundamentally dissimilar as the United States and the Soviet Union, the difficult process of accommodation in the interests of stability is immensely complicated. After all, negotiations between allies can be difficult enough—as even a cursory review of current Atlantic diplomacy reveals—but negotiations between nuclear adversaries on the sensitive issues of strategic policy are infused with problems that call for the most careful deliberation and a large dose of caution. We must constantly ask ourselves whether a little more time to deliberate, a little more thought and analysis, greater precision or a new concept might not bring about a more stable state of affairs and consequently a more peaceful world.

If the rewards of caution are obvious, the price of undue haste is great. Decisions that directly affected the outcome of the SALT I interim agreement were often taken in less time than a prudent man would devote to the question of whether to purchase a new home, and sometimes with a good deal less analysis of the alternatives. Ambiguities in the interim agreement that might have been

resolved after a good night's sleep in Moscow and an additional day of negotiation have come back to haunt us. And assumptions that underlay the administration's sanguine assessment of SALT I, so often characterized as a "first step," on the potential for a broader "second step" agreement in SALT II, have been predictably upset by subsequent Soviet behavior. Whatever the virtues of the "first step," it is better to make it onto solid ground than into quicksand.

NEGOTIATION WITH A CLOSED SOCIETY

The SALT negotiations are being conducted between an open society and a closed one, between a status quo power and one whose ambitions extend beyond its own territory and that of its satellites, between an America that subordinates its armed services to a freely chosen civilian rule and a Soviet Union ruled by men who, in the last resort, cannot govern without the support of a vast military establishment. These are negotiations between a country that is a member of an alliance of free and independent states and the conductor of a chorus of satellites, between an open society whose philosophy and intentions can be generally measured and understood and a closed society in which, to use George Orwell's memorable phrase, "yesterday's weather can be changed by decree,"—as can tomorrow's foreign policy and strategic objectives.

These fundamental differences between our two societies—and they could be multiplied—greatly complicate the effort to negotiate a SALT agreement. Even though there were those inclined to argue that in the first tentative measures taken at SALT I it was possible to proceed as though these differences did not exist or were not relevant, I doubt that many would hold to that view now that we are into SALT II.

Of the many difficulties that arise from the differences between the United States and the Soviet Union, the one that most profoundly affects the SALT talks is our inevitable uncertainty as to the interests, concepts, motives and objectives of Soviet arms control policy. Here we are adrift on seas which, if uncharted, leave us without bearings—or, if charted by Russian history, without optimism.

SHARING OUR BASIC OBJECTIVES

We will not get very far in negotiating at SALT II in the absence of the crucial precondition on which all such negotiations ultimately depend: a sufficient sharing of basic objectives so that both sides measure success by more or less the same criteria. Those criteria must relate to the stability of the strategic balance—to the maintenance of sufficiently invulnerable strategic forces in a relationship, not of great disparities, either actual or potential, but of equality. I believe that the Congress understood this in passing by a substantial margin my amendment to the resolution authorizing the SALT I interim agreement; and I believe that the President, in signing that amendment into law gave ample evidence of his concurrence. At the heart of my amendment was the principle of equality—a principle that was clearly aimed at in the ABM treaty and just as clearly ignored in the interim agreement.

There is no doubt that progress at SALT would be greatly facilitated if we could be reasonably certain that the Soviets share this conception of strategic stability, and if we could be confident that their objectives at SALT, as well as their strategic deployment programs, grow out of a shared doctrine of nuclear stability and strategic equality. Unfortunately, neither the Soviet posture at SALT nor their present deployment program nor, for that matter, anything in their military writings, gives the slightest reassurance that they view the SALT deliberations as a path to mutual security through nuclear stability based on strategic equality.

There is no divining rod by which we can know with certainty just what brings Moscow to the negotiating table at Geneva, but this does not mean that we are without a basis for some judgment. I know of no way to obtain a clear indication of the Soviet interest in SALT except to evaluate very carefully, first, the arms limitations that they are prepared to accept, and second, the strategic weapons they continue to deploy. On both these measures—Soviet arms control proposals and Soviet deployment programs—current indications are not encouraging.

THE SOVIET STRATEGIC BUILDUP

In recent months we have seen the development by the Soviet Union of a significant number of new weapon systems incorporating an impressive range of new and costly technology. Not only have the Soviets achieved a genuine MIRV capability, but they have done so by developing two quite distinct MIRV technologies. They have tested a whole new generation of intercontinental ballistic missiles, land and sea based, incorporating new technologies as well as new launch techniques. They have developed a mobile, land-based ICBM. They have moved to increase by a very substantial factor the throw weight of their missile forces despite the fact that they already enjoy a threefold advantage in this area. These developments, all of which have come to light since the SALT interim agreement designed to limit offensive weapons, have, individually and in combination, added significantly to the offensive potential of the Soviet missile forces.

What is disturbing in these developments is not simply that the Soviets are modernizing and improving their strategic forces—prudence requires the sort of regular modernization that the United States also engages in—but rather the unrestrained accelerating pace at which the Soviet development is proceeding, a pace which has seen the production of four entirely new ICBM's simultaneously this year alone. What is disturbing is not that the Soviets have developed MIRV—unlike Senator FULBRIGHT, I never expected that by accepting the SALT I agreements we would induce the Soviets to forgo pursuit of their technology—but rather the spectacularly increased throw weight demonstrated in their recent tests which would allow them ultimately to double their already vast advantage over the United States in this most critical of all categories.

In assessing the significance of these developments, all of which are consistent with the often ambiguous terms of the interim agreement, it is necessary to digress for a moment to consider the rationale by which the interim agreement was defended.

TECHNOLOGY IS TEMPORARY

Many of my colleagues will recall that the numerical disadvantage into which the United States was frozen by the SALT I interim agreement was held by some to be effectively offset by our technological superiority. The most obvious American technological advantage—obvious in part because of the frequency with which Dr. Kissinger reiterated it—lay in the fact that we had achieved a MIRV capability and the Soviet Union had not. Today our monopoly in MIRV technology has vanished like last year's snow and the lead in this area that we still possess by virtue of our earlier development of MIRV's can be expected to diminish rapidly as time goes on. This is neither novel nor surprising. In the long run—made longer if we find ourselves forced into a technological arms race and shorter if we do not—technology tends to even out. That is the history of technology; and it is, in particular, the history of military technology. Given the numbers and throw weights agreed to in the SALT I interim agreement, under which the Soviets enjoy a protected advantage, technological equality will mean Soviet superiority in strategic weapons.

If the interim agreement ever represented interim equality, it is because it was like a stand-off between an American lightweight at the top of his form and a Soviet heavyweight, ill-trained and out of condition. The interim agreement has provided for 5 years of training in which the sluggish Soviet heavyweight can get into shape while we remain, however agile, lightweight by comparison. It is here that politics—call it psychology if you will—is affected by strategic strength; for no lightweight in his right mind would enter the ring under such circumstances, so that the match could easily go by default.

In the final analysis, an arms control agreement will not be stable if it freezes for one side an advantage in quantity while the other has to rely on an edge in quality that it cannot maintain. In the interim agreement we agreed to inferior numbers but the Soviets did not agree to inferior technology. We should never have presumed—I, for one, did not—that they would fail to seek the combination of superior numbers and comparable technology that add up to overall superiority; and the early and alarming indications are that this is precisely the direction that they have chosen.

THE SOVIETS AT SALT II

In the current SALT II negotiations the Soviets are seeking to consolidate the advantage they obtained in the interim agreement while pressing for limits on the freedom with which we might maintain the compensating advantage of superior technology. Again and again when the interim agreement was before the Senate, I warned that this would be the Soviet strategy at SALT II. My amendment to the authorization for the interim agreement was intended to place the Congress and the administration on record on this issue by insisting that the

interim agreement was not an acceptable basis for a SALT II treaty.

Far from viewing SALT II as an occasion to search for the sort of stable strategic balance that can result only from equality, the Soviets have actually hardened their position. Without going into the details of their recent proposal at Geneva—which is wholly unacceptable to us—suffice it to say that it constitutes the classic case of, "What's mine is mine what's yours is negotiable." The hopes of those who believed—I was not among them—that the quick fix of SALT I would give way to a more fundamental search for stability, have faded, first before the relentless momentum of Soviet weapons programs and then before Soviet insistence, so clear in their one-sided proposal, on a SALT II treaty that would widen and deepen their strategic margin still further.

In my judgment the current position of the Soviet Union, with respect both to their arms buildup and their arms control proposal, tends ominously to confirm our most profound apprehensions and to raise the most serious question of all: Do the Soviets in fact share our objective of stabilizing the strategic balance?

THE JACKSON PROPOSAL

Given the situation that I have outlined, given the uncertainties that cloud our hopes and diminish our confidence, I am persuaded that the time is ripe for the United States to put forward a bold and imaginative proposal for serious disarmament—a proposal that will test uncertain Soviet intentions by inviting them to join with us in concluding a far-reaching agreement to bring about a measure of stability in the nuclear balance at sharply reduced levels of strategic forces.

In outlining this proposal it is useful to begin by recalling the numbers agreed to under the terms of the SALT I interim agreement, according to which the United States may have no more than 1,054 intercontinental ballistic missiles. This force consists principally of Minuteman missiles that are termed "light"—in contrast to "heavy"—under the definitions worked out in conjunction with the interim agreement. For their part, the Soviets are permitted 1,618 intercontinental ballistic missiles of which approximately 1,300 are of the "light" variety. The other 300 Soviet ICBM's are "heavy"—so heavy, in fact, that these 300 alone carry as much "throw weight" as the entire permitted U.S. force of 1,000 Minuteman missiles.

At sea the agreement provides that the United States may have up to 44 missile-firing nuclear submarines containing 710 launch tubes. The Soviets are permitted up to 62 comparable submarines, with 950 launch tubes, in addition to a number of older type submarines. The Soviets are now engaged in building up to these levels.

I believe that strategic forces on both sides are larger than they need to be, provided that we can negotiate with the Soviets toward a common ceiling at a sharply lower level. Therefore I propose that we invite the Soviets to consider a SALT II agreement in which each side would be limited to 800 ICBM's and to no more than 560 submarine-launched missiles, equivalent to 35 missile-firing submarines of the Poseidon type. Long-range strategic bombers, which were not included under the interim agreement, would also be limited to 400 on each side. Because the throw weight of the Soviet missile force is so much greater than that of our own, the two SALT delegations would be instructed to negotiate a formula for varying these basic numbers so as to bring the throw weight of the two intercontinental strategic forces into approximate equality.

In my judgment such a proposal, if offered at Geneva, could provide the basis for immediate negotiations aimed at developing a draft treaty in accordance with the declared intention of our two countries to achieve a follow-on to the interim agreement in 1974. The numbers resulting from the negotiating process need not be precisely the numbers outlined here, although I believe that significant variation from these numbers, if essential to successful negotiation, ought to move in the direction of further reductions rather than upward adjustments. Because the strategic forces of the countries are structured differently at present and because we are always searching for ways in which to reduce the potential vulnerability of our deterrent, the treaty need not follow the precise numbers for each type of weapon system I have suggested—so long as the aggregate total of intercontinental strategic launchers was 1,760 or less.

A treaty reflecting the essential features that I have outlined here would represent a real and significant step in the direction of stabilizing disarmament. It would put to rest many of the misgivings that we now have that the Soviets are seeking to attain strategic superiority by consolidating their advantage in SALT I. It would permit both sides to shift their resources from the building up of nuclear arsenals to the building up of their economies.

The Soviet Union has turned to the United States for economic assistance, for our capital, our agricultural produce, and our advanced technology. So long as the Soviets support the greatly exaggerated military sector of their economy at anything approaching current levels, an American program of subsidized transactions, whatever its intended purpose, will inevitably amount to aid to the Russian Army, naval, and air forces.

At a time when the Soviet economy is in great difficulty we ought to be able to persuade them that a reordering of their priorities away from the military sector is the best way to achieve economic well-being. Adoption of my proposal could be an important step along a path that could lead eventually to billions of dollars in savings on strategic weapons systems.

Adoption of this proposal would mark a radical departure from the tentative and often marginal approach to arms control that we have followed in SALT I. Reductions on the scale I am proposing will encounter opposition, not least of all from those in the military services whose training, experience, and orientation are likely to militate against strategic force reductions in general, and extensive reductions in particular. While it would be imprudent to discard the professional judgment of the military and irresponsible to ignore their advice, I believe that we must not allow their skepticism to stand in the way of a proposal which will enhance our security.

I am confident that American military planners can be persuaded of the advantages of bilateral cutbacks in strategic weapons and that they too, in the final analysis, reflect the hopes we all share for a more stable strategic balance and a more peaceful world. I would hope that the Soviet military, which has been unreceptive to proposals such as this in the past, would give careful consideration to the promise of a better life for the Soviet people who could be freed from part of the enormous burden of the arms they now bear. Here the job of persuasion must fall to the Politburo, and to them I am simply saying: "Let us break with the troubled past and seek a more fruitful and a more secure future for both our peoples."

Mr. President, I yield the floor.

ORDER OF BUSINESS

The PRESIDING OFFICER (Mr. BENTSEN). Under the previous order, the distinguished Senator from Michigan (Mr. GRIFFIN) is now recognized for not to exceed 15 minutes.

Mr. GRIFFIN. Mr. President, earlier I had committed myself to yield to the Senator from Oklahoma. He is in the Chamber so I will yield to him for such portion of the time allotted to me as he may require.

The PRESIDING OFFICER. The Senator from Oklahoma (Mr. BARTLETT) is recognized.

THE COST OF LIVING COUNCIL AND STEEL AND ENERGY

Mr. BARTLETT. Mr. President, I appreciate the opportunity to talk about the related problems of steel and energy.

On November 1, I sent a telegram to President Nixon calling upon him to encourage the removal of price controls on steel and steel products which are associated with the exploration, development, and production of energy. This is a necessity if exports of steel are to be discouraged, and imports of foreign steel are to be made attractive and if investments are to be made by the steel companies to increase capacity. Fourteen of my colleagues signed this telegram with me.

On November 19, 1973, I wrote a letter to Secretary of the Treasury, George Shultz, again calling attention to the untenable steel situation.

Yesterday, on December 3, 1973, I met with Dr. John Dunlop, the Director of the Cost of Living Council, Under Secretary John Tabor of the Department of Commerce, and Mr. William Johnson, assistant to Bill Simon, Deputy Secretary of the Treasury. Other Senators attending this meeting were Senator FANNIN, Senator LONG, Senator HANSEN, and Senator HATFIELD.

This meeting was fruitful. I have expectations that this meeting will yield changes in policy toward the pricing of certain steel products that are of critical

necessity in responding to our Nation's energy crisis.

The petroleum industry is trying to respond to recent price increases for oil and gas. But because of lack of available steel and other necessities, drilling activity is up only 13 to 14 percent over last year.

We must have an overall energy program. That program must coordinate all of those industries which must function in a flatout effort to cope with our rapidly increasing energy problems. The first goal of any energy program should be to at least double the current drilling rate.

The current drilling rate cannot be doubled unless the steel industry also gears up to supply the needed steel.

In a very short time, oil well casing, tubing, drill pipe, drill collars, valves at the wellhead, blowout preventers for drilling safety, and forgings for many other types of steel equipment necessary to operate in the oilfield are now in short supply. Drill pipe in some areas has as much as an 18-month delivery schedule—they caannot get new drill pipe delivered until 1975.

First of all, there is a worldwide shortage of steel—competition within the world market is fierce. Domestic steel prices are controlled at a low level compared to the world market by the Cost of Living Council. These low prices are counterproductive.

Also, the price controls on steel have been a disincentive to U.S. steelmakers to invest in both new steel and rolling mill capacity. The return on the investment at current prices is not enough economic incentive to justify the investment.

I will summarize some of the comments made at the meeting yesterday.

Dr. Dunlop remarked that he had received only one request from a steel firm for a price hike on those steel products necessary to continue operations in the oil field.

Bill Johnson asked if that was not because sheet steel products were a more profitmaking item for the steel companies.

Mr. Johnson continued to say that he felt that the Cost of Living Council was being passive about using the price mechanism to create the incentive necessary to increase production in critical areas. He felt that they should not be passive but rather to take actions using the price mechanism in areas where there is short supply.

I might add here that Mr. Simon and Mr. Johnson as assistants under the Federal Energy Agency will be running the program.

Johnson said:

If we were running the program, I would suggest exempting from price controls those products necessary to the energy industry which are in short supply.

Used casing, for example, 5½ inch, J–55 grade, is now selling for $5.50 a foot, while new casing of the same diameter and grade is selling at a controlled price of $2.62 a foot. Some producing wells have been plugged and the casing pulled and used in new wells.

Under Secretary of Commerce, John Tabor, pointed out that exports of oil field tubular goods had increased 93 percent in the first 9 months of this year. This has been caused in a large part by the recent devaluation of the American dollar in February and the Cost of Living Council's controls domestically.

Foreigners are willing to pay a higher price for American steel products than the Cost of Living Council will allow Americans to pay.

Senator FANNIN indicated with respect to the steel supply shortage, that Japan was having the best of it in that they sold only what they wanted to sell to us, but could get from us whatever they wanted. He suggested that we look into negotiations with Japan regarding steel supplies that we could use in the energy industry.

John Dunlop indicated that he will take a look at all steel companies manufacturing, drill pipe, casing, tool joints, and other associated products serving the energy industry to analyze the supply of such products and what shortages there are. John Dunlop said that following such survey:

Whenever price is a serious impediment to the availability of such products, we will take off controls or provide an exemption.

Mr. President, I am encouraged by that statement by Dr. Dunlop.

Mr. President, I will send a letter to all steel companies that might manufacture oil field products to inform them about this meeting and request that they inform myself and the others attending this meeting what needs to be done to increase supplies of those steel items such as drill pipe, tubular goods, tool joints, bits and other energy industry related products.

Mr. President, I had a conversation with Under Secretary Simon this morning. He is the proposed head of the Federal Energy Agency. He indicated his willingness to look into this matter right away and is having a meeting today with Dr. Dunlop .

This Nation has used its plentiful energy supply to greatly expand our productivity. Our productivity, in turn, has brought high employment, a high standard of living, good health care, an improved environment, expensive and numerous social programs—a record not matched by any other nation.

Our shortage of energy means a reduction in productivity—a reduction in jobs, standard of living, health care, environmental progress, and social reforms.

We cannot increase productivity at prices that produce shortages of oil and gas and steel.

Mr. President, we need to be positive instead of negative or passive. We need to increase the supplies of those critical steel products essential to the development of domestic energy. We need to take the lead now; for unless we have ample energy, we are going to face a severe recession.

Mr. President, I yield back to the Senator from Michigan my remaining time.

INCREASE IN SUMS ALLOTTED TO THE SELECT COMMITTEE ON PRESIDENTIAL CAMPAIGN ACTIVITIES

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

The PRESIDING OFFICER. Five minutes.

Mr. GRIFFIN. I yield the remainder of the time to the distinguished Senator from Nebraska.

Mr. MANSFIELD. Mr. President, it is my understanding that the distinguished Senator from Nebraska would like about 15 minutes in all, in which to conclude.

I ask unanimous consent that the beginning of morning business be delayed by 10 minutes and that that 10 minutes be accorded to the distinguished Senator from Nebraska, and that it will come out of morning business.

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

Mr. CURTIS. I thank the distinguished majority leader, and I thank the distinguished Senator from Michigan.

Mr. President, I have no desire to delay the work of the Senate. I do feel that a procedure that is very irregular is being followed and that the facts should be placed upon the record.

I ask the distinguished chairman of the committee if he expects that the committee will wind up and make its final report as required by the original resolution, Senate Resolution 60, that was passed last February.

Mr. ERVIN. I can only express to the Senator from Nebraska my hope that that will be the case.

Mr. CURTIS. Is it the Senator's plan to wind it up by that time?

Mr. ERVIN. My plan is to complete the investigation as speedily as possible, but I have no prophetic power to determine exactly when that will be. We cannot go beyond the 28th without receiving further authorization from the Senate.

I can assure the Senator from Nebraska that I would be glad to lay down the burden that has been imposed upon me by unanimous vote of the Senate.

Mr. CURTIS. I am sure the Senator would. I can understand that.

Has the committee filed an interim report of any kind? I am not referring to a financial report, but has the committee filed an interim report of any kind?

Mr. ERVIN. There is no obligation on the committee to file any such report, and we have not filed one.

Mr. CURTIS. I invite attention to the original resolution, which says:

The select committee shall make a final report of the results of the investigation and study conducted by it pursuant to this resolution, together with its findings and recommendations as to new congressional legislation it deems necessary and desirable, to the Senate at the earliest practicable date, but not later than February 28, 1974.

Is it not clear that the mandate of the Senate was that the committee do that at the earliest practicable date? Is that not correct?

Mr. ERVIN. That is what the resolution says, and we will be guided by the resolution.

Mr. CURTIS. The resolution also says

that the select committee may also submit to the Senate such interim reports as it considers appropriate.

Last July—I believe July 30, 1973—the Senate passed a rather broad election reform bill, S. 372. Did the select committee make any report or recommendation either to the Senate or to the legislative committee handling that legislation?

Mr. ERVIN. We have not made any report to anybody. We have come before the Senate, on a previous occasion when we needed more money.

I also think a large part of the drive for the passage of the Cannon bill was derived from revelations made before the select committee in its investigation of the series of tragedies which are known collectively as the Watergate affair.

Mr. CURTIS. The Senator is not referring to the tragedies that exceeded the great Civil War?

I withdraw that question, Mr. President.

Just this last week, the Senate has been engaged in a discussion of the public financing of Federal elections. Has the committee made any recommendations with reference to that?

Mr. ERVIN. The resolution provides that we shall make recommendations not later than February 28.

Mr. CURTIS. I understand.

Mr. ERVIN. We have made no recommendations to anybody thus far except the American people.

Mr. CURTIS. I understand that. That has been over the television, has it not? How many hours has the committee been before television?

Mr. ERVIN. How many hours?

Mr. CURTIS. How many hours has the committee been before television?

Mr. ERVIN. I do not know; but we have been for 43 days, I believe.

Mr. CURTIS. During the time the Senate had before it the election reform legislation, did the committee ever ask for a delay of the legislation or for an opportunity to make its recommendations?

Mr. ERVIN. We have not delayed the legislation. We are not asking for a delay.

Mr. CURTIS. I am not trying to delay it. But here we have a spectacle. The Senate authorized the committee to bring in legislative proposals and recommendations and authorized $1 million. The Senate has been engaged in two major undertakings in reference to election reform, and the committee has neither made any recommendations nor asked for any delay so that they could make recommendations. The distinguished chairman has indicated that he has been taking his case to the American people. I assume he is referring to the television productions that have been taking place in the committee room. Is that correct?

Mr. ERVIN. The committee has tried to perform its functions. Woodrow Wilson said it is the function of a congressional investigating committee to inform the American people as to how men entrusted with great political, governmental, and financial powers have been conducting themselves.

Mr. CURTIS. I should like to ask the Senator another question: Has Ralph Nader or any of his many, many organizations through which he operates been working with the committee or made recommendations, informally or otherwise?

Mr. ERVIN. Not so far as I know. The last time I saw Mr. Nader was back in January—I believe it was in January—when he testified before a committee considering a bill to provide for regulations relating to impounding of appropriated funds by the President. I do not know what communications anybody has had with members of the committee staff. I have had no communication whatsoever with Mr. Nader personally, so far as I can recall. I have not been in communication with him personally, but I should be glad to have him make any recommendations he would like to make about legislation. I would also be glad to have the distinguished Senator from Nebraska do so.

Mr. CURTIS. I am delighted to know that the committee is interested.

Here we have gone through all these months and the Senate has been going about the business of legislating, trying to improve election laws, and the select committee has remained silent.

Mr. ERVIN. The select committee does not believe it should bring in a verdict until it has heard all the evidence.

Mr. CURTIS. Is that right?

Mr. ERVIN. Yes.

Mr. CURTIS. Glad to have that revealed, too.

I hold in my hand a clipping from the Denver Post of November 4, 1973, which states that—

> Colorado's Representative Pat Schroeder confirmed Saturday night that a Ralph Nader association had used her congressional telephone two weeks ago for long-distance calls to whip up impeachment sentiment.

But as far as the Senator knows, Mr. Nader's organization has had no contact with the select committee. Is that right?

Mr. ERVIN. He has had no contact with me, and he has had no contact with the committee or any other member, so far as I know.

Mr. CURTIS. I would like to also inquire how many witnesses have been extended immunity by the select committee.

Mr. ERVIN. Well, there have been a number, including Mr. Dean, Mr. McCord, Mr. Hunt, and others. I cannot tell the Senator the exact number offhand.

Mr. CURTIS. Is the distinguished Senator familiar with the legislative history concerning the enactment of the immunity statutes?

Mr. ERVIN. Oh, yes. I had some part in it.

Mr. CURTIS. I thought it was offered by the distinguished Senator——

Mr. ERVIN. The Supreme Court has stated in opinions that sometimes the only way you can get at the truth is by granting immunity to witnesses.

Mr. CURTIS. When the distinguished Senator from Arkansas (Mr. McCLELLAN) presented the immunity statute to Congress, is it not true that he offered it with the intention that it be narrow in scope as a weapon to be used against organized crime?

Mr. ERVIN. No, sir; not so far as I know. As a matter of fact, the bill which preceded the immunity statute was introduced by the Senator from Arkansas (Mr. McCLELLAN), with the cosponsorship of the distinguished Senator from Nebraska (Mr. HRUSKA) and myself.

Mr. CURTIS. I think that is correct, and I think if the Senator will examine the committee report as well as the statement of the distinguished Senator from Arkansas on the floor, he will find that it was a part of the package of laws dealing with organized crime and intended to be used in that manner, and not intended——

Mr. ERVIN. I think there has been some evidence taken before the committee which tends to show that the Watergate crime was organized in the Committee To Reelect the President.

Mr. CURTIS. Would the Senator repeat that, please?

Mr. ERVIN. I said there has been some evidence taken by the committee which tends to show that the plan to bug and burglarize the Watergate was hatched by certain officials in the Committee To Reelect the President. I would call that organized crime, myself.

I think whenever two or three men get together before a crime is committed and take steps to commit it and finance it, that is organized crime.

Mr. CURTIS. The Senator knows the fact that several individuals might plan an offense, that that is not organized crime in the purview of legislative procedure, common knowledge, the press, the courts, or anyone else.

Mr. ERVIN. I would say within the purview of the English language, which is my mother tongue, a crime is organized crime when organized by two or more people.

Mr. CURTIS. Well, I believe not. I believe the Senator knows what we mean when we talk about organized crime.

Let me say this. I have never defended the Watergate break-in or any of the wrongdoing. I hope all the persons guilty are punished. My regret is that we cannot punish the people for what they did not do. They did not stay on top of things in that campaign and prevent things from happening that hurt our country, embarrassed the President, and embarrassed the party and everyone else. But I have no desire to defend any wrongdoer in this whole connection, whoever he is, or wherever he is.

But coming back to this resolution we have a situation where the Senator has operated since last February on a $1 million level. The mandate of the Senate is to finish by February 28, 1974; and the Senator says he needs $500,000 more. The resolution has never gone to the Committee on Rules and Administration. There has been no report filed any place showing the expenditure of the $1 million. There has been no estimated budget projected as to what the $1.5 million would be used for.

Now, I have no desire to delay this matter and certainly I have no desire to put it to a vote, and if anyone raises questions about this there are those who say wrongdoers are being defended. So any motion or amendment would not get a majority vote.

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

Mr. CURTIS. Mr. President, I ask unanimous consent that I may proceed for 5 additional minutes.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that 5 minutes be taken out of the time allotted for the morning hour.

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

Mr. CURTIS. I thank the Senator.

The PRESIDING OFFICER. The Senator may proceed.

Mr. CURTIS. Mr. President, I am fully aware that an amendment to reduce this amount so that you can spend it at your usual rate until next February would not pass because, as I say, every time anyone raised any questions about this there are those who say he is defending wrongdoers.

But I do believe that the Senate has been compromised. I do believe the Senate has been treated unfairly in that this matter has not been handled as other committee matters are handled, and that when committees get money from the contingent fund they make a report with the Committee on Rules and Administration and file a projected budget.

So I would like to ask the Senator: Would the Senator submit for the record a report on the receipts and expenditures up to the date he submits the report, together with a budget estimate as to what the money will be spent for between now and February 28? Would the Senator submit documents along that line in the next few days?

Mr. ERVIN. No, I will not because I do not want to take up the time of the committee to file reports not required by law. We will make the report to the Senate at the time we complete our work. But if the Senator from Nebraska is desirous of knowing of those affairs, he can go to the committee staff and get all of that information. The financial records are open to the public. There is no requirement for us to submit any reports such as those the Senator suggests.

A moment ago the Senator from Nebraska asked me a question about the number of witnesses receiving immunity. I did not have the information then. I am now able to say the committee requested that 18 witnesses be granted immunity.

Mr. CURTIS. Well, now, I hope that the distinguished Senator will reconsider his position in regard to his flat refusal to file a report with the Senate on the $1 million which the committee has expended and an estimate of the budget and what it is to be spent for to run for the next 2½ months. Certainly, a committee that has asked everybody else for full disclosure is following a most unusual line.

Mr. President, I just want to say this, in closing: They can hold hearings from now on, and you will not get any additional evidence as to how you can recommend a law to stop breaking and entering. I am not opposed to a law on that, but you have all the facts you need. The Senate has debated for hours and hours the issue of campaign expenditures. No case has been made for the need for further information to legislate.

What do we have? We have a situation here where the committee goes on and on and on with television production, tearing the country apart, offering immunity to witnesses if they will come in and involve somebody else. In plain fact, it is purchased testimony. The quid pro quo is, "You expose; you go scot-free."

Mr. ERVIN. If the Senator will yield, that is not correct——

The PRESIDING OFFICER. The 5 minutes granted the Senator have expired.

Mr. MANSFIELD. Mr. President, I yield 2 more minutes.

The PRESIDING OFFICER. Is there objection? The Senator is recognized for 2 more minutes.

Mr. ERVIN. Most of the witnesses who have been granted immunity have pleaded guilty. They get use immunity only. Under it the Government cannot use the testimony they give before the committee against them, but it can use all other evidence it can get from any other source.

Mr. CURTIS. I have one more question. Has the committee used its facilities to permit witnesses, over television, to express opinions and recite hearsay testimony damaging to others?

Mr. ERVIN. The committee has called witnesses before it and asked them questions. The question whether the hearing was to be televised was decided by the TV networks—not by the committee. We had nothing to do with televising the hearings.

Mr. CURTIS. Has the committee followed the rules of evidence?

Mr. ERVIN. I would say better than any investigating committee in the history of the Senate. Virtually all of the testimony we have taken would have been admissible in a court of law under the rule of evidence which says that the acts and declarations of a coconspirator made in furtherance of the conspiracy are admissible against all parties to the conspiracy.

Mr. CURTIS. On that, the record of the committee would have to stand. I again renew my plea that the Senate have some reports.

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

Mr. MANSFIELD. Mr. President, I yield 1 minute.

The PRESIDING OFFICER. One additional minute is granted.

Mr. CURTIS. I hope the committee will confine its work to legislative matters, and that it will not continue its trial by press.

Mr. GRIFFIN. Mr. President——

Mr. ERVIN. Mr. President, I would just like to say I have been in the Senate for almost 20 years, and I have never known a committee to make reports about its transactions such as the Senator from Nebraska has told us about except when it goes before the Rules Committee asking it for funds.

The PRESIDING OFFICER. All time has expired.

TRANSACTION OF ROUTINE MORNING BUSINESS

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

INCREASE IN SUMS ALLOTTED TO THE SENATE SELECT COMMITTEE ON PRESIDENTIAL CAMPAIGN ACTIVITIES

Mr. MANSFIELD. Mr. President, could we have action on the resolution?

The PRESIDING OFFICER. Is there objection to the Senate's proceeding to the resolution?

Mr. GRIFFIN. Mr. President, I shall not object. In fact, I was going to ask the Chair whether or not the resolution was before the Senate; if not, to ask that it be called up again.

The PRESIDING OFFICER. The clerk will report the resolution.

The legislative clerk read the resolution (S. Res. 209) by title, as follows:

A resolution to increase the sums allotted to the Senate Select Committee on Presidential Campaign Activities for the expenses of conducting the investigation and study authorized and directed by Senate Resolution 60 which was adopted on February 7, 1973.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

Mr. GRIFFIN. Mr. President, I commend the distinguished Senator from Nebraska for performing a function although in an abbreviated way, that really should have been the work of the Rules Committee. Perhaps all of the same questions might not have been answered, and perhaps other questions that he could not ask would have been asked, if the resolution had been considered by the Rules Committee, as such resolutions of all other committees are. I think his questions point up the wisdom of the Senate rules and the need for the procedure that we have in the Senate.

I, raised the question about reference to the Rules Committee when the distinguished chairman of the select committee first brought up the resolution last week. He was able, under the parliamentary situation that we have to have the matter go on the calendar. That was his privilege to do. But in doing it that way, of course, hearing by the Rules Committee was avoided.

As important as the Watergate committee is, it seems to me that it is unfortunate that a exception should have been made in this case.

So I think the Senator from Nebraska has made something of a record for other Senators who are interested, and I commend him for taking the time to perform that service.

Mr. BELLMON. Mr. President, I rise to pose a parliamentary inquiry.

Mr. GRIFFIN. Mr. President, can we agree to the resolution?

Mr. BELLMON. Mr. President, I withhold my inquiry.

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

The resolution (S. Res. 209) was agreed to, as follows:

SECTION 1. That the first sentence of section 6 of Senate Resolution 60, which was adopted February 7, 1973, is hereby changed to read as follows: "The expenses of the select committee through February 28, 1974, under this resolution shall not exceed $1,500,000, of which amount not to exceed $50,000 shall be available for the procurement of the services of individual consultants or organizations thereof."

PRECEDENTS AND PROCEDURE

Mr. BELLMON. Mr. President, I rise to pose a parliamentary question.

The PRESIDING OFFICER. The Senator will state it.

Mr. BELLMON. Paragraph (f) of section 133 of the Legislative Reorganization Act provides in part that matters that have been reported from committees "shall not be considered by the Senate unless the report of that committee upon that measure—has been available to the Members of the Senate for at least 3 calendar days—excluding Saturdays, Sundays, and legal holidays—prior to the consideration of that measure or matter in the Senate."

The question I would raise regards Senate bill 1283, the committee report of which is dated December 1, 1973.

The question is, when is the first day that this measure can be considered by the Senate?

The PRESIDING OFFICER. In the opinion of the Chair, the first day after the 3 legislative days excluding Saturdays, Sundays, and holidays that it would be subject to consideration will be Thursday, subject to the majority and minority leaders not deciding to waive that.

Mr. MANSFIELD. Mr. President, may I be heard on this matter?

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. MANSFIELD. Was not Saturday a legislative day?

The PRESIDING OFFICER. The Chair is reading the strict interpretation of the rule.

Mr. MANSFIELD. Mr. President, I happen to be a strict constructionist as far as the rules of the Senate are concerned. And I think that a legislative day means what it says, and that Saturday and Sunday would have been legislative days.

The PRESIDING OFFICER. It says, "for at least 3 calendar days" not legislative days. It refers to at least 3 calendar days, excluding Saturdays and Sundays and legal holidays. It does not use the term legislative days.

Mr. ROBERT C. BYRD. Mr. President, will the Chair recognize me?

The PRESIDING OFFICER. It does provide that by joint agreement by the majority leader and minority leader of the Senate that can be waived by them.

Mr. MANSFIELD. Mr. President, if the Senator would yield, the distinguished acting Republican leader, who was on the floor on Saturday last, would know that the majority leader did say what the schedule would be for this week. And he indicated that the bill reported out unanimously by the Committee on Interior and Insular Affairs having to do with research and development in the field of energy would be called up. I think it fits in with the President's recommendations. However, there are differences in the figures.

May I say furthermore that we have an administration program which we have to consider, and the majority leader has told all Senators on the Democratic side that under no circumstances from now on would he consider a request for delay of any legislation which has been reported unanimously.

The majority leader thinks that part of his responsibility is to do what he can to be sure that the President's program moves as rapidly and as expeditiously as possible.

The majority leader would also like to do everything he possibly can to see that the Senate is out of Washington by the 20th or 21st of this month.

We have some difficult legislation to contend with in the field of foreign aid, defense appropriations, and a supplemental appropriation. We have some difficult conference reports—military construction and HEW. We have three or more energy bills to contend with. We have some legislation which is going to cause some degree of difficulty.

The leadership has to make a choice. The leadership tries to keep the Senate informed as to what it intends to do, and the leadership must have the cooperation and the understanding of the Senate if the Senate's business is to be done, because the Senate leadership in the last analysis is not the leader of the Senate, but a servant of the Senate as a whole.

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

Mr. BELLMON. I yield to the Senator from Michigan.

Mr. GRIFFIN. Mr. President, I want to indicate agreement with the distinguished majority leadership. The leadership on both sides of the aisle are very interested in moving legislation along as rapidly as we can. However, in fairness to the Senator from Oklahoma, I must say that the rules of the Senate are there for the protection of each and every Member of the Senate. And there is a very good reason why a Senator should have the right to insist on 3 days of study on a bill and its report before the bill comes to the floor.

There are many times when the leadership on both sides can waive that time requirement. And I would hope that it could be waived in this instance. However, it certainly could not be waived as long as the Senator from Oklahoma wants to reserve his right as a Senator.

I recall that I did inquire as to the program, and the majority leader indicated that this bill would be brought up, but not on any particular day.

I also recall that he indicated that the legal services bill, as I remember it, would be the legislation that would follow the daylight saving time bill, rather than the bill in which the Senator from Oklahoma is interested. Am I correct in that understanding?

Mr. MANSFIELD. Yes. However, there have been some difficulties, which have been called to my attention, and it will take some time to consider that bill. So, in an effort to help the administration, the Democratic leadership in conjunction with the Republican leadership, has been trying to get through an administration program in the field of energy. And time is wasting.

Mr. BELLMON. Mr. President, S. 1283 is not part of the administration program. I am a member of the Committee on Interior and Insular Affairs. I have spent a great deal of my time over the last 4 years on the problems the country was facing and which it is now facing in a much more serious way. These amendments are amendments to S. 1283.

The rules also provide for 3 days. And at the moment I feel that I should ask the Republican leadership that the rules be upheld.

EXTENSION OF PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, as long as a parliamentary question has been raised, I ask unanimous consent that the period for the transaction of routine morning business be extended for 15 minutes, with remarks made therein limited to 5 minutes.

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

Mr. MANSFIELD. Mr. President, may I say that I am very much disturbed at the reaction of the distinguished Senator from Oklahoma to the attempt on the part of the joint leadership to try to get through the program which confronts us in the waning days of the first session.

May I say also that it is my impression that this is the administration's proposal in large part. The big difference, I think, lies in the figures involved.

May I say, furthermore, that it was reported unanimously by all the members of the Committee on Interior and Insular Affairs.

If my recollection of the conversation with the distinguished Senator from Washington is correct, all the Republican members of that committee are cosponsors of the bill. I have heard rumors this morning to the effect that—and I cannot validate them, and this has no reference to the distinguished Senator from Oklahoma—Mr. Roy Ash for some reason or other is interested in this legislation. He seems to be interested in too much legislation, I think, for his own good. And he ought to let us handle our own business in our own way, because I would point out to Mr. Roy Ash, if the information is correct, that we are a coequal branch of the Government and that we can take care of our own business in our own way and that we do not need any advice from any functionary in the White House or the executive branch of the Government, because we are separate and apart, one from the other.

The rumor I have heard is that the distinguished chairman of the Government Operations Committee, the Senator from North Carolina (Mr. ERVIN), and the distinguished Senator from Connecticut (Mr. RIBICOFF) were both going to ask that this measure be referred

to their committee. I have talked to the distinguished chairman. He informs me that there is no validity to this rumor and that, as a matter of fact, he and the Senator from Connecticut (Mr. RIBICOFF) are cosponsors of this proposal.

Mr. ERVIN. I am not a cosponsor. However, I am a strong supporter of the bill.

Mr. MANSFIELD. Mr. President, the bill was reported unanimously by the Committee on Interior and Insular Affairs.

Now, if I have done Mr. Ash a disservice, I will apologize here and now. However, the advice given to Mr. Ash or any other member of the executive branch of the Government still stands.

Mr. President, under the rules of the Senate, when is the earliest possible time to call up S. 1283?

The PRESIDING OFFICER. Thursday would be the earliest possible time.

Mr. MANSFIELD. Is the Chair absolutely sure of that judgment based on the fact that the Senate did meet on Saturday and Sunday in legislative session? Is the Chair positive that on the basis of the rules and regulations of this body, even though accepted, they do not assume a different definition because of the legislative sessions held on those days?

The PRESIDING OFFICER. The Chair will say that he doubts very much that those framing the rules anticipated meeting on Sundays. Nevertheless, the rule seems to be clearly stated, in the view of the Chair, in that it refers to 3 calendar days—it does not use the term "legislative days"—and then provides for excluding Saturdays, Sundays, and holidays; and that is the way the Chair would rule.

Mr. MANSFIELD. Mr. President, the majority leader accepts that judgment in good grace and good faith. My only regret is that it may well hinder the work of the Senate, and may prevent us from getting out when we would like to, on the 20th or 21st. But, if that is the rule, I am subject to it like everyone else, and I accept the verdict of the Chair.

Mr. BELLMON. Mr. President, may I say to the distinguished majority leader that if it is possible for the Senator from Oklahoma to get his amendment ready sooner, he will offer it as quickly as possible and ask that we proceed with the bill. But it is a complicated matter, and we might need further time. I am not trying to hold up the work of the Senate; as a matter of fact, I have been interested in legislation along these lines for years and years.

Mr. MANSFIELD. I appreciate what the Senator says, and I am indebted to him for his desire to cooperate, because that has been one of the hallmarks of the distinguished Senator from Oklahoma (Mr. BELLMON) during his entire service in the Senate, and I say that honestly and from the heart.

Mr. BELLMON. I appreciate that.

Mr. MANSFIELD. May I make a suggestion? Would it be possible to lay this measure before the Senate tonight, get started tomorrow, and not conclude it until the Senator has had a chance to offer his amendments?

Mr. BELLMON. If the majority leader will allow me a few hours to see how far along my staff has come with it, I will be glad to respond later in the day.

Mr. MANSFIELD. That is agreeable.

Mr. BELLMON. With reference to Mr. Ash, let me say simply that Mr. Ash had nothing to do with any action I have been taking. This is simply a matter of personal concern.

Mr. MANSFIELD. No; let me say to the Senator from Oklahoma that this rumor came to my attention this morning—if it is a rumor, so be it; if it is a fact so be it; and if I have maligned Mr. Ash in any way, I again apologize—but what I have said about people in the executive branch still goes. They have no business up here intervening in our affairs. We have enough to do to look after that ourselves, and they have more than enough to do down there, to look after their business.

Now, Mr. President, I would like to make a few remarks on the colloquy between the distinguished Senator from Nebraska (Mr. CURTIS) and the distinguished Senator from North Carolina (Mr. ERVIN), the chairman of the select committee which was set up by the Senate on the basis of a unanimous vote.

In the first place, the resolution was never referred to the Rules Committee, and in the second place, the second request for additional funds came to the floor of the Senate, was presented to the Senate for consideration, and passed without question.

Let me ask the distinguished chairman of that committee at least two questions. First, does the select committee have the power to indict?

Mr. ERVIN. No; it does not.

Mr. MANSFIELD. Does the select committee have the right, the authority, and the power to make recommendations to the Justice Department and to make legislative recommendations to the Senate?

Mr. ERVIN. Yes.

Mr. MANSFIELD. And those are the two main functions of the committee, as I see it.

Mr. ERVIN. Yes · and I think the main one is to make recommendations about legislation.

Mr. MANSFIELD. Yes; indeed. And the recommendations on legislation cannot be made until all the hearings have been held and all the evidence has been brought forth, and then the committee, in toto, will sit down and decide what in their opinion would be best for the Senate to consider in the way of legislation.

Mr. ERVIN. That is right. It would not be proper conduct on the part of the committee, or fair to the people involved, if the committee were to undertake to make reports on these matters prior to the hearing of all the evidence the committee takes.

Mr. MANSFIELD. And among those recommendations may well be proposals for the financing of Presidential campaigns.

Mr. ERVIN. I think that would be one of the paramount recommendations, because we have had evidence taken before us that campaign funds were raised by what almost amounted to a species of coercion, and that large amounts of funds were raised from corporate funds in violation of a law that has been on the books since 1907. We have had evidence that as much as $350,000, on one occasion, was put in a briefcase and carried from the Committee To Re-Elect the President to Mr. Haldeman in the White House.

Mr. MANSFIELD. Of course, we know that this matter of money applies not only to one party, but to both.

Mr. ERVIN. That is right; yes.

Mr. MANSFIELD. And we will have to keep that in perspective at all times. But what the Senate committee is doing is on the basis of the will of the Senate, and the Senate, of course, in all instances, but especially in this instance, supersedes any committee.

Mr. ERVIN. Yes. And I would like to say this: We have encouraged the minority committee staff to conduct any investigation they wish with respect to any Democratic candidate for the Presidency or any matter of that nature.

Mr. MANSFIELD. May I say I am sorry that the resolution, in the first place, was not referred to the Rules Committee, because then a precedent would have been set which the committee would have had to follow. But it was not referred to the Rules Committee. I am glad that the distinguished Senator from Nebraska raised the questions he did; they were pertinent to the point. I am glad the answers given were made by the Senator from North Carolina, and I am glad that the Senate has agreed to this extension, because the committee has a responsibility, a duty, an obligation laid on it by the Senate, and that is to look into the question of questionable financing of campaigns.

I believe four or five corporation executives have already been found guilty, given a degree of immunity, fined, and perhaps given suspended sentences. Also, the question of dirty campaign tricks, the allegations against the personal lives of people like Senators HUMPHREY, MUSKIE, and JACKSON, have been looked into, and some punishment has been forthcoming.

Mr. ERVIN. And a man is serving a prison sentence now for being very instrumental in perpetrating those slanders and libels upon two distinguished Members of this body.

Mr. MANSFIELD. And may I say that one of the things which pleases me about this investigation is that it has not touched the Republican National Committee, of which the distinguished Senator from Kansas (Mr. DOLE), now on the floor, was chairman at the time, nor has it touched the Republican candidates. I think that speaks well for the two-party system, and I think a sharp differentiation must always be made when we look into the facts of the situation which confronts, not just the Senate, not just the Congress but the people and the Nation as a whole at the present time. May I point out that the members of that committee, none of them went to the TV networks and said, "Will you put us on film?" The initiative comes from the networks themselves. It is their responsibility whether or not they make a TV performance of the hearings. Frankly, I am kind of glad that the TV is now off the Watergate Committee. I would hope, on that basis, they could accomplish a good

deal more, bring out all the evidence, lay out all the facts, present them to the Justice Department, make legislative proposals to us and, hopefully, go out of existence by February 28; provided—provided—its job is done. But if it is not done by that date, I would expect the committee to ask for more funds, and I would expect and hope that the Senate would extend its life until all the facts are laid out and the job is done, because the American people are entitled to that knowledge. May I say once again, as I have said many times before, that the people, after all, happen to be the Government of the United States.

Mr. ERVIN. Mr. President, if I may make one statement, I should like to state that the distinguished Senator from Nebraska was perfectly within his rights as a Senator in raising the questions which he did, and that the method of proceeding he outlined would have been in accordance with the rules of the Senate just as the method which was pursued in connection with this matter by me was also in accordance with the rules of the Senate.

Mr. MANSFIELD. Mr. President, in my opinion, the distinguished Senator from Nebraska (Mr. CURTIS) did raise very pertinent questions and he had a right to do so. It is good for the record to have had those questions up.

Mr. COTTON. Mr. President, will the distinguished majority leader yield?

Mr. MANSFIELD. I yield.

Mr. COTTON. The Senator from New Hampshire was not present at the conclusion of the remarks of the Senator from Nebraska. But may I say that I think the majority leader's remarks in the past 2 minutes on this general subject, this general problem, have been very fair, very well expressed, and very reassuring to all Members of the Senate. They also should be to the public that will have access to this.

The Senator from New Hampshire would only express the hope that even though the present situation as regards the so-called Watergate Committee is practically unique, I guess, perhaps in the history of the country, that an extension is proper and inevitable.

I express the hope, and that the RECORD will show the hope was expressed, that this action would not be taken as a precedent in the future for bypassing the Rules and Administration Committee on these matters, because it is highly essential that someone, some committee, have all these things in hand and know what is going on. If it is started and is taken as a precedent, it might lead to great confusion in the regular and special committees.

I wonder whether the distinguished majority leader——

The PRESIDING OFFICER. The time for morning business has expired.

Mr. MANSFIELD. I ask unanimous consent that there be an additional 3 minutes for the conduct of routine morning business.

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

Mr. MANSFIELD. Yes, indeed, that was the point made by the distinguished Senator from Michigan (Mr. GRIFFIN), the acting Republican leader, and also by the distinguished Senator from Nebraska (Mr. CURTIS). But, as I tried to indicate, it was not considered by the Committee on Rules and Administration. It should have been done, but the precedent can be maintained.

I agree with the distinguished Senator, and Senators, that, hopefully, from now on when other resolutions are brought up, well-established precedents will be followed.

Mr. ROBERT C. BYRD. Mr. President, as a member of the Committee on Rules and Administration, I wish to join with others who have indicated the strong feeling that requests for funds to be paid out of the contingent moneys of the Senate should be sent to the Committee on Rules and Administration for its consideration first.

Under rule XXV, the Committee on Rules and Administration has jurisdiction over the expenditure of moneys out of the contingency fund of the Senate. In the first instance, this resolution requesting moneys for the select committee under Senator ERVIN's chairmanship should have gone to the Committee on Rules and Administration for its consideration.

Its not having gone to the committee, however, does not set a precedent for the Senate, I am advised by the Parliamentarian. This has been done in the past. But I do not think it is the best procedure, I want to say as a member of the Committee on Rules and Administration and for the RECORD. Moreover, I do not believe that the mere fact the Senate passed Resolution No. 60 unanimously was, in itself, justification for bypassing the Committee on Rules and Administration, because other such resolutions have passed and will, in the future, pass the Senate unanimously and this should not be considered adequate grounds for bypassing the jurisdiction of the Committee on Rules and Administration.

The distinguished chairman of the select committee, the Senator from North Carolina (Mr. ERVIN), has stated that that was one of the reasons why the request did not go to the Committee on Rules and Administration. I would not want the RECORD to stand without my interposing at least the observation that, in my view, that, in itself, standing alone is not a legitimate reason for bypassing the Committee on Rules and Administration.

I think that the prime reason for bypassing the Rules Committee was that the subject matter of Senate Resolution 60 was so urgent that it required expeditious action by the Senate. In view of the fact that the Senate had unanimously passed Senate Resolution 60, and the nature of the investigation being what it was, and time being of the essence, apparently there was no objection to proceeding the way we did, without referring the matter to the Committee on Rules and Administration.

The PRESIDING OFFICER. The time for morning business has now expired.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be an extension of 6 minutes for the transaction of routine morning business.

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

Mr. ROBERT C. BYRD. Mr. President, would the Senator from Illinois (Mr. STEVENSON) yield me his time? The Senator from Virginia (Mr. HARRY F. BYRD, JR.) wants the floor in his own right.

Mr. STEVENSON. I am glad to yield my time to the distinguished Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, on the matter of the 3-day rule, I compliment the Chair for its ruling based on a literal interpretation of that provision in the 1970 Legislative Reorganization Act. As the distinguished majority leader indicated, there is no disagreement with the Chair's interpretation. I think, though, I should say this, that this is another indication the Legislative Reorganization Act of 1970, really, was rushed through the Senate without the kind of consideration it should have been given during floor debate. Apparently everyone overlooked the fact that the Senate does meet on Saturdays occasionally, and while we may not have thought, at the time, that the Senate would be meeting on a Sunday soon, it did happen. Yet, Saturday and Sunday sessions do not count in the tolling of the rule.

So, I just take the floor at this time to state that it was surely the intent of those who passed this legislation that Saturday and Sunday, if they were legislative days, should be counted against the 3 days that operate to satisfy the rule. But a literal interpretation of this rule by those of us who still like to think we are strict constructionists would have to eliminate the Saturday and Sunday legislative days of the past weekend. So the Chair was correct.

I think we might want to give this matter further consideration sometime when we are talking about amending the rules of the Senate, because it obviously works against the intent of the writers of the legislation and certainly works against the leadership in its efforts to expedite the legislative process.

PRIVILEGE OF THE FLOOR

Mr. DOLE. Mr. President, I ask unanimous consent that during the consideration of S. 2702, the Emergency Daylight Saving Time Energy Conservation Act of 1973, John Smith and Bill Wohlford of my staff have the privilege of the floor during the debate.

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

Mr. HARRY F. BYRD, JR. Mr. President, I make the same request with regard to John I. Brooks and George Shanks of my staff.

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

Mr. COTTON. Mr. President, I make the same request with regard to four members of the minority staff of the Committee on Commerce who worked on this matter and on various amendments—namely, Arthur Pankopf, Jr., Malcolm Sterrett, David Clanton, and Thomas Adams.

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

Mr. ROBERT C. BYRD. Mr. President, I make the same request with respect to Mr. Nick Zapple for Senator PASTORE.

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

Mr. STEVENSON. Mr. President, I make the same request with respect to Leslie Goldman and William Staszak of my staff.

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

THE REIMPOSITION OF THE DEATH PENALTY

Mr. HARRY F. BYRD, JR. Mr. President, the Richmond Times-Dispatch of Sunday, December 2, published an interesting and learned article on the question of capital punishment. This article was written by William Shands Meacham. Mr. Meacham has had wide experience in this field. He was chairman of the Virginia Board of Pardons and Reprieves for many years. He also served on the International Penal and Punishment Commission at The Hague, where the matter of capital punishment was considered from a worldwide and international viewpoint.

Mr. Meacham was for many years the editor of the editorial page of the Norfolk Virginian-Pilot. I have known Mr. Meacham for many years. He was an outstanding newspaper editor. He is an outstanding Virginian, with high credentials in the field he is discussing in this article. It is an interesting and provocative article, 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:

THE REIMPOSITION OF THE DEATH PENALTY

(By William Shands Meacham)

In writing about the reimposition of the death penalty in Virginia in certain cases and in accordance with the decision of the United States Supreme Court of last year, I think of the oft-quoted dictum of the Marquis de Lafayette:

I shall continue to demand the abolition of the death penalty until I have the infallibility of human judgments demonstrated to me.

My use of the personal pronoun in this brief discussion of capital punishment suggests an intention of speaking of personal experience. During the World War II years, I was chairman of the Virginia Board of Pardons and Reprieves (as well as chairman of the Virginia Probation and Parole Board) and had the awesome responsibility of being the head of what a distinguished Virginia editor of the time called "actually the court of last resort on the death sentences imposed in Virginia." I passed upon nearly a score of death sentences and wrote nearly that many letters beginning with the most appalling sentence I ever wrote in the writing of millions of printed words: "We regret to inform you . . ."

Having signed those doomsday letters in the execution of my oath of office under the mandate of the Virginia Constitution that permitted Gov. Colgate Darden to appoint me as his surrogate in this matter in a period of national emergency, I should be in a poor position to oppose the mandated death penalty in Virginia in certain cases, and shall not do so.

Gov.-elect Godwin, who proposes the death sentence for certain crimes, has already demonstrated his social conscience, integrity and competence in handling the extreme penalty in criminal cases, as he has in the administration of other governmental affairs.

Lafayette was right, but human judgment is fallible in *all* areas of government, and also on both sides of debate over capital punishment.

A DETERRENT EFFECT

During the past year I have conducted an informal opinion poll among distinguished Virginians of high professional achievements. Three of them were lawyers who have occupied several of the highest positions in Virginia and national government. All three were in favor of the reimposition of the death penalty in Virginia "in certain cases." Among the 30 persons I polled, a large majority shared this view, although some opinions were heavily qualified.

The most impressive argument for the imposition of the mandated death penalty in Virginia (drawn to legislative scale) is that it would act as a deterrent. The death penalty abolitionists argue that there is no evidence to prove the deterrent effect of the death sentence. There are plenty of statistics. Unfortunately, these do not always give the right answers where human equations are concerned. Governmental jurisdictions have homogenous populations (where crime rates are low) and heterogeneous populations (where crime rates are high), and education and economic conditions differ among the states studied.

I served on the International Penal and Penitentiary Commission at The Hague with one of the principal authorities on the effect of the death penalty, and I have read extensively in the literature on this subject. My own view is that it may have some deterrent effect.

It is argued that an individual who has regressed for the moment to the primitive level and is planning or committing a murder does not think of the possible punishment. But it can be argued with equal force that if the death penalty is itself a primitive expression of the *lex talionis*, or "talon law" as it is sometimes called, its message is directed to those most vulnerable to the primitive impulses that prompt, say, murder and rape.

An Episcopal minister noted for his compassion and kindness said that the death penalty was necessary to remove certain heinous and outrageous offenders, since society would be saved from any danger of their future crimes. The head of a great university whose philosophy is a blend of humanism and conservatism said that there are some people so vicious that they deserve to forfeit the right to live. An eminent jurist said of the death penalty. "Well, it's a good thing to have it there."

NONSALVAGEABLE CRIMINALS

In ancient Rome, Caesar, as an advocate using every argument to negate the death penalty, contended that it was less painful than life imprisonment. Yet life imprisonment is not an alternative to the death sentence in removing from society the heinous and outrageous offenders, the sadistic murderers who can never be safely restored to society. There are always a majority of civil prisoners who are salvageable human material. But those convicted of capital crimes and sentenced to death are seldom among them. The average life-termer in the United States serves less than 15 years in prison before being released by pardon or parole.

The crimes of the men upon whose death sentences I passed were horrendous in the most extreme sense of the word.

Let me give an example: A crippled, middle-aged man driving along a highway in rural Virginia, stopped to pick up two men in their early thirties, thumbing a ride and sipping from their bottled soft drinks. Shortly after he picked the two men up, the driver was forced to drive onto a side road, was dragged from his car and had his throat cut by the jagged edges of two broken bottles. By chance, the murdered man's body was discovered quickly. The murderers were arrested in the victim's car in possession of his pocketbook, driver's license and money. They were tried and sentenced to death.

These men appealed to me, in the personal interview I always had with the condemned before beginning my investigation, for commutation of sentence on the ground that they had no prior criminal record. Later, the same appeal was made to my board by counsel. Such crimes speak for themselves, or for the characters of the persons who commit them. The two men guilty of this atrocious murder went to the electric chair.

Among the condemned men on Death Row at 500 Spring Street at the time of the Supreme Court's decision, there were some as vicious as could be found in any period in the history of crime.

Systematically interviewing men in Virginia prisons who had served more than 12 years, in connection with my responsibility for pardons and reprieves, I found one friendless man who originally had been sentenced to death, but whose sentence had been commuted on account of his youth (the governor may have had some doubt). He could not possibly have committed the crime for which he was convicted, as our investigation showed. He was given an absolute pardon.

ARGUMENT AGAINST IT IS WEAK

Time has destroyed the polarity—action and reaction—which once existed between certain crimes and the death penalty, variously administered in its historical periods. No person has been executed in the United States since 1967. Juries are reluctant to impose the penalty, recognizing the validity of Lafayette's point.

Yet the argument against it is weak, or falls, until we have found a way to protect society adequately against a certain small fraction of its members who by an inexorably faulty design of the chromosomes and genes are made unfit to live in civilized society. With all our human intelligence, we shouldn't have to wait for genetic engineering, which seems a little distant on the scientific horizon.

QUORUM CALL

Mr. HARRY F. BYRD, JR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the role.

The second assistant legislative clerk proceeded to call the roll.

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

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

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 568, 569, and 571, all of which have been cleared on both sides of the aisle.

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

SPRINGFIELD ARMORY NATIONAL HISTORIC SITE—BILL PASSED OVER

The Senate proceeded to consider the bill (S. 979) to authorize the establishment of the Springfield Armory National Historic Site, Mass., and for other purposes, which was reported from the Com-

mittee on Interior and Insular Affairs, with an amendment.

Mr. ROBERT C. BYRD. Mr. President, the clerk did not report the amendment.

The PRESIDING OFFICER. The amendment is not at the desk.

Mr. ROBERT C. BYRD. Then, I ask that that bill go over temporarily.

The PRESIDING OFFICER. The bill will go over.

ORDER TO HOLD BILLS AT DESK

Mr. MANSFIELD. Mr. President, I ask unanimous consent that messages from the House on H.R. 11441, to postpone the implementation of the Headstart fee schedule, and H.R. 9437, to amend the International Travel Act of 1961, be held at the desk temporarily when received from the House.

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

INDIANA DUNES NATIONAL LAKESHORE—BILLS PASSED OVER

The Senate proceeded to consider the bill (S. 584) to amend the act entitled "An act to provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes," approved November 5, 1966, which was reported from the Committee on Interior and Insular Affairs, with amendments.

Mr. ROBERT C. BYRD. Mr. President, are the amendments at the desk with respect to this bill?

The PRESIDING OFFICER. No.

Mr. ROBERT C. BYRD. Are the amendments at the desk with respect to Calendar No. 571?

The PRESIDING OFFICER. No.

Mr. ROBERT C. BYRD. Then I withhold my request and will renew it later.

MESSAGE FROM THE HOUSE

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

S. 921. A bill to amend the Wild and Scenic Rivers Act;

S. 1191. An act to provide financial assistance for a demonstration program for the prevention, identification, and treatment of child abuse and neglect, to establish a National Center on Child Abuse and Neglect, and for other purposes;

S. 1776. An act to amend the Federal Water Pollution Control Act, as amended; and

S. 2178. An act to name the U.S. courthouse and Federal building under construction in New Orleans, La., as the "Hale Boggs Federal Building," and for other purposes.

The message also announced that the House had passed the following bills and joint resolution, in which it requested the concurrence of the Senate:

H.R. 1817. An act to provide for the striking of national medals to honor the late J. Edgar Hoover;

H.R. 9492. An act to amend the Wild and Scenic Rivers Act by designating the Chattooga River, N.C., S.C., and Ga., as a component of the National Wild and Scenic Rivers System, and for other purposes;

H.R. 11372. An act to conserve energy on the Nation's highways;

H.R. 11441. An act to postpone the implementation of the Headstart fee schedule;

H.R. 11546. An act to authorize the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes;

H.R. 11565. An act to insure that certain buildings financed by Federal funds utilize the best practicable technology for the conservation and use of energy; and

H.J. Res. 736. A joint resolution to provide for a feasibility study and to accept a gift from the U.S. Capitol Historical Society.

HOUSE BILLS AND JOINT RESOLUTION REFERRED

The following bills and joint resolution were severally read twice by their titles and referred, as indicated:

H.R. 1817. An act to provide for the striking of national medals to honor the late J. Edgar Hoover. Referred to the Committee on Banking, Housing and Urban Affairs.

H.R. 9492. An act to amend the Wild and Scenic Rivers Act by designating the Chattooga River, N.C., S.C., and Ga., as a component of the National Wild and Scenic Rivers System, and for other purposes; and

H.R. 11546. An act to authorize the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes. Referred to the Committee on the Interior.

H.R. 11372. An act to conserve energy on the Nation's highways;

H.R. 11565. An act to insure that certain buildings financed by Federal funds utilize the best practicable technology for the conservation and use of energy; and

H.J. Res. 736. A joint resolution to provide for a feasibility study and to accept a gift from the U.S. Capitol Historical Society. Referred to the Committee on Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MUSKIE, from the Committee on Public Works:

S. 2772. An original bill to amend title II of the Clean Air Act, as amended. (Report No. 93-598). Together with supplemental and additional views.

EXECUTIVE REPORTS OF COMMITTEES

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

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

Robert W. McVay, of Missouri, to be a member of the Federal Metal and Nonmetallic Mine Safety Board of Review.

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

Mr. WILLIAMS. As in executive session, I also report favorably sundry nominations in the Public Health Service which have previously appeared in the CONGRESSIONAL RECORD and, to save the expense of printing them on the Executive Calendar, I ask unanimous consent that they lie on the Secretary's desk for the information of Senators.

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

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

Harry Allen, and sundry other persons, for personnel action in the Public Health Service.

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. ERVIN (for himself and Mr. TUNNEY):

S. 2763. A bill to protect the constitutional rights of professional athletes. Referred to the Committee on the Judiciary by unanimous consent.

By Mr. HATHAWAY:

S. 2769. A bill to authorize the documentation as vessels of the United States of foreign built vessels of 100 net tons or less for use in the U.S. fisheries while owned by U.S. citizens or corporations. Referred to the Committee on Commerce.

By Mr. STENNIS (for himself and Mr. THURMOND) (by request):

S. 2770. A bill to amend chapter 5 of title 37, United States Code, to revise the special pay structure relating to medical officers of the uniformed services; and

S. 2771. A bill to amend chapter 5 of title 37, United States Code, to revise the special pay bonus structure relating to members of the Armed Forces, and for other purposes. Referred to the Committee on Armed Services.

By Mr. MUSKIE:

S. 2772. An original bill to amend title II of the Clean Air Act, as amended. Placed on the calendar.

By Mr. LONG:

S. 2773. A bill to amend title 10, United States Code, to improve the opportunity of nurses and medical specialists for appointment and promotion in the Regular Army or Regular Air Force, and authorize their retention beyond the mandatory retirement age. Referred to the Committee on Armed Services.

By Mr. HATFIELD:

S. 2774. A bill to provide assistance in improving zoos and aquariums by creating a National Zoological and Aquarium Board, and for other purposes. Referred to the Committee on Rules and Administration.

By Mr. MONDALE (for himself and Mr. SCHWEIKER):

S. 2775. A bill to amend the Internal Revenue Code of 1954 to increase the maximum credit and deduction allowable with respect to contributions to candidates for public office, to make certain changes in subtitle H of such Code with respect to the financing of Presidential election campaigns, and for other purposes. Referred to the Committee on Finance.

By Mr. JACKSON (for himself, Mr. RIBICOFF, Mr. ERVIN, Mr. PERCY, Mr. JAVITS, Mr. RANDOLPH, Mr. FANNIN, and Mr. NUNN):

S. 2776. A bill to provide for the effective and efficient management of the Nation's energy policies and programs. Referred to the Committee on Government Operations.

By Mr. JACKSON (for himself, Mr. ABOUREZK, and Mr. BARTLETT):

S. 2777. A bill to establish within the Department of the Interior an additional Assistant Secretary of the Interior for Indian Affairs, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. STENNIS (for himself and Mr. THURMOND) (by request):

S.J. Res. 176. A joint resolution to author-

ize the production of petroleum from naval petroleum reserve. Referred to the Committee on Armed Services.

By Mr. DOMENICI (for himself, Mr. DOMINICK, Mr. EASTLAND, and Mr. HUMPHREY):

S.J. Res. 177. A joint resolution to authorize the administrator of any direct Federal loan program or any federally guaranteed loan program to renegotiate or reschedule repayment by any person or business suffering severe economic harm as a result of the energy crisis on a loan under any such program. Referred to the Committee on Government Operations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ERVIN (for himself and Mr. TUNNEY):

S. 2768. A bill to protect the constitutional rights of professional athletes. Referred to the Committee on the Judiciary by unanimous consent.

Mr. ERVIN. Mr. President, I introduce a bill and ask unanimous consent that it be referred to the Committee on the Judiciary, so that it can go to the Antitrust Subcommittee.

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

By Mr. STENNIS (for himself and Mr THURMOND) (by request):

S. 2770. A bill to amend chapter 5 of title 37, United States Code, to revise the special pay structure relating to medical officers of the uniformed services; and

S. 2771. A bill to amend chapter 5 of title 37, United States Code, to revise the special pay bonus structure relating to members of the Armed Forces, and for other purposes. Referred to the Committee on Armed Services.

Mr. STENNIS. Mr. President, the bills I introduce are with reference to the volunteer forces for all the military forces, having to do with some increase in the bonus now being paid for enlistment and reenlistment, and also increase with reference to compensation of doctors.

Mr. President, by request, for myself and the senior Senator from South Carolina (Mr. THURMOND), I introduce for appropriate reference and by request, a bill to amend chapter 5 of title 37, United States Code, to revise the special pay structure relating to medical officers of the uniformed services; a second bill, to amend chapter 5 of title 37, United States Code, to revise the special pay bonus structure relating to members of the Armed Forces, and for other purposes.

I ask unanimous consent that a letter of transmittal requesting consideration of the legislation and explaining the purpose be printed in the RECORD immediately following my remarks and the printing of the bills.

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

(See exhibit 1.)

Mr. STENNIS. The physicians bill, designed to make military pay more competitive with civilian practice, is needed to retain medical doctors in the military services. It will partly close the gap between the average compensation of physicians in civilian life and that in the military services.

This measure would increase "special pay" from $150 to $350 per month for a military physician with over 2 years active service and would authorize a bonus of up to $15,000 per year for doctors for each year they agree to continue active service in place of the present system.

The legislation deals with physicians only and does not increase benefits for other health professionals within the Department of Defense.

Significant military physician losses are anticipated in the next few years without the draft and the Defense Department has projected a shortage of up to 1,800 doctors—based on projected requirements of 12,147—by June 30, 1976, if the bonus provisions of this legislation are not enacted.

Estimated cost of the physicians pay bill—assuming an implementation date of January 1, 1974—is $50.7 million in fiscal year 1974, increasing to an average of about $76 million annually for fiscal years 1975–78.

The enlistment/reenlistment bonus bill is designed to make bonuses more responsive to manpower needs.

The first feature of the bill permits a bonus of up to $3,000 for a 3-year enlistment in any skill area where critical shortages occur. Currently, a $3,000 bonus is available only for enlistments in the three combat arms, infantry, artillery, and armor.

The second feature of the bill provides a restructuring of the reenlistment bonus system.

Existing law provides a reenlistment bonus of up to $2,000 for all re-enlistees and an additional bonus of up to $8,000 for reenlistments in critical skill areas. STENNIS' bill allows up to $15,000 in total reenlistment bonuses for military personnel in critical skill areas only.

This plan will eventually eliminate the current practice of paying a $2,000 bonus to servicemen who reenlist in noncritical skills or in skill areas that are overmanned.

It is estimated that the Department of Defense paid more than $43 million in fiscal year 1973 reenlistment bonuses for skill requirements that would have been met without the use of a bonus.

EXHIBIT 1

S. 2771

A bill to amend chapter 5 of title 37, United States Code, to revise the special pay bonus structure relating to members of the armed forces, 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 "Armed Forces Enlisted Personnel Bonus Revision Act of 1974."

SEC. 2. Chapter 5 of title 37, United States Code, is amended as follows:

(1) Section 308 is amended to read as follows:

"§ 308. *Special Pay: reenlistment bonus*

"(a) A member of a uniformed service who—

(1) has completed at least 21 months of continuous active duty (other than for training) but not more than 10 years of active duty;

"(2) is designated as having a critical military skill by the Secretary of Defense, or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy;

"(3) is not receiving special pay under section 312a of this title; and

"(4) reenlists or voluntarily extends his enlistment in a regular component of the service concerned for a period of at least three years;

may be paid a bonus, not to exceed six months of the basic pay to which he was entitled at the time of his discharge or release, multiplied by the number of years or the monthly fractions thereof, of additional obligated service, not to exceed six years, or $15,000, whichever is the lesser amount. Obligated service in excess of 12 years will not be used for bonus computation.

"(b) Bonus payments authorized under this section may be paid in either a lump sum or in installments.

"(c) For the purpose of computing the reenlistment bonus in the case of an officer with prior enlisted service who may be entitled to a bonus under subsection (a) of this section, the monthly basic pay of the grade in which he is enlisted, computed in accordance with his years of service computed under section 205 of this title, shall be used instead of the monthly basic pay to which he was entitled at the time of his release from active duty as an officer.

"(d) A member who voluntarily, or because of his misconduct, does not complete the term of enlistment for which a bonus was paid to him under this section shall refund that percentage of the bonus that the unexpired part of his enlistment is of the total enlistment period for which he bonus was paid.

"(e) This section shall be administered under regulations prescribed by the Secretary of Defense for the armed forces under his jurisdiction, and by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy."

(2) Section 308a is amended to read as follows:

"§ 308a. *Special pay: enlistment bonus*

"(a) Notwithstanding section 514(a) of title 10 or any other law, under regulations prescribed by the Secretary of Defense, or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, a person who enlists in an armed force for a period of at least three years in a skill designated as critical, or who extends his initial period of active duty in that armed force to a total of at least three years in a skill designated as critical, may be paid a bonus in an amount prescribed by the appropriate Secretary, but not more than $3,000. The bonus may be paid in a lump sum or in equal periodic installments, as determined by the appropriate Secretary.

"(b) Under regulations prescribed by the Secretary of Defense, or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, a person who voluntarily, or because of his misconduct, does not complete the term of enlistment for which a bonus was paid to him under this section shall refund that percentage of the bonus that the unexpired part of his enlistment is of the total enlistment period for which the bonus was paid.

"(c) No bonus shall be paid under this section with respect to any enlistment or extension of an initial period of active duty in the armed forces made after June 30, 1977."

SEC. 3. Notwithstanding section 308 of title 37, United States Code, as amended by this Act, a member of a uniformed service on active duty on the effective date of this Act, who would have been eligible, at the end of his current or subsequent enlistment, for the reenlistment bonus prescribed in section 303 (a) or (d) of that title, as it existed on the day before the effective date of this Act, shall

continue to be eligible for the reenlistment bonus under that section as it existed on the day before the effective date of this Act. If a member is also eligible for the reenlistment bonus prescribed in that section as amended by this Act, he may elect to receive either one of those reenlistment bonuses. However, a member's eligibility under section 308(a) or (d) of that title, as it existed on the day before the effective date of this Act; terminates when he has received a total of $2,000 in reenlistment bonus payments, received under either section 308 (a) or (d) of that title as it existed on the day before the effective date of this Act, or under section 308 of that title, as amended by this Act, or for a combination of both.

SEC. 4. The amendments made by this Act become effective on January 1, 1974.

THE SECRETARY OF DEFENSE,
Washington, D.C., November 27, 1973.

HON. JOHN C. STENNIS,
Chairman, Committee on Armed Services, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The purpose of this letter is to express the urgent priority assigned by the Department of Defense to several sections of DOD Legislative Proposal 93-3, the "Uniformed Services Special Pay Act of 1973." I fully recognize the heavy workload confronting both your Committee and the Congress in general, and the limited time available to address the "Special Pay Act." I would not trouble you at this time were it not for the high priority that I place on the three sections described below.

Our objective for nearly four years has been the attainment of an all-volunteer armed forces. The transition has been completed, and it is now incumbent upon us in the Department of Defense to sustain this force in sufficient numbers and quality in the most cost effective manner. To do so, the Department of Defense needs, on a priority basis, the additional management tools specified in the enlistment and selective reenlistment bonus sections of the proposed legislation. These two sections are designed specifically and solely to meet our requirements for enlisted personnel. They provide the Secretary of Defense with the mechanism needed to meet the competitive struggle for critical skill manpower in the labor market.

Enlistment Bonus-Expanded Authority. The enlistment bonus requested will provide the Secretary of Defense with the expanded authority to award an enlistment bonus across service lines solely on the basis of critical skill determinations in order to fulfill existing accession requirements for enlisted personnel. The bonus would be employed only when demonstrated to be cost effective, and only when other alternatives have been fully explored and exhausted. The success of this recruitment incentive under the present authority with regard to the combat arms career field is unquestionable and there are statistics available to support this view. The importance of the enlistment bonus rests with the authority to have a measure available which will increase terms of service and at the same time provide a sound and proven management device to facilitate matching critical skill needs and accessions.

The cost effective aspects of this provision are shown at Tab A which depicts several Army skills currently considered to be critical in nature, and to which the bonus would be applied today. Costs for the enlistment bonus are estimated to be $9 million for FY 1974 if implemented on January 1, 1974.

Reenlistment Bonus. The selective reenlistment bonus section of the Special Pay Act, in my view, also warrants a high priority because it represents an opportunity to save money while simultaneously improving our management of reenlistment incentives. Under the current authority, a bonus of not more than $2,000 is required by law to be paid to *all* enlisted personnel who are accepted for reenlistment by the services, *regardless* of the criticality of the skill possessed. Unless the present law is changed, we will continue to be compelled to pay this amount to all personnel who reenlist. At Tab B is a chart showing that in FY 1973 we spent $43 million in skills where the required manning could have been achieved without a bonus.

The proposed selective reenlistment bonus concept would utilize current reenlistment incentive dollars more effectively. Additionally, millions of dollars in savings would accrue in future years when conversion to the proposed concept is complete. By FY 1979, aggregate savings in excess of $80 million are estimated.

Medical Officers. Of the various officer specialties in the health field required in the Armed Forces, medical officers are the most critical. If we are to retain and attract the required numbers and quality of physicians in an all-volunteer force, additional financial incentives must be provided. We do not believe it feasible or desirable to seek to match the economic alternatives available to physicians in the private sector of our economy, but we do believe it is essential to narrow the gap that now exists between the compensation of physicians in the Armed Forces and those in the private sector.

The proposed Uniformed Services Special Pay Act previously submitted to the Congress would have provided discretionary authority for extra pay not only for physicians but also for other categories of officers in the health field. Since the most immediate and critical problem is with medical officers; and since it is only the latter group where significant pay disparities exist in comparison to average civilian economic opportunities, I believe priority action at this time can be limited to the medical officer problem. The possible need for additional compensation for the other categories of officers in the health fields will be kept under close and continuing review. Appropriate recommendations will be submitted to the Congress at a later date if found essential.

Priority Actions. In light of the above discussion, I have requested that two new proposed items of legislation be prepared. One item will contain only the provisions for the enlistment bonus and selective reenlistment bonus. The other will pertain only to medical officers. These proposals will be submitted to the Congress in the next few days.

As to the other provisions of the "Special Pay Act" relating to the Reserve Components and critical officer skills other than in the health fields we are again reviewing each of these areas with the highest sense of urgency.

In the case of the Reserve Components, recruiting results have improved during recent months to the point where most components appear to have "bottomed out" and are starting a slow climb. We are reexamining this area to insure that all feasible steps are being taken to improve and maximize our recruiting efforts; and to determine the significance in terms of readiness of the present shortfalls in authorized strengths. In this connection, we are now embarking on a major Defense-wide study of Reserve Components. This is a comprehensive effort and will include, among other things, detailed analysis of the reserve manpower situation to include recruiting.

Also to be noted is that the Department of Defense has submitted to the Congress several other legislative proposals affecting the Reserve Components which we believe fully warrant early and favorable action by the Congress. These include the following: extending coverage under Servicemen's Group Life Insurance (a matter under consideration by another Committee); the bill which would provide equity in medical and survivor benefits (DOD 93-14); and the bill which would allow selective use of active force enlisted retirees to fill critical vacancies in the Selected Reserve (DOD 93-26 and H.R. 10367). Enactment of these measures would not require added expenditures by the Department of Defense except for the bill which would provide equity in medical and survivor benefits (DOD 93-14). Enactment of the latter bill would result in increased annual cost of $3.9 million.

In making further reviews of the other provisions of the Special Pay Act, I do not mean to imply that they also are not key management elements in our volunteer force plans. I am simply recognizing the requirements of Congressional and Defense priorities in suggesting priority treatment of the medical officer and enlistment and reenlistment sections. Following completion of our review and evaluation, separate submissions of the other proposals will be made as seems appropriate at the time in order to provide the Congress with the opportunity to address each of these provisions separately based on its own merits.

May I take this opportunity to express my sincere appreciation to you for your continuing interest and concern in all matters affecting members of the armed forces. I plan to provide a copy of this letter to the Chairman, Committee on Armed Services, House of Representatives.

Sincerely,

BILL CLEMENTS.

Cost-avoidance comparison examples of USSPA enlistment bonus

ARMY EXAMPLES

Cost (bonus planning figure:)	
Defense acquisition radar	$2,000
Artillery surveyor	2,000
Vulcan crewman	2,500
Hawk missile launcher mechanic	2,500
Fire control computer repairman	2,500
All Services average impact	2,000
Net cost avoidance: [1]	
Defense acquisition radar	1,721.00
Artillery surveyor	3,243.00
Vulcan Crewman	3,082.00
Hawk missile launcher mechanic	10,675.00
Fire control computer repairman	17,580.00
All services average impact	3,200.00

[1] Due to extra time on job from longer-term (four years) bonus contract. Allowance has been made for time spent in training, DCS moves, and annual leave. Bonus advantages which were not included are the values attributed when a shortage is solved and the value of greater experience with the longer-terms.

Example computation for Artillery Surveyor:

Training cost prorated over available job time for 2-year enlistment; minus training cost prorated over available job time for 4-year bonus enlistment; equals additional time on job (over 2-year) due to 4-year bonus enlistment.

[($84.40) — ($49.90)] (94 weeks) = $3,243.

Fiscal year 1973—Number of first-term reenlistees and amount of regular reenlistment bonus paid in overmanned skills

Number of [1] overmanned skills:	
Army	144
Navy	15
Marine Corps	62
Air Force	153
Total	374
Number of [2] first-term reenlistments:	
Army	6,700
Navy	2,823
Marine Corps	954
Air Force	11,757
Total	22,234

Amount of [3] RRB paid ($000):	
Army	$13,112
Navy	5,527
Marine Corps	1,867
Air Force	23,009
Total	43,515

[1] Skills represent MOS in Army and Marine Corps, Rating in Navy and AFSC in Air Force.

[2] Number of First Term personnel that reenlisted and were eligible for the first payment of the Regular Reenlistment Bonus.

[3] Based on DoD average Regular Reenlistment Bonus payment at first reenlistment of $1,957.

SECTIONAL ANALYSIS

Section 1 amends chapter 5 of title 37, United States Code.

Clause (1) amends section 302 by reducing for uniformed services physicians the present four steps of special pay, which require the completion of ten years of active service before attaining eligibility for the $350 per month maximum, down to two steps, with the maximum being reached upon the completion of two years of service.

Clause (2) adds a new section 302b which simply restates the present provisions of law regarding special pay for uniformed services dentists. Such restatement is necessary because under this proposal physician and dentist special pay would no longer be identical and, consequently, would no longer be appropriately covered in the same section of chapter 5.

Clause (3) would amend section 311(a) of chapter 5 in order to terminate continuation pay authority for physicians in the armed services. (The amendment, however, would not affect present authority covering continuation pay for physicians in the Commissioned Corps of the Public Health Service.)

Clause (4) adds a new section 313 to chapter 5 in order to authorize the new variable incentive pay for physicians of the armed forces.

Section 2 prescribes an 18-month period (January 1, 1974–June 30, 1976) during which the new variable incentive pay for physicians would be authorized. This section would also have the effect of limiting payment of the modified physician special pay to a three and one-half year period (January 1, 1974–June 30, 1977).

SECTIONAL ANALYSIS

Section 1 provides that the Act may be cited as the "Armed Forces Enlisted Personnel Bonus Revision Act of 1974."

Section 2 amends chapter 5 (Special and Incentive Pays) of title 37, United States Code.

Clause (1) restates section 308 (reenlistment bonus) as follows:

(1) Subsection (a) substitutes a new reenlistment bonus for the existing reenlistment bonus and variable reenlistment bonus. The new bonus is payable to members who have completed 21 months but not more than 10 years of service and who reenlist or extend their enlistment for at least three years. Bonus computation will be based on monthly increments of basic pay, not to exceed six, multiplied by the number of years of additional obligated service. Maximum bonus payable is $15,000 per reenlistment. Obligated service in excess of 12 years will not be used for bonus computation.

(2) Subsection (b) authorizes the bonus to be paid either in a lump sum or in installments.

(3) Subsection (c) provides a method for bonus computation in the cases of officers with prior enlisted service who reenlist.

(4) Subsection (d) contains the standard provision for a refund from a member who voluntarily or through misconduct fails to complete the contracted period of service. The amount refunded is in proportion to the unfilled service commitment.

(5) Subsection (e) authorizes the Secretary of Defense, and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, to prescribe regulations for the administration of this section. Clause (2) restates section 308a (enlistment bonus) as follows:

(1) Subsection (a) broadens the authority for payment of the enlistment bonus. It removes the restriction limiting payment to enlistees or extendees in the combat elements only and permit the Secretary of Defense to offer the bonus to enlistees or extendees in any speciality considered critical in meeting all-volunteer force objectives. It further authorizes the Secretary of Transportation to offer this bonus to enlistees or extendees in the Coast Guard.

(2) Subsection (b) restates, without change except for the inclusion of the Coast Guard, the existing provisions of current subsection (b) containing the standard refund provision as described in Clause (2), above.

(3) Subsection (c) restates, without change except for a different expiration date three years subsequent to that stated in the existing provision that no payments may be made with respect to any enlistment or extension of enlistment made after June 30, 1977.

Section 3 preserves the present authority, now contained in current 37 U.S.C. 308(a) and (d) (reenlistment bonus), to pay the reenlistment bonus authorized in those subsections to those members who were on active duty on the date of enactment of the bill, but who are not entitled to a reenlistment bonus under amended 37 U.S.C. 308, as restated by section 2(2) of the bill. If a member is eligible for both the bonus under current 37 U.S.C. 308(a) and (d), and the bonus authorized by amended 37 U.S.C. 308 as restated by section 2(2) of the bill, he may elect to receive either one of those reenlistment bonuses. However, a member's eligibility under 37 U.S.C. 308(a) and (d), as it existed on the day before the effective date of this Act, terminates when he has received a total of $2,000 in reenlistment bonus payments, received from either section 308 (a) or (d) of that title as it existed on the day before the effective date of this Act, or from section 308 of that title as amended by this Act, or from a combination of both.

Section 4 makes the bill effective January 1, 1974.

By Mr. HATFIELD:

S. 2774. A bill to provide assistance in improving zoos and aquariums by creating a National Zoological and Aquarium Board, and for other purposes. Referred to the Committee on Rules and Administration.

Mr. HATFIELD. Mr. President, in June, I introduced S. 2042 which would have provided badly needed aid to the zoos and aquariums across the country. Since that time, the situation has not improved for these institutions which may be the only contact of many citizens with the animal kingdom, and the last refuge for many of our endangered species.

Since the introduction of that bill, I have received a favorable response from many representatives of zoos, aquariums, and zoological organizations, and from private citizens. These letters add further evidence to the fact that many zoos and aquariums desperately need financial assistance if they are to upgrade poor conditions, maintain adequate standards of welfare for the animals, and develop the potential of zoos and aquariums as educational and esthetic resources.

At the same time, there were many suggestions as to how the legislation could best serve the needs of the zoos and aquariums in their attainment of these objectives. The bill I introduce today is a result of these suggestions, as well as work with Congressman WILLIAM WHITEHURST who is carrying the legislative responsibility for the bill in the House.

The National Zoo and Aquarium Assistance Act of 1973 establishes a 17-member board which is authorized to provide badly needed assistance through direct project grants and loan guarantees to assist in the attainment and maintenance of the accreditation program which is authorized to be established by the board. The board will also sponsor pilot projects which will serve as models for high national standards, as well as forming the cornerstone for development in zoos and aquariums who receive such pilot project grants.

It is my belief that this bill will best meet the needs of poor and dilapidated zoos and aquariums, while at the same time providing benefits to institutions which show initiative to modernize and improve.

Also, the matching provisions of the bill will encourage greater local participation.

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

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

S. 2774

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is created as an independent agency in the executive branch the National Zoological and Aquarium Board (hereinafter in this Act referred to as the "Board").

SEC. 2. (a) The Board shall consist of—

(1) the Director of the National Zoological Park;

(2) the Comptroller General of the United States; and

(3) fifteen individuals to be appointed by the President, by and with the advice and consent of the Senate, as follows—

(A) two officers or employees from the Agricultural Research Service of the Department of Agriculture;

(B) one officer or employee from the Department of State;

(C) one officer or employee from the National Oceanic and Atmospheric Administration of the Department of Commerce;

(D) one officer or employee of the Bureau of Sport Fisheries and Wildlife of the Department of the Interior;

(E) two individuals from among representatives of national humane associations;

(F) four individuals from among directors of zoos;

(G) two individuals from among directors of aquariums;

(H) one official representative of the American Association of Zoological Parks and Aquariums;

(I) one official representative of the American Association of Zoo Veterinarians.

(b) Each individual appointed to the Board under paragraph (3) of subsection (a) shall serve not more than two terms of six years each, except that the fifteen individuals first appointed shall be divided into three

classes of five individuals each and serve as follows:

(1) The members of the first class shall serve for a term of two years, and may be reappointed for one additional term of six years.

(2) The members of the second class shall serve for a term of four years, and may be reappointed for one additional term of six years.

(3) The members of the third class shall serve for a term of six years, and may be reappointed for one additional term of six years.

(c) Members of the Board shall receive no compensation for their services but shall be entitled to reimbursement in accordance with section 5703 of title 5, United States Code, for travel and other expenses incurred by them in the performance of their functions under this Act.

(d) The Board is authorized to appoint an Executive Director who shall receive compensation at the rate provided for level IV of the Executive Schedule under section 5315 of title 5 of the United States Code and who shall perform such duties as the Board may prescribe.

(e) The Board is authorized, subject to the civil service laws and regulations, to appoint and fix the compensation of such additional personnel as may be necessary to carry out the provisions of this Act.

SEC. 3. (a) The Board shall establish, and from time to time revise, standards for the national accreditation of zoos (including roadside parks where animals are displayed in their natural habitat) and aquariums in the several States and the District of Columbia.

(b) The Board is authorized to provide technical assistance in the form of the services of experts employed by the Board to assist any zoo or aquarium in complying with the standards for accreditation under this section.

SEC. 4. (a) The Board is authorized to make grants of funds to nonprofit organizations to provide for—

(1) the training of professional and paraprofessional staff of zoos and aquariums to meet the accreditation standards established under this Act; and

(2) humane research into methods to improve the welfare of animals at zoos and aquariums, and into methods to meet the accreditation standards established under this Act.

No grant under this subsection shall exceed 75 percent of the aggregate cost of the training or research, as the case may be, for which the grant is made.

(b) the Board is authorized to make grants of funds to any nonprofit zoo or aquarium, or both, for projects to assist in the attainment or maintenance of the accreditation standards established under this Act. No grant under this subsection shall exceed 50 per centum of the aggregate cost, as determined by the Board, of the project for which the grant is made.

(c) The Board is authorized to make grants of funds to any nonprofit zoo or aquarium, or both, and to any nonprofit agency for the purpose of enabling such zoo, aquarium, or agency to establish pilot projects to serve as models for zoos or aquariums, or both. Such pilot projects shall meet the accreditation standards established under this Act. Grants under this subsection may be up to 100 per centum of the aggregate cost of the pilot project for which the grant is made.

SEC. 5. The Board is authorized to guarantee loans, upon such terms and conditions as it shall prescribe, to any zoo or aquarium, or both (for projects which assist in the attainment or maintenance of the accreditation standards established under this Act). The aggregate value of loans guaranteed under this section shall not exceed $———.

By Mr. MONDALE (for himself and Mr. SCHWEIKER):

S. 2775. A bill to amend the Internal Revenue Code of 1954 to increase the maximum credit and deduction allowable with respect to contributions to candidates for public office, to make certain changes in subtitle II of such code with respect to the financing of Presidential election campaigns, and for other purposes. Referred to the Committee on Finance.

REINTRODUCTION OF MONDALE-SCHWEIKER PRESIDENTIAL CAMPAIGN FINANCING ACT OF 1973

Mr. MONDALE. Mr. President, I am reintroducing today, together with the Senator from Pennsylvania (Mr. SCHWEIKER), a revised version of the Mondale-Schweiker Presidential Campaign Financing Act of 1973.

This legislation was originally introduced on July 24, 1973, as S. 2238, and has been slightly revised to incorporate various technical improvements, and to conform more closely to the private contribution limits passed by the Senate in S. 372 on July 30.

The main provisions of the Mondale-Schweiker bill were included in the Joint Public Financing Amendment which passed the Senate on November 27. The tentative House-Senate compromise public financing amendment worked out a few days later, covering only Presidential elections, retained the main elements of the Mondale-Schweiker bill.

However, a Senate filibuster prevented the House and Senate from voting on this compromise amendment.

While we are deeply disappointed that the White House-inspired filibuster succeeded in defeating public financing temporarily, it is not a fatal setback. There is a clear majority for public financing in the Senate and I believe in the House as well, and that majority is strengthened with each new revelation of Nixon campaign abuses in 1972.

No one can any longer doubt the corrupting influence of big money in Presidential politics. It is equally clear that if that influence is to be removed, the only sensible answer is public financing. That the present system is rotten and corrupt is even acknowledged by those who opposed our efforts to enact public financing. During the entire week-long debate, not a single Senator defended the present system. They could not, because it is indefensible.

Senator SCHWEIKER and I hope that hearings can begin soon on our bill in the Senate Finance Committee, and that legislation incorporating our matching system for financing presidential primaries and building on the $1 checkoff system for general elections will be back before the Senate early next year.

The Mondale-Schweiker bill introduced today includes the same provisions for public financing of presidential primaries that were included in the House-Senate compromise amendment the Senate was prevented from acting on. In addition, it restores provisions doubling the size of the checkoff to $2, and doubling the existing tax credit and deduction for political contributions. Finally, it establishes a revised system for Presidential general elections which permits the $21 million in public funding each candidate may receive to be supplemented with up to $9 million in private contributions of $3,000 or less.

Mr. President, I ask that the text of our revised bill, along with a detailed explanation of it, be included in the RECORD at this point:

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

S. 2775

A bill to amend the Internal Revenue Code of 1954 to increase the maximum credit and deduction allowable with respect to contributions to candidates for public office, to make certain changes in subtitle II of such Code with respect to the financing of Presidential election campaigns, 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 "Presidential Campaign Financing Act of 1973".

INCREASE IN POLITICAL CONTRIBUTIONS CREDIT AND DEDUCTION

SEC. 2. (a) Section 41(b)(1) of the Internal Revenue Code of 1954 (relating to maximum credit for contributions to candidates for public office) is amended to read as follows:

"(1) MAXIMUM CREDIT.—The credit allowed by subsection (a) for a taxable year shall not exceed $25 ($50 in the case of a joint return under section 6013)."

(b) Section 218(b)(1) of the Internal Revenue Code of 1954 (relating to amount of deduction for contributions to candidates for public office) is amended to read as follows:

"(1) AMOUNT.—The deduction under subsection (a) shall not exceed $100 ($200 in the case of a joint return under section 6013)."

(c) The amendments made by subsections (a) and (b) shall apply with respect to any political contribution the payment of which is made after December 31, 1973.

DESIGNATION OF INCOME TAX PAYMENTS TO PRESIDENTIAL ELECTION CAMPAIGN FUND

SEC. 3. (a) Effective with respect to taxable years ending on or after December 31, 1973, section 6096(a) (relating to designation of income tax payments to the Presidential Election Campaign Fund) is amended to read as follows:

SEC. 6096. DESIGNATION BY INDIVIDUAL.

(a) IN GENERAL.—Every individual (other than a nonresident alien) whose income tax liability for the taxable year is $2 or more may designate that $2 shall be paid over to the Presidential Election Campaign Fund in accordance with the provisions of section 9006(a). In the case of a joint return of husband and wife having an income tax liability of $4 or more, each spouse may designate that $2 shall be paid to the fund.

(b) INCOME TAX LIABILITY.—For purposes of subsection (a), the income tax liability of an individual for any taxable year is the amount of the tax imposed by chapter 1 on such individual for such taxable year (as shown on his return), reduced by the sum of the credits (as shown in his return) allowable under sections 33, 37, 38, 40, and 41.

(c) MANNER AND TIME OF DESIGNATION.—A designation under subsection (a) may be made with respect to any taxable year—

(1) at the time of filing the return of the tax imposed by chapter 1 for such taxable year, or

(2) at any other time (after the time of filing the return of the tax imposed by chapter 1 for such taxable year) specified in regulations prescribed by the Secretary or his delegate.

Such designation shall be made in such manner as the Secretary or his delegate prescribes by regulations except that, if such designa-

tion is made at the time of filing the return of the tax imposed by chapter 1 for such taxable year, such designation shall be made either on the first page of the return or on the page bearing the taxpayer's signature.

PRESIDENTIAL ELECTION CAMPAIGN FUND

SEC. 4. Section 9006(a) of the Internal Revenue Code of 1954 (relating to establishment of campaign fund) is amended to read as follows:

"(a) ESTABLISHMENT OF CAMPAIGN FUND.—There is established on the books of the Treasury of the United States a special fund to be known as the 'Presidential Election Campaign Fund'. There is appropriated to the fund for each fiscal year, out of amounts in the general fund of the Treasury not otherwise appropriated, an amount equal to the amount designated during the preceding fiscal year (and subsequent to the previous Presidential election) by individuals for payment into the fund under section 6096. Moneys in the fund shall remain available without fiscal year limitation."

LIMITATIONS OF GENERAL ELECTION CAMPAIGN PAYMENTS, EXPENSES, AND CONTRIBUTIONS

SEC. 5. (a) Subsection (b) of section 9004 of the Internal Revenue Code of 1954 (relating to entitlement of eligible candidates to payments) is repealed and subsection (c) is redesignated as subsection (b).

(b) Paragraphs (2) and (3) of subsection (b) of section 9007 of the Internal Revenue Code of 1954 (relating to repayments of excess campaign expenses and contributions) are repealed and paragraphs (4) and (5) are redesignated as paragraph (2) and (3).

ELIGIBILITY FOR CAMPAIGN PAYMENTS

SEC. 6. Section 9003 of the Internal Revenue Code of 1954 (relating to condition for eligibility for payments) is amended by striking out subsections (b) and (c) and inserting in lieu thereof the following:

"(b) CANDIDATES FOR ELECTION TO THE OFFICE OF PRESIDENT.—In order to be eligible to receive any payment under section 9006, the candidates of a major, minor, or new party in a Presidential election shall certify to the Comptroller General, under penalty of perjury, that they and their authorized committees will not incur qualified campaign expenses in excess of the $30,000,000 limit in section 9012(a).

CRIMINAL PENALTIES

SEC. 7. Section 9012 (a) and (b) of the Internal Revenue Code of 1954 (relating to criminal penalties for excess campaign expenses and contributions) is amended to read as follows:

"(a) EXCESS CAMPAIGN EXPENSES.—

"(1) It shall be unlawful for any candidate of a political party for President and Vice President in a Presidential election or any of his authorized committees knowingly and willfully to incur qualified campaign expenses in excess of $30,000,000 with respect to such election.

"(2) Any person who violates paragraph (1) shall be fined not more than $25,000, or imprisoned not more than 5 years, or both. In the case of a violation by an authorized committee, any officer or member of such committee who knowingly and willfully consents to such violation shall be fined not more than $25,000, or imprisoned not more than 5 years, or both.

"(3) At the beginning of each calendar year (commencing in 1974), as there become available necessary data from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall certify to the Comptroller General and publish in the Federal Register the percent difference between the price index for the 12 months preceding the beginning of such calendar year and the price index for the base period. The limit on campaign expenses in paragraph (1) and in section 9003(b) shall be increased by such percent difference. The limit so increased shall be the amount in effect for such calendar year.

"(A) The term 'price index' means the average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics.

"(B) The term 'base period' means the calendar year 1972.

"(b) CONTRIBUTIONS—

"(1) It shall be unlawful for any candidate of a major, minor, or new party in a Presidential election or any of his authorized committees knowingly and willfully to accept and expend or retain contributions to defray qualified campaign expenses in an amount greater than that necessary to make up the difference between the payments received from the fund under section 9006 and the limit on qualified campaign expenses established by subsection (a).

"(2) Any person who violates paragraph (1) shall be fined not more than $25,000, or imprisoned not more than 5 years, or both.

PRESIDENTIAL PRIMARY MATCHING PAYMENT FUND

SEC. 8. (a) The analysis of subtitles at the beginning the Internal Revenue Code of 1954 is amended by adding at the end thereof the following:

"SUBTITLE H—FINANCING OF PRESIDENTIAL ELECTION CAMPAIGNS.".

(b) The analysis of chapters at the beginning of subtitle H of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following:

"CHAPTER 97.—PRESIDENTIAL PRIMARY MATCHING PAYMENT FUND.".

(c) Subtitle H of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new chapter:

"CHAPTER 97—PRESIDENTIAL PRIMARY MATCHING PAYMENT FUND

"Sec. 9031. Short title.
"Sec. 9032. Definitions.
"Sec. 9033. Eligibility for payment.
"Sec. 9034. Entitlement of eligible candidates to payments.
"Sec. 9035. Qualified campaign expense limitation.
"Sec. 9036. Certification by Comptroller General.
"Sec. 9037. Payments to eligible candidates.
"Sec. 9038. Examinations and audits; repayments.
"Sec. 9039. Information on proposed expenses.
"Sec. 9040. Reports to Congress; regulations.
"Sec. 9041. Participation of Comptroller General in judicial proceedings.
"Sec. 9042. Judicial review.
"Sec. 9043. Criminal penalties.
"Sec. 9044. Effective date of chapter.

"SEC. 9031. SHORT TITLE.

"This chapter may be cited as the 'Presidential Primary Matching Payment Fund Act'.

"SEC. 9032. DEFINITIONS.

"For purposes of this chapter—

"(1) The term 'authorized committee' means any political committee which is authorized in writing by a candidate to incur expenses in connection with his campaign for the nomination of a political party as its candidate for election to the office of President. The authorization shall be addressed to the chairman of any such political committee, and a copy of the authorization shall be filed by the candidate with the Comptroller General. Any withdrawal of any authorization shall also be in writing and shall be addressed and filed in the same manner as the authorization.

"(2) The term 'candidate' means an individual who seeks nomination for election to be President of the United States, whether or not he is elected, and, for purposes of this paragraph, an individual shall be considered to seek nomination for election if he (A) takes the action necessary under the law of a State to qualify himself for nomination for election, (B) receives contributions or incurs qualified campaign expenses, or (C) gives his consent for any other person to receive contributions or to incur qualified campaign expenses on his behalf.

"(3) The term 'Comptroller General' means the Comptroller General of the United States.

"(4) The term 'contribution'—

"(A) means a gift, subscription, loan, advance, or deposit of money, or anything of value, the payment of which was made since the next preceding Presidential election for the purpose of influencing the result of a primary election;

"(B) means a contract, promise, or agreement, whether or not legally enforceable, to make a contribution for any such purpose;

"(C) means a transfer of funds between political committees; and

"(D) means the payment by any person other than a candidate, or one of his authorized committees, of compensation for the personal services of another person which are rendered to the candidate or committee without charge; but

"(E) does not include—

"(i) (except as provided in subparagraph (D)) the value of personal services rendered to or for the benefit of a candidate by an individual who receives no compensation for rendering that service to or for the benefit of the candidate; or

"(ii) payments under section 9037.

"(5) The term 'fund' means the Presidential Primary Matching Payment Fund established under section 9037 (a).

"(6) The term 'matching payment period' means the period beginning 420 days before the date of a general election for President of the United States and ending on the date on which the national convention of the party whose nomination a candidate seeks nominates its candidate for President of the United States.

"(7) The term 'primary election' means an election, including a run-off election, for the selection of delegates to a national nominating convention of a political party, or for the expression of a preference for the nomination of persons for election to the office of President of the United States.

"(8) The term 'political committee' means any individual, committee, association, or organization (whether or not incorporated) which accepts contributions or incurs qualified campaign expenses for the purpose of influencing, or attempting to influence, the nomination for election of one or more individuals to be President of the United States.

"(9) The term 'qualified campaign expense' means a purchase, payment, distribution, loan, advance, deposit, or gift of money or of anything of value—

"(A) incurred by a candidate, or by his authorized committees, in connection with his campaign for nomination for election; and

"(B) neither the incurring nor payment of which constitutes a violation of any law of the United States or of the State in which the expense is incurred or paid. For purposes of this paragraph, an expense is incurred by a candidate or by an authorized committee if it is incurred by a person specifically authorized in writing by the candidate or committee, as the case may be, to incur such expense on behalf of the candidate or the committee.

"(10) The term 'State' means each State of the United States and the District of Columbia.

"SEC. 9033. ELIGIBILITY FOR PAYMENTS.

"(a) FURNISH INFORMATION.—To be eligible to receive payment under section 9037, a candidate shall, in writing—

"(1) agree to obtain and furnish to the Comptroller General any evidence he may request of qualified campaign expenses,

"(2) agree to keep and furnish to the

Comptroller General any records, books, and other information he may request,

"(3) agree to an audit and examination by the Comptroller General under section 9038 and to pay any amounts required to be paid under that section, and

"(4) agree to furnish statements of qualified campaign expenses and proposed qualified campaign expenses required under section 9039.

"(b) EXPENSE LIMITATION; COMMITTEES; DECLARATION OF INTENT.—To be eligible to receive payments under section 9037, a candidate shall certify to the Comptroller General that—

"(1) the candidate will not incur qualified campaign expenses in excess of the limitation on such expenses under section 9035, and

"(2) the candidate is seeking nomination for election to be President of the United States.

"(c) MINIMUM CONTRIBUTIONS.—To be eligible to receive any payments under section 9037, a candidate must be certified by the Comptroller General, under section 9036, to be entitled, under section 9034, to payments from the fund in excess of $100,000.

"SEC. 9034. ENTITLEMENT OF ELIGIBLE CANDIDATES TO PAYMENTS.

"(a) IN GENERAL.—Every candidate who is eligible to receive payments under section 9033 is entitled to payments under section 9037 in an amount equal to the amount of each contribution received since the most recent presidential election by that candidate, or by his authorized committees, disregarding any amount of contributions from any person to the extent that the total of the amounts contributed by that person since that election exceeds $100. For purposes of this subsection, the term 'contribution' means a gift of money made by a written instrument which identifies the person making the contribution by full name and mailing address, but does not include a subscription, loan, advance, or deposit of money, or anything described in subparagraph (B), (C), or (D) of section 9032(4).

"(b) LIMITATIONS.—The total amount of payments to which a candidate is entitled under subsection (a) shall not exceed an amount equal to 5 cents multiplied by the voting age population of the United States, as certified by the Secretary of Commerce under section 104(a)(5) of the Federal Election Campaign Act of 1971.

"SEC. 9035. QUALIFIED CAMPAIGN EXPENSE LIMITATION.

"(a) LIMITATIONS.—No candidate shall knowingly incur qualified campaign expenses in excess of $15,000,000 in connection with his campaign for nomination for election to the office of President.

"(b) ADJUSTMENT.—At the beginning of each calendar year, as necessary data become available from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall certify to the Comptroller General and publish in the Federal Register the percentage difference between the price index (the average over a calendar year of the Consumer Price Index (all items—United States city average)) for the preceding calendar year and the price index for calendar year 1974. The amount in subsection (a) shall be changed by such percentage difference and the amount in subsection (a), as changed by such percentage, shall be the amount applicable under subsection (a) for that calendar year.

"SEC. 9036. CERTIFICATION BY COMPTROLLER GENERAL.

"(a) CERTIFICATION.—On the basis of the evidence, books, records, and information furnished by each candidate, and his authorized committees, who is eligible, under section 9033,to receive payments under section 9037, and prior to examination and audit under section 9038, the Comptroller General shall certify from time to time to the Secretary or his delegate for payment to each candidate under section 9037 the amount to which that candidate is entitled under section 9034.

"(b) FINALITY OF DETERMINATIONS.—Initial certifications by the Comptroller General under subsection (a), and all determinations made by him under this chapter, are final and conclusive, except to the extent that they are subject to examination and audit by the Comptroller General under section 9038 and judicial review under section 9042.

"SEC. 9037. PAYMENTS TO ELIGIBLE CANDIDATES.

"(a) ESTABLISHMENT OF FUND.—There is established on the books of the Treasury a special fund to be known as the Presidential Primary Matching Payment Fund. There are hereby appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of this chapter.

"(b) PAYMENTS FROM THE FUND.—Upon receipt of a certification from the Comptroller General under section 9036, but not before the beginning of the matching payment period, the Secretary or his delegate shall promptly transfer the amount certified by the Comptroller General from the fund to the candidate.

"SEC. 9038. EXAMINATION AND AUDITS; REPAYMENTS.

"(a) EXAMINATIONS AND AUDITS.—After each matching payment the Comptroller General shall conduct a thorough examination of the qualified campaign expenses of every candidate and his committees who received payments under section 9037.

"(b) REPAYMENTS.—

"(1) If the Comptroller General determines that any portion of the payments made to a candidate from the fund was in excess of the aggregate amount of payments to which that candidate was entitled under section 9034, he shall notify the candidate, and the candidate shall pay to the Secretary or his delegate an amount equal to the amount of excess payments.

"(2) If the Comptroller General determines that any amount of any payment made to a candidate from the fund was used for any purpose other than—

"(A) to defray the qualified campaign expenses with respect to which such payment was made, or

"(B) to repay loans the proceeds of which were used, or otherwise to restore funds (other than contributions to defray qualified campaign expenses which were received and expended) which were used, to defray qualified campaign expenses, he shall notify that candidate of the amount so used, and the candidate shall pay to the Secretary or his delegate an amount equal to such amount.

"(3) Amounts received by a candidate from the fund may be retained for the liquidation of all obligations to pay qualified campaign expenses incurred for a period not exceeding 6 months after the end of the matching payment period. After all obligations have been liquidated, that portion of any unexpended balances remaining in the candidate's accounts which bears the same ratio to the total unexpended balance as the total amount received from the fund bears to the total of all deposits made into the candidate's accounts shall be promptly repaid to the fund.

"(c) NOTIFICATION.—No notification shall be made by the Comptroller General under subsection (b) with respect to a matching payment period more than 3 years after the end of such period.

"(d) DEPOSIT OF REPAYMENTS.—All payments received by the Secretary or his delegate under subsection (b) shall be deposited by him in the fund.

"SEC. 9041. INFORMATION ON PROPOSED EXPENSES.

"(a) REPORTS BY CANDIDATES.—Each candidate shall, from time to time as the Comptroller General may require, furnish to the Comptroller General a detailed statement, in such form as the Comptroller General may prescribe, of—

"(1) the qualified campaign expenses incurred by the candidate and his authorized committee prior to the date of such statement (whether or not evidence of such expenses has been furnished for purposes of section 9036), and

"(2) the qualified campaign expenses which the candidate and his authorized committees propose to incur on or after the date of such statement.

"(b) PUBLICATION.—The Comptroller General shall, as soon as possible after he receives each statement under subsection (a), prepare and publish a summary of such statement, together with any other data or information he deems advisable, in the Federal Register.

"SEC. 9040. REPORTS TO CONGRESS; REGULATIONS

"(a) REPORTS.—The Comptroller General shall, as soon as practicable after each matching payment period, submit a full report to the Senate and House of Representatives setting forth—

"(1) the qualified campaign expenses (shown in the detail the Comptroller General determines necessary) incurred by the candidates of each political party and their authorized committees;

"(2) the amounts certified by him under section 9036 for payment to each eligible candidate; and

"(3) the amount of payments, if any, required from cadidates under section 9038, and the reasons for each payment required.

Each report submitted pursuant to this section shall be printed as a Senate document.

"(b) REGULATIONS, ETC.—The Comptroller General is authorized to prescribe rules and regulations, to conduct examinations and audits (in addition to the examinations and audits required by section 9038 (a)), to conduct investigations, and to require the keeping and submission of any books, records, and information, which he determines to be necessary to carry out his responsibilities under this chapter.

"SEC. 9041. PARTICIPATION BY COMPTROLLER GENERAL IN JUDICIAL PROCEEDINGS.

"(a) APPEARANCE BY COUNSEL.—The Comptroller General is authorized to appear in and defend against any action instituted under this section, either by attorneys employed in his office or by counsel whom he may appoint without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and whose compensation he may fix without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title.

"(b) RECOVERY OF CERTAIN PAYMENTS.—The Comptroller General is authorized, through attorneys and counsel described in subsection (a), to institute actions in the district courts of the United States to seek recovery of any amounts determined to be payable to the Secretary or his delegate as a result of an examination and audit made pursuant to section 9038.

"(c) INJUNCTIVE RELIEF.—The Comptroller General is authorized, through attorneys and counsel described in subsection (a), to petition the courts of the United States for injunctive relief as is appropriate to implement any provisions of this chapter.

"(d) APPEAL.—The Comptroller General is authorized on behalf of the United States to appeal from, and to petition the Supreme Court for certiorari to review, judgments or decrees entered with respect to actions in which he appears pursuant to the authority provided in this section.

"SEC. 9042. JUDICIAL REVIEW

"(a) REVIEW OF AGENCY ACTION BY THE COMPTROLLER GENERAL.—Any agency action by the Comptroller General made under the

provisions of this chapter shall be subject to review by the United States Court of Appeals for the District of Columbia Circuit upon petition filed in such court within 30 days after the agency action by the Comptroller General for which review is sought.

"(b) REVIEW PROCEDURES.—The provisions of chapter 7 of title 5, United States Code, apply to judicial review of any agency action, as defined in section 551(13) of title 5, United States Code, by the Comptroller General.

"SEC. 9043. CRIMINAL PENALTIES

"(a) EXCESS CAMPAIGN EXPENSES.—Any person who violates the provisions of section 9035(a) shall be fined not more than $25,000, or imprisoned not more than five years, or both. Any officer or member of any political committee who knowingly consents to any expenditure in violation of the provisions of section 9035(a) shall be fined not more than $25,000, or imprisoned not more than five years, or both.

"(b) UNLAWFUL USE OF PAYMENTS.—

"(1) It is unlawful for any person who receives any payment under section 9037, or to who many portion of any such payment is transferred, knowingly and willfully to use, or authorize the use of, such payment or such portion for any purpose other than—

"(A) to defray qualified campaign expenses, or

"(B) to repay loans the proceeds of which were used, or otherwise to restore funds (other than contributions to defray qualified campaign expenses which were received and expended) which were used, to defray qualified campaign expenses.

"(2) Any person who violates the provisions of paragraph (1) shall be fined not more than $10,000, or imprisoned not more than 5 years, or both.

"(c) FALSE STATEMENTS, ETC.—

"(1) It is unlawful for any person knowingly and willfully—

"(A) to furnish any false, fictitious, or fraudulent evidence, books, or information to the Comptroller General under this chapter, or to include in any evidence, books, or information so furnished any misrepresentation of a material fact, or to falsify or conceal any evidence, books, or information relevant to a certification by the Comptroller General or an examination and audit by the Comptroller General under this chapter; or

"(B) to fail to furnish to the Comptroller General any records, books, or information requested by him for purposes of this chapter.

"(2) Any person who violates the provisions of paragraph (1) shall be fined not more than $10,000, or imprisoned not more than five years, or both.

"(d) KICKBACKS AND ILLEGAL PAYMENTS.—

"(1) It is unlawful for any person knowingly and willfully to give or accept any kickback or any illegal payment in connection with any qualified campaign expense of a candidate, or his authorized committee, who receives payments under section 9037.

"(2) Any person who violates the provisions of paragraph (1) shall be fined not more than $10,000, or imprisoned not more than five years, or both.

"(3) In addition to the penalty provided by paragraph (2), any person who accepts any kickback or illegal payment in connection with any qualified campaign expense of a candidate or his authorized committees shall pay to the Secretary for deposit in the fund, an amount equal to 125 percent of the kickback or payment received.

CENTRAL CAMPAIGN COMMITTEES, CAMPAIGN DEPOSITORIES, AND LIMITATIONS ON CASH TRANSACTIONS

SEC. 9. Title III of the Federal Election Campaign Act of 1971 is amended by redesignating sections 308 through 311 as sections 311 through 314, and by inserting after section 307 the following new sections:

"CENTRAL CAMPAIGN COMMITTEES

"SEC. 308. (a) Each candidate shall designate one political committee as his central campaign committee. A candidate for nomination for election, or for election, to the office of President, may also designate one political committee in each State in which he is a candidate as his State campaign committee for that State. The designation shall be made in writing, and a copy of the designation, together with such information as the Commission may require, shall be furnished to the Commission upon the designation of any such committee.

"(b) No political committee may be designated as the central campaign committee of more than one candidate. The central campaign committee and each State campaign committee designated by a candidate nominated by a political party for election to the office of President shall be the central campaign committee and the State campaign committees of the candidate nominated by that party for election to the office of Vice President.

"(c)(1) Any political committee authorized by a candidate to accept contributions or make expenditures in connection with his campaign for nomination or for election, which is not a central campaign committee or a State campaign committee, shall furnish each report required of it under section 304 (other than reports required by the last clause of section 304(a)) to that candidate's central campaign committee soon enough in advance of the filing dates in section 304(a) to enable the central campaign committee to file its reports on those dates.

"(2) The supervisory officer may, by regulation, require any political committee receiving contributions or making expenditures in a State on behalf of a candidate who, under subsection (a), has designated a State central campaign committee for that State to furnish its statements and reports to that State central campaign committee.

"(3) The supervisory officer may require any political committee to furnish any statement or report directly to him.

"(d) Each political committee which is a central campaign committee shall receive all reports and statements filed with or furnished to it by other political committees, and consolidate and furnish the reports and statements to the supervisory officer, together with its own reports and statements, in accordance with the provisions of this title and regulations prescribed by him.

"CAMPAIGN DEPOSITORIES

"SEC. 309. (a)(1) Each candidate shall designate one National or State bank as his campaign depository. The central campaign committee of that candidate, and any other political committee authorized by him to receive contributions or to make expenditures on his behalf, shall maintain a checking account at the depository so designated by the candidate and shall deposit any contributions received by that committee into that account. No expenditure may be made by any such committee on behalf of a candidate or to influence his election except by check drawn on that account, other than petty cash expenditures as provided in subsection (b).

"(2) The treasurer of each political committee (other than a political committee authorized by a candidate to receive contributions or to make expenditures on his behalf) shall designate one National or State bank as the campaign depository of that committee, and shall maintain a checking account for the committee at such depository. All contributions received by that committee shall be deposited in such account. No expenditure may be made by that committee except by check drawn on that account, other than petty cash expenditures as provided in subsection (b).

"(b) A political committee may maintain a petty cash fund out of which it may make expenditures not in excess of $50 to any person in connection with a single purchase or transaction. A record of petty cash disbursements shall be kept in accordance with requirements established by the supervisory officer, and such statements and reports thereof shall be furnished to the supervisory officer as he may require.

"(c) A candidate for nomination for election, or for election, to the office of President may establish one such depository in each State, which shall be considered by his State campaign committee for that State and any other political committee authorized by him to receive contributions or to make expenditures on his behalf in that State, under regulations prescribed by the supervisory officer, as his single campaign depository. The campaign depository of the candidate of a political party for election to the office of Vice President shall be the campaign depository designated by the candidate of that party for election to the office of President.".

"LIMITATIONS ON CASH TRANSACTIONS

"SEC. 310. No political committee shall receive a contribution, or contributions in the aggregate, from any person of $50 or more other than in the form of a check drawn on the account of the person making the contribution. No political committee shall make any expenditure of $50 or more other than by check drawn on the account of that committee and signed by the treasurer of the committee or his delegate.".

INCREASED PENALTY FOR VIOLATIONS

SEC. 10. Section 314 (as redesignated by this Act) of the Federal Election Campaign Act of 1971 (relating to penalty for violations) is amended to read as follows:

"PENALTY FOR VIOLATIONS

"SEC. 315. (a) Violation of the provisions of this title is a misdemeanor punishable by a fine of not more than $10,000, imprisonment for not more than one year, or both.

"(b) Violation of the provisions of this title with knowledge or reason to know that the action committed or omitted is a violation of this Act is punishable by a fine of not more than $100,000, imprisonment for not more than five years, or both."

REPEAL OF EQUAL TIME PROVISIONS FOR PRESIDENTIAL AND VICE-PRESIDENTIAL CANDIDATES

SEC. 11. Section 315(a) of the Communications Act of 1934 (47 U.S.C. 315(a)) is amended by inserting after "public office" in the first sentence thereof the following: ", other than the office of President or Vice President,".

LIMITATIONS ON CONTRIBUTIONS AND EXPENDITURES AND PENALTY FOR EMBEZZLEMENT

SEC. 12. (a) Chapter 29 of title 18, United States Code, is amended by adding at the end thereof the following new sections:

"§ 614. Limitations on Presidential campaign contributions and expenditures by persons not candidates

"(1) No person shall make any contribution during the calendar year to or for the benefit of any candidate which is in excess of the amount which, when added to the total amount of—

"(A) all other contributions made by that person during the calendar year to or for the benefit of that candidate in connection with his campaign for nomination for election to the office of President, would exceed $3,000, or

"(B) all other contributions made by that person during the calendar year to or for the benefit of that candidate in connection with his campaign for election to the office of President, would exceed $3,000.

"(2) For purposes of this section—

"(A) a contribution to a candidate nominated by a political party for election to the office of Vice President shall be considered to be a contribution to the candidate nominated by that party for election to the office of President;

"(B) a contribution made to a political committee or fund authorized by a candidate to receive contributions for that candidate shall be considered to be a contribution to that candidate;

"(C) any contribution made in connection with a campaign in a year other than the calendar year in which the election to which that campaign relates is held shall be taken into consideration and counted toward the limitations imposed by this section for the calendar year in which that election is held.

"(3) The limitations imposed by paragraph (1) shall not apply to contributions to a candidate from one of his authorized political committees.

"(b) No person who is not authorized in writing by a candidate to make expenditures on his behalf in connection with his campaign for nomination for election to the office of President shall make any expenditure on behalf of that candidate (except by contribution made to that candidate or one of his authorized political committees) during any calendar year in excess, in the aggregate, of $1,000.

"(c) As used in this section, the words "contribution" and "expenditure" shall not be construed to include—

"(1) personal services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate or political committee,

"(2) communications by any organization, excluding a political party, solely to its members and their families on any subject,

"(3) communications (including advertisements) to any person on any subject by any organization which is organized solely as an issue-oriented organization, which communications neither endorse nor oppose any candidate for Federal office,

"(4) normal billing credit for a period not exceeding thirty days,

"(5) expenditures by a broadcaster regulated by the Federal Communications Commission, or by a periodical publication, in reporting the news or in taking editorial positions, or

"(6) expenditures by any organization described in section 501(c) of the Internal Revenue Code of 1954 which is exempt from tax under section 501(a) of such Code in communicating to its members the views of that organization.

"(d) Violation of the provisions of this section is punishable by a fine not to exceed $25,000, imprisonment for not to exceed five years, or both.

"§ 615. Embezzlement or conversion of political contributions

"Whoever, being a candidate, or an officer, employee, or agent of a political committee, or a person acting on behalf of any candidate or political committee, embezzles, knowingly converts to his own use, or to any other noncampaign use, or deposits in any place or in any manner except as authorized by law, any contributions or campaign funds entrusted to him or under his possession, custody or control; or

"Whoever receives, conceals, or retains the same with intent to convert it to his use or gain, knowing it to have been embezzled or converted—

"Shall be fined not more than $50,000 or imprisoned not more than five years, or both; but if the value of such property does not exceed the sum of $100, he shall be fined not more than $1,000 or imprisoned not more than one year, or both.".

(b) Section 591 of title 18, United States Code, is amended by striking out "and 611" and inserting in lieu thereof "611, 614, and 615".

(c) The table of sections for chapter 29 of title 18, United States Code, is amended by adding at the end thereof the following new items:

"614. Limitations on Presidential campaign contributions and expenditures by persons not candidates.

"615. Embezzlement or conversion of political contributions.".

EFFECTIVE DATE

SEC. 13. The provisions of this Act shall take effect upon enactment.

DETAILED EXPLANATION: REVISED MONDALE-SCHWEIKER, PRESIDENTIAL CAMPAIGN FINANCING ACT OF 1973

I. PRIMARY ELECTIONS

A. Each candidate in the Presidential primaries is entitled to matching payments from the Treasury for the first $100 or less received from each individual contributor.

1. Payments begin 14 months prior to the date of the general election for President.

2. Any contribution made "in connection with" the candidate's campaign for nomination, in whatever year it occurs, is eligible for matching. However, all such contributions are aggregated, and no more than $100 from any contributor may be matched.

B. Candidates must accumulate $100,000 in matchable contributions before the first Treasury matching payments are made. Thus a candidate would have to accumulate 1000 contributions of $100 each, 2000 contributions of $50 each, etc. Only the first $100 of each contribution counts toward meeting the $100,000 requirement.

C. No candidate may receive total matching payments in excess of 5¢ for each person over 18 in the United States (roughly $7 million).

D. No candidate may spend more than $15 million in his campaign for the Presidential nomination. This limit increases with cost of living increases.

E. Matching payments may be used only for legitimate campaign expenses during the pre-nomination period, and unspent payments must be returned to the Treasury.

F. The Comptroller General certifies eligibility for payments, and is responsible for conducting a detailed post-convention audit and obtaining repayments when necessary.

G. There are severe criminal penalties for exceeding the overall primary spending limits, and for unlawful use of payments, false statements to the Comptroller General, and kickbacks and illegal payments.

II. GENERAL ELECTION

A. The existing Presidential Election Campaign Fund Act (the $1 check-off) is retained, with the following amendments:

1. The requirement for a separate appropriation before money from the $1 check-off Fund becomes available is removed, making the check-off self-appropriating.

2. The amount of the check-off is doubled from the existing level of $1 ($2 on a joint return) to $2 ($4 on a joint return).

3. Candidates are permitted to receive and spend private contributions of $3000 or less (see III., below) to supplement the funds they receive from the $1 check-off, up to a maximum overall spending limit in the general election of $30 million.

a. Under the existing $1 check-off law, major party candidates may not use private contributions at all if they receive their full entitlement from the check-off (15c per eligible voter, or roughly $20-22 million), and minor and new Party candidates may use private contributions only to make up the difference between the smaller amount they receive from the check-off and the amount major party candidates are entitled to. (If the funds in the check-off are not sufficient to provide major party candidates with the full amount they are entitled to, they also may raise private money to make up the difference.) All candidates using the check-off money are thus limited to spending no more than $20-22 million in the general election. Those who accept no check-off money, however, may spend an unlimited amount in the general.

b. The $30 million limit on total spending in the general election imposed by this bill applies to all candidates (including those who decline their entitlement from the check-off), and therefore leaves no incentive for a candidate not to use the check-off. The $30 million limit would increase with cost of living increases.

c. The $30 million limit would permit major party candidates to supplement the $20-22 million they receive from the check-off with $8-10 million from private contributions of $3000 or less. This ⅔ public, ⅓ private, ratio would continue as cost-of-living increases raised the $30 million spending limit, and as population increases raise the amount major party candidates may receive from the check-off (15c times the voting age population).

d. Minor and new party candidates could receive a larger proportion of their funds from private sources to make up for their smaller entitlement under the $1 check-off but in no case could their total spending exceed $30 million in the general election.

B. Payments to candidates are distributed in accordance with the existing law, i.e.:

1. Major party candidates (those whose party received 25 percent or more of the vote in the previous election)—15c times the 18-and-over population of the U.S.

2. Minor party candidates (those whose candidates received between 5 and 25 percent of the vote in the previous election)—a percentage of the major party candidate entitlement equal to the percentage of the average major party vote their candidate received in the preceding or current election (whichever is larger).

3. New party candidates—if the candidates receives more than 5 percent of the vote in the current election, he is repaid after the election according to the percentage of the average major party vote received.

C. The Comptroller General certifies eligibility for payments and is responsible for conducting a detailed post-convention audit and obtaining repayments when necessary.

D. There are severe criminal penalties for exceeding the overall general election spending limit, and for unlawful use of payments, false statements to the Comptroller General, and kickbacks and illegal payments.

III. CONTRIBUTION LIMITS FOR PRESIDENTIAL CAMPAIGNS

A. No individual, organization, or group may contribute more than a total of $3000 to any Presidential candidate in connection with his or her campaign for the nomination, and another $3000 in connection with his or her general election campaign.

1. Contributions given in any year "in connection with" a campaign count toward the limits for the year in which the election is held.

B. Individuals or groups acting independently (i.e., without written authorization from the candidate) may spend no more than $1000 on behalf of a candidate in the prenomination period (a similar limit in the existing $1 check-off law already applies to the general election period).

IV. MISCELLANEOUS

A. The equal time provisions are removed for Presidential candidates.

B. Each candidate is required to set up a single central campaign committee to handle reporting of receipts and expenditures, and a single campaign depository through which all receipts and expenditures must be channeled.

C. All cash transactions (contributions or expenditures) of $50 or over are prohibited.

D. The existing tax credit is doubled to make it one-half of any contribution up to $50 ($100 for joint returns), and the existing deduction is doubled to $100 ($200 for joint returns).

E. The penalty for misdemeanor violations of the Federal Election Campaign Act of 1971 (now $1,000 and/or one year imprisonment) is increased to $10,000 and/or one year in prison, and knowing violations are made a felony punishable by a fine of up to $100,000 and/or imprisonment for up to five years.

F. Embezzlement or conversion to non-campaign use of political contributions is made a felony punishable by a fine of up to $50,000 and/or imprisonment of up to five years.

Mr. SCHWEIKER. Mr. President, I am pleased to join again with the Senator from Minnesota (Mr. MONDALE) in introducing the Mondale-Schweiker bill to provide public financing of Presidential election campaigns.

This measure is substantially the same as S. 2238, the bill we introduced July 24. That bill was incorporated into the campaign public financing amendment to the debt ceiling bill, and constituted the Presidential primary feature of that debt ceiling amendment. Despite the fact that this amendment had the support of a solid majority of Senators, it fell prey to a nemesis of our democratic process—the filibuster. I regret that the minority of the Senate has forced its will upon the majority and that we were not able to take advantage of this significant opportunity to bring meaningful reform to our electoral process.

The specter of secret bundles of $100,000 in cash in black bags is repugnant to all Americans.

In 1972 the violations of the 1971 campaign reform law, plus the violations of laws against corporate contributions that have been on the books for half a century, combined to bring public outrage to a new high over the excesses and abuses of depending solely on large contributions for Federal election campaigns.

It was the scandalous abuses of private financing of campaigns in the Presidential election of 1972 that has resulted in strong public pressure to take action this year to institute public financing of the Presidential election.

The Presidential race is a national event that dominates public attention and the media in the election year. The outcome of the Presidential election affects every American. As we are tragically seeing week after week, the abuses and excesses of private financing of the Presidential campaigns also affect every American.

The price the taxpayers pay for special favors and influence by large contributors is incalculable, but we pay this price, and every taxpayer is affected.

Therefore, it is important that we begin our campaign reform process by insuring that the Presidential election is paid for by the public at large, and not by a few private special interests.

Mr. President, I am more firmly committed than ever to the principal of public financing of political campaigns, and I strongly urge the Senate to give its approval to this measure at the earliest possible date.

By Mr. JACKSON (for himself, Mr. RIBICOFF, Mr. ERVIN, Mr. PERCY, Mr. JAVITS, Mr. RANDOLPH, and Mr. FANNIN):

S. 2776. A bill to provide for the effective and efficient management of the Nation's energy policies and programs. Referred to the Committee on Government Operations.

Mr. JACKSON. Mr. President, at the request of the administration and on behalf of myself and Senators RIBICOFF, ERVIN, PERCY, JAVITS, RANDOLPH, and FANNIN, I introduce for appropriate reference a bill to establish a Federal Energy Administration.

This legislation has been proposed by the President and is designed to provide an administrative organization within the Federal Government which can deal with the urgent energy problems facing the Nation. While it proposes changes which are long overdue, it is essentially an emergency measure designed to encourage more effective handling of these problems.

In brief, the legislation proposed by the administration would create an independent executive agency for a fixed period of 2 years, to be headed by an Administrator and Deputy Administrator appointed by the President with the advice and consent of the Senate. It would transfer to the new agency the functions now being exercised by the Office of Petroleum Allocation, the Office of Energy Conservation, the Office of Energy Data and Analysis, and the Office of Oil and Gas in the Department of the Interior. It would also transfer the functions of the Energy Division of the Cost of Living Council.

The measure also includes a controversial provision to permit the transfer of functions of other Executive agencies to accomplish the intent and purpose of the legislation. Such transfers would be subject to disapproval by either House or Senate. This is basically the reorganization authority which lapsed carlier this year and has not been renewed by Congress.

It is my understanding that the bill I am introducing today represents an initial draft and is not necessarily the final administration proposal. I have been assured that the final proposal, together with appropriate justification, will be available before the hearings begin on Thursday.

Mr. President, the energy shortages facing the country and the impact that these shortages will have on employment and the economy are very serious. They are not, however, any reason for panic. The situation is manageable if effective action is taken in the very near future. I am hopeful that the administration's latest proposal will provide the institutional arrangements for effective action.

I regret, as I am sure other Members of the Congress regret, that implementation of this new proposal will be construed by some to reflect unfavorably upon individuals in the administration who have previously held or still hold positions of responsibility for energy policy. Frankly, I think it would be both unfair and inaccurate to blame our energy problems on any one man or group of men, on any single office or agency. The failures of the past—which set the stage for the energy crisis of today—are institutional in nature—they are deep rooted and complex and cannot be analyzed in terms of individual performance.

Mr. President, I particularly wish to acknowledge the contribution of Gov. John Love, and his Deputy Mr. Charles DiBona, whose resignations were accepted by the President yesterday. Governor Love and Charles DiBona are able and dedicated public servants.

Governor Love came to Washington to direct the new Energy Policy Office at a critical time. It is not at all clear that he was even given the staff or the authority or the support to do the job he was asked to do.

I particularly regret the circumstances of Governor Love's departure from office, not only because of my respect for him, but also because the country loses when able men who enter Federal service are treated in this manner. At a time when the Federal Government desperately needs first-class people in top posts, this inept performance will hardly encourage a flow of talent from private life to public service.

Mr. President, it is my hope that the administration's proposal for a Federal Energy Administration will bring a new sense of urgency and purpose—as well as better management—to the difficult energy problems we face. I am also hopeful that the Government Operations Committee, after appropriate hearings, will be able to report a bill that will receive widespread support in the Senate.

Let me emphasize, however, that reorganization in and of itself will not change the facts nor provide any new answers to the critical problems we face. These problems will require responsive programs and intelligent people to implement them. They will require enlightened and decisive leadership.

Mr. President, I ask unanimous consent that the text of the bill and some supporting material be printed in the RECORD at the conclusion of my remarks.

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

S. 2776

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Energy Administration Act."

ESTABLISHMENT OF FEDERAL ENERGY ADMINISTRATION

SEC. 2(a) There is hereby established an independent executive agency to be known as the Federal Energy Administration hereinafter referred to as the Administration. The Administration shall be headed by an Administrator and Deputy Administrator each of whom shall be appointed by the President by and with the advice and consent of the Senate.

(b)(1) The functions and powers of the Administration shall be vested in and exercised by the Administrator.

(2) The Administrator may from time to time, and to the extent permitted by law, delegate such of his functions as he deems appropriate.

(c) The Administration is authorized to have six Assistant Administrators and three Assistants to the Administrator, each of whom shall be appointed by the Administrator.

(d) The Administration shall have a General Counsel, appointed by the Administrator. The General Counsel shall be the chief legal officer of the Administration.

(e) The Assistant Administrators, the General Counsel, and the Assistants to the Administrator shall perform such functions and duties as the Administrator may prescribe.

(f) The Administrator shall designate the order in which the Deputy Administrator and other officials shall act for and perform the functions of the Administrator during his

absence or disability or in the event of a vacancy in his office.

FUNCTIONS OF THE FEDERAL ENERGY ADMINISTRATION

SEC. 3(a) The Federal Energy Administration shall be responsible for assuring that adequate provision is made to meet the energy needs of the Nation for the foreseeable future. To that end, the Administration shall plan, direct and conduct programs related to the production, conservation, use, control, distribution, and allocation of all forms of energy.

(b) The Administrator of the Federal Energy Administration shall be the President's adviser with respect to the establishment and integration of domestic and foreign policies relating to energy matters.

TRANSFERS

SEC. 4. (a) There are hereby transferred to and vested in the Administrator all functions of the Secretary of the Interior, the Department of the Interior, and officers and components of that department:

(1) as relate to or are utilized by the Office of Petroleum Allocation;

(2) as relate to or are utilized by the Office of Energy Conservation;

(3) as relate to or are utilized by the Office of Energy Data and Analysis; and

(4) as relate to or are utilized by the Office of Oil and Gas.

(b) There are hereby transferred to and vested in the Administrator all functions of the Chairman of the Cost of Living Council, the Executive Director of the Cost of Living Council, and the Cost of Living Council, and officers and components thereof as relate to or are utilized by the Energy Division of the Cost of Living Council.

(c) Notwithstanding any other provision of law, the President may transfer to the Administrator any function of any other Executive agency, as defined in Section 105 of title 5 of the United States Code, if he determines that such transfer would further the accomplishment of the intent and purposes of this Act. The President shall notify the President of the Senate and the Speaker of the House of Representatives forthwith of each such transfer and his reasons therefor, and shall publish a notice of each such transfer in the Federal Register. If either the Senate or the House of Representatives, within sixty calendar days after the date of delivery of any such notice, shall adopt a resolution disapproving the transfer involved, the functions involved shall immediately revert to the Executive agency from which they were transferred. Nothing in this subsection shall be deemed to permit any transfer or group of transfers the effect of which would be inconsistent with the provisions of subsection (a) of Section 905 of title 5 of the United States Code. Each function that is transferred to the Administration pursuant to this subsection shall revert to the Executive agency from which it was transferred upon the expiration of this Act or upon such earlier date as the President, or the Congress by law, may prescribe.

ADMINISTRATIVE PROVISIONS

SEC. 5. The Administrator of the Federal Energy Administration may:

(1) appoint, employ, and fix the compensation of such officers and employees, including attorneys, as are necessary to perform the functions vested in him and prescribe their authority and duties; except that 55 officers and employees may, under this provision, be compensated at rates not in excess of the rate prescribed for GS-18 under Section 5332 of title 5 of the United States Code, and that of such 55 officers and employees, 15 may, under this provision, be appointed without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service;

(2) employ experts, expert witnesses, and consultants in accordance with Section 3109 of title 5 of the United States Code, and compensate such persons at rates not in excess of the maximum daily rate prescribed for GS-18 under Section 5332 of title 5 of the United States Code for persons in Government service employed intermittently;

(3) appoint advisory committees composed of such private citizens or officials of Federal, State, and local governments as he deems desirable to advise him, and compensate such persons other than those employed by the Federal Government at rates not in excess of the maximum daily rate prescribed for GS-18 under Section 5332 of title 5 of the United States Code for each day they are engaged in the actual performance of their duties (including travel time) as members of a committee and pay such persons travel expenses and per diem in lieu of subsistence at rates authorized by Section 5703 of title 5 of the United States Code for persons in Government service employed intermittently;

(4) promulgate such rules, regulations, and procedures as may be necessary to carry out the functions vested in him;

(5) utilize, with their consent, the services, personnel, equipment, and facilities of Federal, State, regional, local, and private agencies and instrumentalities, with or without reimbursement therefor, and transfer funds made available pursuant to this Act to Federal, State, regional, local, and private agencies and instrumentalities as reimbursement for utilization of such services, personnel, equipment, and facilities;

(6) accept voluntary and uncompensated services, except where such services involve administrative proceedings, investigations, or enforcement powers notwithstanding the provisions of Section 3679 of the Revised Statutes;

(7) adopt an official seal, which shall be judicially noticed, and the provisions of Section 709 of title 18 of the United States Code shall apply to the use of the seal, after its adoption and publication in the *Federal Register*, except as provided by regulations prescribed by the Administrator;

(8) accept unconditional gifts or donations of money or property, real, personal, or mixed, tangible or intangible;

(9) subject to appropriation Acts, enter into and perform contracts, leases, cooperative agreements, or other transactions with any public agency or instrumentality or with any person, firm, association, corporation, or institution; and

(10) perform such other activities as may be necessary for the effective fulfillment of his duties and functions.

COMPENSATION

SEC. 6. (a) Section 5313 of title 5 of the United States Code is amended by adding at the end thereof the following new paragraph:

"(2) Administrator of the Federal Energy Administration."

(b) Section 5314 of title 5 of the United States Code is amended by adding at the end thereof the following new paragraph:

"(62) Deputy Administrator of the Federal Energy Administration."

(c) Section 5315 of title 5 of the United States Code is amended by adding at the end thereof the following new paragraph:

"(99) Assistant Administrators, Federal Energy Administration (6).

"(100) General Counsel, Federal Energy Administration."

(d) Section 5316 of title 5 of the United States Code is amended by adding at the end thereof the following new paragraph:

"(132) Assistant to the Administrator, Federal Energy Administration (3)."

(e) In the event that any individual at the time of entering upon any one of the positions described in subsections (a) through (c) of this section then holds another position in the executive branch, he may continue to hold such original position but shall be entitled, for as long as he holds both positions, to resolve the pay for only one such position: *Provided*, That he shall be entitled to receive the greater pay if different rates of pay are prescribed for the two positions.

(f) Appointments to the positions described in subsections (c) and (d) of this section may be made without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service.

TRANSITIONAL AND SAVING PROVISIONS

SEC. 7. (a) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal department or agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this Act, and

(2) which are in effect at the time this Act takes effect,

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

(b) The provisions of this Act shall not affect any proceeding pending, at the time this section takes effect, before any department or agency (or component thereof) regarding functions which are transferred by this Act; but such proceedings, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued if this Act had not been enacted.

(c) Except as provided in subsection (e)—

(1) the provisions of this Act shall not affect suits commenced prior to the date this Act takes effect, and

(2) in all such suits proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.

(d) No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of any department or agency, functions of which are transferred by this Act, shall abate by reason of the enactment of this Act. No cause of action by or against any department or agency, functions of which are transferred by this Act, or by or against any officer thereof in his official capacity shall abate by reason of the enactment of this Act. Causes of actions, suits, actions, or other proceedings may be asserted by or against the United States or such official as may be appropriate and, in any litigation pending when this section takes effect, the court may at any time, on its own motion or that of any party, enter any order which will give effect to the provisions of this section.

(e) If, before the date on which this Act takes effect, any department or agency, or officer thereof in his official capacity, is a party to a suit, and under this Act any function of such department, agency, or officer is transferred to the Administrator, or any other official, then such suit shall be continued as if this Act had not been enacted, with the Administrator, or other official as the case may be, substituted.

(f) Final orders and actions of any official or component in the performance of functions transferred by this Act shall be

subject to judicial review to the same extent and in the same manner as if such orders or actions had been made or taken by the officer, department, agency, or instrumentality in the performance of such functions immediately preceding the effective date of this Act. Any statutory requirements relating to notices, hearings, action upon the record, or administrative review that apply to any function transferred by this Act shall apply to the performance of those functions by the Administrator, or any officer or component.

(g) With respect to any function transferred by this Act and performed after the effective date of this Act, reference in any other law to any department or agency, or any officer or office, the functions of which are so transferred, shall be deemed to refer to the Administrator or other officials in which this Act vests such functions.

(h) Nothing contained in this Act shall be construed to limit, curtail, abolish, or terminate any function of the President which he had immediately before the effective date of this Act; or to limit, curtail, abolish, or terminate his authority to perform such function; or to limit, curtail, abolish, or terminate his authority to delegate, redelegate, or terminate any delegation of functions.

(i) Any reference in this Act to any provision of law shall be deemed to include, as appropriate, references thereto as now or hereafter amended or supplemented.

(j) Except as may be otherwise expressly provided in this Act, all functions conferred by this Act shall be in addition to and not in substitution for functions existing immediately before the effective date of this Act and transferred by this Act.

(k) The provisions of this section shall apply to functions transferred to the Administration pursuant to Section 4(c) of this Act, except that reference in this section to the effective date of this Act shall be deemed to be references to the date of the transfer of the functions involved.

INCIDENTAL TRANSFERS

SEC. 8. The Director of the Office of Management and Budget is authorized to make such additional incidental dispositions of personnel, personnel positions, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to or to be made available in connection with functions transferred by this Act, as he may deem necessary or appropriate to accomplish the intent and purpose of this Act.

DEFINITIONS

SEC. 9. As used in this Act—

(1) any reference to "function" or "functions" shall be deemed to include reference to duty, obligation, power, authority, responsibility, right, privilege, and activity, or the plural thereof, as the case may be; and

(2) any reference to "perform" or "performance", when used in relation to functions, shall be deemed to include the exercise of power, authority, rights, and privileges.

EFFECTIVE DATE AND INTERIM APPOINTMENT

SEC. 10. (a) Any of the officers provided for in Section 2 of this Act may be nominated and appointed, as provided in that Section at any time after the date of enactment of this Act. Funds available to any department or agency (or any official or component thereof), any functions of which are transferred to the Administrator by this Act, may, with the approval of the President, be used to pay the compensation and expenses of any officer appointed pursuant to this subsection until such time as funds for that purpose are otherwise available.

(b) In the event that any officer required by this Act to be appointed by and with the advice and consent of the Senate shall not have entered upon office on the effective date of this Act, the President may designate any officer, whose appointment was required to be made by and with the advice and consent of the Senate and who was such an officer immediately prior to the effective date of this Act, or any officer who was performing essentially the same functions immediately prior to the effective date of this Act, to act in such office until the office is filled as provided in this Act. While so acting, such persons shall receive compensation at the rates provided by this Act for the respective offices in which they act.

APPROPRIATIONS

SEC. 11. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

EFFECTIVE DATE

SEC. 12. This Act shall be effective on such date as the President shall prescribe and publish in the *Federal Register*, and shall terminate two years after such effective date.

BACKGROUND MATERIAL

Relationships to other agencies

This office will have primary responsibility throughout the Federal Government for data collection and publication concerning energy statistics. It will have the primary responsibility for analyzing that data. While other offices within the Federal Energy Administration will maintain some analytical capability to meet their own missions, primary responsibility for analyzing energy data will be in the new unit.

Mode of operations

There is a strong and widely recognized need for management and credible data and statistics regarding energy supplies and consumption, both domestic and world-wide. Most of this information has, in the past, been obtained on a voluntary basis. While maximum cooperation is required from industry for much of the data, it is imperative that statutory authority exist to obtain whatever information may be required. Maximum effort must be undertaken to assure that the appropriate information is gathered, compiled and released to Congress and the public in a timely fashion. Assurances should be undertaken that confidentiality will be preserved, but only in those cases where legitimate proprietary interests are involved. Thorough analysis of all such data, as well as analytical studies of all policy options, will be a primary function of this office.

DATA ANALYSIS

Purpose and mission

The objectives of this office are to collect and assemble information with respect to energy reserves, production and demand in all sections and to perform analyses on these data. In addition, the new office will analyze the impact of energy actions on the economy, including how shortages will affect specific industries.

Organization, budget, and personnel

See attached chart. (Not printed in RECORD.)

The organization will, for FY 74, consist of approximately 90 positions. Included in the unit will be all the positions from the office of Energy Data and Analysis in Interior.

Specific duties will include:

Develop appropriate mechanisms for obtaining data.

Develop energy supply and demand projections.

Develop models for analyzing data.

Perform analysis on special problems.

Study economic impact of shortages and energy initiative.

Disseminate energy data and statistics.

POLICY, PLANNING, AND REGULATION

Purpose and mission

To develop broad strategies for dealing with overall shortages.

To evaluate program effectiveness.

To analyze various options for dealing with specific product shortages (allocation, surcharges, rationing, etc.) and make recommendations to decision makers.

To bring to day-one operational status (including publication of regulations and conduct of hearings) all programmatic options decided upon.

To perform an on-going policy analysis and planning function for the agency.

Organization, budget, and personnel

See attached chart. (Not printed in Record.)

The Office will consist of approximately 125 people (with an additional 30–50 detailed personnel to assist during the initial planning period), and a budget of 2 million dollars. Specific functions include:

Develop allocation programs, regulations and implementing procedures for:

Crude.

Residual.

Jet fuel.

Gasoline.

Middle distillate.

Other fuels.

Set priorities and classify users.

Develop information systems.

Determine the level of allocations.

Develop training procedures for Federal, state and local personnel.

Develop sanctions and enforcement mechanisms.

Determine pricing policies for petroleum products.

Develop modifications to ongoing programs as necessary.

Determine long-range energy needs and alternative government actions, including legislation.

Mode of operation

The Office is split into 11 units working on allocation plans and a contingency plan for rationing. It will work closely with other agencies to develop and plan the programs. Once ready for implementation, the programs will be transferred to the Office for Operations and Compliance.

OPERATIONS AND COMPLIANCE

Purpose and mission

The primary purpose of the office is to act as an operating, implementing body for administering petroleum and gas distribution and consumption programs. It administers at the Federal level all allocation and rationing programs. Its mission is to ensure: (1) an equitable distribution of fuel in accordance with established procedures and (2) that adequate supplies of fuel are made available to meet high priority, essential needs. The office will also be charged with maintaining strong state and local ties as they relate to the operation of these programs. The office will be the central action office to respond to the calls for assistance from the public and industry adversely effected by the fuel shortages.

Organization, budget, and personnel

See the attached chart. (Not printed in Record.)

Current estimate of the number of people in the organization in FY 74 is approximately 1,800. The vast majority of the people will be concentrated in the field. If more expansive programs must be implemented, then the number of people and associated budget costs could rise substantially.

Relation to other organizations

The office will be purely an implementing, operating organization; however, it will be consulted in the policy development process.

Policy direction will be provided by the Administrator, with primary reliance upon the Office of Policy, Planning and Regulation. Relations with industry would be limited to matters concerning the operation of Federal fuel distribution programs.

General mode of operation

Decentralized operations will be emphasized to the maximum extent possible, with major reliance upon State and local (i.e., volunteer) participation. All programs should be as "automatic" and self-enforcing as possible. Ten field offices will initially be operated in the ten Federal regional cities with further offices determined on the basis of identified need. These offices will also meet the field operations needs of other FEA offices.

ENERGY CONSERVATION AND ENVIRONMENT

Purpose and mission

To reduce the demand for scarce fuels. Promote efficiencies in the use and development of energy resources, coordinate Federal, State and local energy conservation programs, identify needs for research and development into methods of improving the efficiency of energy uses, develop a broad public awareness program of the need for energy conservation, and study environmental implications of energy initiatives.

Organization, budget, and personnel

See attached chart. (Not printed in RECORD.)

The organization will consist of approximately 50 people (including all those positions in the Office of Energy Conservation in Interior).

Specific functions will include:

Develop conservation policy initiatives for transportation, the residential sector and industry and commerce.

Stimulate and coordinate State and local conservation programs.

Administer Federal conservation program.

Study environmental implications of energy initiatives and the energy-environmental tradeoffs in dealing with the shortages.

Administer national conservation public information programs.

Relationships to other agencies

The unit will have responsibility throughout the Government for coordinating all energy conservation efforts. While other agencies will be encouraged to promote energy conservation, all such efforts will be coordinated through the new office, both for purposes of analysis and to assure that all efforts are consistent.

Mode of operation

Major analysis of alternatives for reductions in waste of energy and increased efficiencies will be undertaken by this office, and proposals for regulatory and legislative changes will emanate from this office. Major emphasis will be placed on the need for citizens and industry conserving energy, and the means for undertaking such measures will be widely disseminated. Close liaison will be established with industrial groups, State and local governments, and consumer groups to assure full dissemination of information.

INTERNATIONAL POLICY AND PROGRAMS

Purpose and mission

The broad mission of the office will be to focus on all international and national security factors that are specifically energy-oriented. The Department of State's function is diplomatic and its focus is towards relations with our allies and others; energy matters represent a single input in that mission. Likewise the Defense function is the maintenance of our national security and energy is a peripheral concern.

The office would serve the Director in both these areas with the particular focus on energy matters.

The specific functions would involve:

a. *Coordinate within the Federal Energy Administration itself* on national security and international matters.

b. *Develop policy and advise* the director on international and national security issues.

c. *Monitor and manage* international programs for the director, including mandatory oil import program and energy export regulation.

d. *Coordinate with other government agencies* on policy matters.

Organization, budget and personnel

See attached chart. (Not printed in RECORD.)

The staff will consist of about 50 people for FY 74. Assuming travel funds would be provided from a central fund, the office budget would consist primarily of pay with a small amount of funds available to sponsor studies and analyses. The latter would be needed for a contribution towards other studies to ensure international and national security issues are adequately represented.

Some of the division's actual functions are outlined below:

Policy analysis

1. Intergovernment and inter-administration coordination
2. R&D cooperation.
3. OECD Affairs
4. Saudi Economic Diversification
5. Import Sharing.

International commerce

1. Soviet LNG, East-West Trade
2. Company affairs and negotiations with producer governments.
3. Diversification of future supplies.
4. Oil Policy Committee
5. Export Control.

Security affairs

1. National Vulnerability.
2. Defense Department energy needs, bases, and
3. NATO

Method of operation—intergovernment relations

In matters of policy this office would liaison closely with three organizations—the National Security Council, Defense Department and State Department. Its policy focus would not aim at focusing on the major questions of diplomatic and security affairs (to which energy concerns are one input). Instead it would concentrate on matters that are particularly energy related and would not receive proper focus or attention unless this office did so. Matters such as:

Saudi economic problems/diversification.

The office would also provide an articulate liaison between the Energy Administration and the companies regarding negotiations and a whole host of issues.

Some of its operations would be specifically interagency in nature and interagency working groups, etc., would be relied upon (in conjunction with NSC).

ENERGY RESOURCE DEVELOPMENT

Purpose and mission

The primary mission of this office is to facilitate implementation of the President's program to develop the capability for national self-sufficiency in energy supplies and to insure that this goal is met with adequate protection for the environment.

Its responsibility is three-fold.

To overcome construction bottlenecks and other constraints (e.g., regulatory delays, material and labor shortages) that hold up the building and operation of energy facilities.

To insure development of adequate incentives for increasing production from domestic energy sources utilizing current technology.

To coordinate the relationship between national energy strategy generally and the R&D program to be pursued by the proposed ERDA.

Specifically, the functions of Project Independence include:

a. Expediting Alaskan Pipeline construction and operation so that oil is available at the earliest possible time.

b. Expediting exploration of the Outer Continental Shelf, through leasing and development, so that energy supplies from this source are assessed and developed on a rapid basis.

c. Expediting the leasing of coal and shale lands.

d. Expediting nuclear and non-nuclear electric power plant and energy facilities, including their siting, construction, operation, and right-of-ways, through minimizing regulatory, construction and material delays.

e. Facilitating domestic coal production and consumption to make sure that our most abundant domestic energy source is utilized to the maximum extent possible by ensuring the availability of mining equipment, manpower and transportation facilities.

In the area of R&D, this office will expedite, within the Executive Office, the coordinating of R&D plans developed by ERDA (when enacted).

Organization

This Office would be organized along the following lines: Director, Supply Expediting, and Technology Expediting.

Including:

Siting, construction, materials and regulatory delays.

Oil and gas industries.

Outer Continental Shelf development.

Coal utilization.

Alaska pipelines.

Coordination of the relationship of R&D and non-R&D efforts to utilize domestic resources.

Insuring application of R&D.

Budget and staff

The Office would have approximately 150 people in FY 74.

Interagency relationships and mode of operation

With respect to impediments to and incentives for increasing energy supply collaborate with departments, regulatory agencies, GSA (Office of Preparedness) and with State and local governments to identify problems and to expedite their solution by appropriate departments and agencies, including development of legislative recommendations.

Work with OMB on legislative, budget, and management actions necessary to achieve purpose of this Office.

FEDERAL ENERGY ADMINISTRATION

Mr. RIBICOFF. Mr. President, I am pleased to join with Senator JACKSON as an original cosponsor of legislation to establish a Federal Energy Administration. The creation of a single agency to direct our efforts to deal with the energy crisis is badly needed and long overdue.

Present programs to deal with this grave problem are a confused jumble of conflicting and overlapping regulations divided among six separate departments and agencies—the Energy Policy Office in the Executive Office of the President, the Office of Management and Budget, the Treasury Department, the Interior Department, the Cost of Living Council, and the Environmental Protection Agency.

The stark reality of the energy crisis demands an end to the pretense that the Federal Government can somehow muddle through by continuing to operate on

a business as usual basis. The hard facts of our situation do not allow such a luxury.

We face a present national shortage of 17.5 percent in No. 2 fuel oil. This is equivalent to 900,000 barrels per day.

The shortage of residual oil, used by utilities to power their generators, is over a million barrels a day, nearly 30 percent of demand for this vital product.

In the first 3 months of 1974, the Government expects a shortage of more than 21 percent in gasoline—equal to 1.5 million barrels per day. And in the same period the shortage of jet fuel is estimated at nearly one-third of demand, about 400,000 barrels a day.

Clearly, drastic action is required. We must end the lengthy delays and bureaucratic rivalry which have characterized our past efforts to solve the energy crunch. Instead, we must have prompt, firm decisions, and effective coordination among the many programs which are necessary to a comprehensive solution of our problems.

For this reason, I am particularly pleased that the President has chosen William E. Simon to head the new Federal Energy Administration. I have worked with him on many aspects of the energy situation over the past 11 months and have found him to be a man of great ability and integrity. I am confident the President has chosen the right man to serve as national energy czar.

The agency he will direct will have a budget of about $50 million and nearly 3,000 employees. It will be responsible for the overall management of the Federal effort to deal with the current energy emergency.

The agency will be composed of six functional offices—data gathering and analysis, policy planning and regulation, operations and compliance, international policy and programs, energy conservation and environment, and energy resource expediting. Mr. President, I ask unanimous consent that a chart showing the proposed organization of the new agency be printed at the conclusion of my remarks.

In my view, two of these offices are especially important. The work of the office of data gathering and analysis is basic to the operation of the entire agency, for it is axiomatic that effective policy must be based on accurate, up-to-date information. The lack of such information is one of the causes of our current crisis. Accordingly it is essential that this office have adequate information gathering authority.

The work of the office of energy conservation and environment is also particularly vital. It will be the responsibility of this office to assure a proper balance between our needs for energy to run the economy, and a healthy environment. Mr. President, it is essential to preserve our environment while we are finding the answers to the energy shortage, for it will not benefit our Nation to solve the energy crisis at the cost of destroying our air, water, and land. By making the environmental interest a part of the decisionmaking process in the Federal Energy Agency, we can avoid this result.

Mr. President, the current energy emergency has come as a surprise to many people, but I have been concerned about shortages of gasoline and fuel oil for many months. In April 1972, I warned the administration of a coming shortage of heating oil during the winter of 1972–73. The Office of Emergency Preparedness predicted that sufficient supplies would be available in Connecticut and throughout New England, but as we all know, the Government was wrong and I was right.

This past year, as the petroleum situation became more grave, I have made the energy crisis one of my priority legislative areas.

In January, I cosponsored the New England States Fuel Oil Act to permit unlimited imports of No. 2 home heating oil. Later I sought assurance from the administration that its new Oil Policy Committee would establish a special subcommittee to deal with Connecticut and New England's particular problems.

In February, I conducted a hearing on Reorganization Plan No. 1 of 1973, which transferred the chairmanship of the Oil Policy Committee from the Director of the Office of Emergency Planning to the Deputy Secretary of the Treasury. At the hearings, the Deputy Secretary agreed to establish a New England Regional Advisory Committee which would include independent fuel oil dealers so that their views could be considered in the deliberations of the committee.

In March, I had joined in introducing Senate Resolution 74, calling on President Nixon to begin negotiations with the other major oil consuming nations leading to bargaining on a government-to-government basis with oil-producing states and their own unified entity—the Organization of Petroleum Exporting Countries—OPEC.

In May I had cosponsored legislation providing for continued sales by major oil companies of gasoline to independent gasoline retailers at the same percentage levels as in a previous base period, and to assure equitable distribution of petroleum products to all regions of the country.

Along with a number of other Senators, I had also signed a letter to President Nixon urging him to use the authority granted him by the Congress in the Economic Stabilization Act to allocate crude and petroleum products, so that healthy competition of the small independent refiners and gasoline marketers would not be eliminated.

On June 5, the Senate passed S. 1570, the Emergency Fuel Allocation Act of 1973. This bill included an amendment I had offered and which has been approved on the floor, to establish an Office of Emergency Fuel Allocation. This measure was designed to insure that municipal, county, and State governments would be able to get enough gasoline and fuel oil to provide essential services to their citizens.

This past summer, my own Subcommittee on Reorganization conducted an investigation of the heating oil situation for the coming winter and reported in September that the major oil companies had failed to voluntarily allocate the necessary fuel to independent dealers. Yet, the administration failed to order a mandatory allocation system until it was too late for the oil companies to import the Middle Eastern oil that was then still available to build up their reserves for the winter.

And in November, I filed a report with the Government Operations Committee on the international aspects of the energy crisis—"Petropolitics and the American Energy Shortage."

Mr. President, the introduction of this bill is a significant step toward reason, order, and fairness to Connecticut in Federal energy programs. By bringing together many related efforts we will cut redtape and assure a faster response to the energy needs of the American people. As chairman of the Subcommittee on Reorganization, I will do all I can to speed Senate action on this important legislation.

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

Mr. JACKSON. I yield.

Mr. JAVITS. Mr. President, I wish to associate myself with one thing the Senator said that came out in testimony before the Committee on Government Operations this morning by Mr. Ash, the Budget Director.

There is no reason whatever for panic. Mr. Ash testified there is no reason for panic. We do not have to have a recession. The degree to which our economy may abate is likely to be minimal, provided we keep our shirts on, obey a reasonable discipline, and go through with the measures we have espoused.

I hope that all Members who have prestige in their States would so assure the people of their States, because I think the psychological factor that we have to have a recession, that this is going to be a tremendous economic jolt, that we somehow are going to suffer unknown difficulties because of it, is becoming so prevalent that it may induce exactly what need not happen.

I thank the Senator very much for speaking as he has.

Mr. JACKSON. May I just reiterate the remarks of the Senator from New York by saying that, while we do face what may be a protracted crisis, it is a manageable crisis. I agree with the Senator that there is no reason why, if the proper steps are taken—and I believe this bill provides that initial base—there should be a situation in which the economy is in serious trouble.

The emergency agency that is being set up is tied to the obvious necessity of relating to the economy whatever decisions are made so far as allocations or rationing in energy are concerned, I think, is the key point. What has concerned the public, I think, is that there has been an ongoing idea that we were not doing that. The new agency will be geared up to relate to the gross national product what is done in the energy area. This development and this approach should, I believe, have its effect so as to commence at least a program of stabilization.

There is no reason for panic; there is no reason for despair. This is a manage-

able task. The bill that has been introduced is the beginning of an effort to stabilize the ship of state, especially in the economic area.

Mr. PERCY. Mr. President, the bill we are introducing today is the administration's proposal for a Federal Energy Administration—FEA. The FEA would be an independent executive agency responsible for carrying out operational functions in the immediate energy emergency.

During the 2-year life of the FEA, the Administrator would be the President's adviser on all aspects of energy policies, both foreign and domestic, including the production, conservation, allocation, and control of fuels. This would be an exceptionally powerful position. If the FEA bill is enacted, the President's nominee for Administrator should be examined with great care before being confirmed by the Senate.

I regret that this new agency must be established on such an emergency basis. It deserves much more careful consideration. Its decisions will touch the lives of every American. I consider this an interim measure, which should be followed as quickly as possible by a comprehensive, thoroughly considered bill which will integrate it with our natural resources agencies into a broader new Department of Energy and Natural Resources.

I regret also that the FEA is already being created by Executive order, apparently based on thin legal underpinnings. The hearings we will conduct in the Government Operations Committee, beginning Thursday, December 6, should clearly establish whether a new agency is truly necessary to perform the energy emergency functions and whether there is any statutory basis for creating the agency by Executive order in advance of the legislation.

The urgency of the fuel shortage situation requires that the Congress act promptly to resolve these questions. If the Federal Energy Administration is to be created, it should be given a sound statutory footing and clearly defined authorities. Transfers of functions from other agencies should be accomplished in accordance with well-established traditions of congressional oversight. Finally, FEA should be regarded only as a temporary step, so that we do not lose sight of the need for broader reform and consolidation through DENR.

Mr. HANSEN. Mr. President, first, I regret very much Gov. John Love's departure under the circumstances that attended his going from the city of Washington. Governor Love is a great administrator. He was a great Governor. He was elected to a full third term from his State of Colorado. I have known him since 1963 when he and I became Governors of our States.

It honestly can be said he was not given the support that I think he deserved, the support the job indicated he should have had, and that is unfortunate.

Having said that, I do not disagree with the distinguished Secretary of the Treasury, Mr. Shultz, insofar as his approach to the solution to the energy crisis is concerned. I think he is quite right in pointing out that we do need to let price play an important role in determining that the energy available to us goes to the most important uses to which it should go.

I believe there is no better way than to let price make that determination. I think it will accomplish two purposes: First, it will insure that everyone becomes conscious of the short supply of energy and will help reduce waste and inefficient use to a greater degree than could be achieved in any other fashion, but more importantly, it will insure that we will have more supply. That is important. I think it is important because, while I agree with the distinguished chairman of the Committee on Insular Affairs that there is no reason for panic, I would add a footnote to that statement.

There is no reason for panic if we avail ourselves of all of our opportunities, and that means to go on with the business of developing more energy in this country and using more of the energy that is presently available to satisfy America's great demand for power. This can be achieved in two ways: First, as the price rises we will bring more oil and gas above ground that otherwise would be left below ground to be wasted for all time insofar as man's use is concerned; and second, we must take a commonsense approach to the matter of environment so as not to tie our hands and prevent us from using coal and other sources of energy to substitute for natural gas and oil whenever and wherever possible. The President called for this response some weeks ago. We must take that action now.

I thank the Senator from Washington for his courtesy.

Mr. MAGNUSON. I add only two words to the Senator's discussion: Nuclear power.

Mr. HANSEN. Indeed so. To that I would add amen.

Mr. DOMINICK. Mr. President, it was with very deep regret that I heard the news about the resignation of my good personal friend and ex-Governor, John Love, from his energy position at the White House.

After all, it is a little difficult for a man to be asked to resign from the governorship of a State and to come to the White House and to take on a job and then tell him that he has been superseded by an aide of the White House, and not by the President, himself.

I would say that John Love was operating with a minimum staff, practically no one. The jurisdiction of this matter was divided among at least a dozen agencies and departments—everywhere from Interior to Treasury to Cost of Living Council to AEC, and to everyone else, including Congress—and he did an admirable job, with good humor and great skill. It is unfortunate that such a situation occurred, in which he felt it necessary to resign from the enormously fruitful public service he has been performing since 1962.

I want to say that for the RECORD, and I wish him the very best in whatever he decides to do from here on.

Mr. JAVITS. Mr. President, I am pleased to join my colleagues, Senators JACKSON, RIBICOFF, ERVIN, PERCY, RANDOLPH, and FANNIN in introducing this important legislation. As the impact of our energy shortages becomes a painful reality throughout the Nation the Senate Government Operations Committee—of which I am a ranking member—is pushing ahead with action on several aspects of this problem.

First, one of the most important questions yet to be adequately answered is why industry and Government failed to rouse the public and Congress to impending shortages during the last year in the face of rising consumer demand. The Permanent Subcommittee on Investigations on which I serve is now conducting hearings on this very question. If indeed Federal oil policymakers and industry officials knew or should have known that shortages in fuel oil and gasoline were very likely—even before the Mideast oil cutoff—and took no decisive action in matters they could have affected, those facts should be made known and will help us to take corrective action. We must assure that Federal programs designed to monitor oil industry activities which can have such a major impact upon the health of our economy are operating effectively and in the public interest.

Second, our hearings on S. 2744, a bill to create the Energy Research and Development Agency which Senators JACKSON, RIBICOFF, I, and others introduced last week, began this morning. As the ranking minority member of the Executive Reorganization Subcommittee, I can say that our members are determined to utilize these hearings to design an administrative and policymaking structure which will bring to reality a long-range research and development program to enable us to achieve self-sufficiency by 1980.

The new legislation we introduce today is designed to address a third and perhaps the most difficult aspect of this problem. Allocating our critically scarce oil supplies is going to be a task requiring extraordinary, creative intelligence, insight, and the highest degree of sophisticated and sensitive administrative skill. I feel that Under Secretary William Simon, a New Yorker I know well, has the capability and the experience to undertake this responsibility.

In our complex and integrated, technological society, it is going to involve extremely difficult decisions to determine which particular groups, industries, and interests will receive priorities over other groups, and what criteria shall be used in reaching those decisions. The bill we introduce today is designed to establish a manageable, streamlined administrative mechanism to facilitate this process—without creating an oversized, cumbersome bureaucratic structure. As our hearings unfold, we will seek naturally to refine and improve upon the bill as it now exists. Basically, the legislation does the following:

First, the bill will provide for the development of systems for obtaining and analyzing data with respect to energy reserves, production and demand in all sectors of the economy;

Second, it provides for a policy, planning and regulations office to develop strategies for overall shortages and various options for dealing with specific product shortages—allocation, sur-

charges, rationing, and publications of regulations. It will develop specific regulations and implementing procedures for allocating crude oil, residual, jet fuel, gasoline, middle distillate and other fuels, and set priorities and classify users.

Third, the operations and compliance office will act as the operating, implementing body for administering petroleum and gas distribution and consumption programs.

Fourth, the Energy Conservation and Environment Office of FEA will promote efficiences in the use and development of energy resources, and coordinate Federal, State, and local energy conservation programs.

Fifth, the International Policy and Programs Office will concentrate on all international and national security factors that are specifically energy oriented.

Sixth, the Energy Resource Office will facilitate implementations of the President's program to develop the capability for national self-sufficiency in energy supplies and to assure that this goal is met with adequate protection for our environment.

Mr. President, it is not without some concerns that I support a program which will have such far reaching ramifications on the lives of every American. It is with this in mind that I propose to insist that the administration of any Federal allocations program be undertaken with the following objectives clearly in mind:

First. Any adverse job impact of the energy shortage must be minimized to the greatest extent possible and held within tight limit;

Second. Allocation programs must be developed and promulgated in an atmosphere of openness and public hearing;

Third. The energy resources we have must be allocated fairly among all geographic areas of the country;

Fourth. Regulations must be simply designed and fairly enforced with a minimum degree of Government bureaucracy; and

Fifth. The FEA should study and recommend incentives to conserve on energy consumption of all kinds.

Mr. STEVENS. Mr. President, I want to associate myself with the remarks of the junior Senator from Washington (Mr. JACKSON) concerning Gov. John A. Love. Governor Love left a position of great responsibility as the Governor of one of our sovereign States to become an adviser to the President on energy matters. The record will show, I believe, that he spent almost half of his time in the past several weeks appearing before congressional committees and meeting with Members of Congress and in making public appearances to assure us all that the energy crisis is indeed a real crisis, not a contrived one. Governor Love is a man who has great ability. He has demonstrated that ability in the manner in which he performed his duties here in Washington and I, for one, earnestly hope that official Washington will see more of John Love.

By Mr. JACKSON (for himself, Mr. ABOUREZK, Mr. BARTLETT, and Mr. NUNN):

S. 2777. A bill to establish within the Department of the Interior an additional Assistant Secretary of the Interior for Indian Affairs, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. JACKSON. Mr. President, I am introducing for Mr. ABOUREZK, Mr. BARTLETT, and myself a bill to establish within the Department of the Interior an Assistant Secretary who will be an additional Assistant Secretary responsible only for Indian Affairs. A similar bill (H.R. 620) was passed on October 1, 1973 by the House of Representatives. The administration has requested that this new position be established.

The Bureau of Indian Affairs was created on March 11, 1824, by order of the Secretary of War. The Congress, by the act of July 9, 1832 (4 Stat. 564) created the position of Commissioner of Indian Affairs, to be appointed by the President with the advice and consent of the Senate, under the direction of the Secretary of War. Under the act of March 3, 1849 (9 Stat. 395), the supervision of the Bureau of Indian Affairs was transferred from the Secretary of War to the Secretary of the Interior.

The Bureau and Commissioner of Indian Affairs have been and are in a third tier level within the administrative structure of the Department of the Interior, reporting to the Secretary through an Assistant Secretary of the Interior. This third-tier positioning of Indian matters within the Department of the Interior has had two detrimental effects.

First, it has aggravated the inherent conflicts of interest which exist in the Federal administration of Indian affairs. As trustee of Indian property, the United States is charged with a high fiduciary duty to protect and preserve Indian trust assets. Yet the Department of the Interior is also called upon to administer the Nation's resources, such as water, power, lands, timber, oil and minerals, for the greatest common good. When these non-Indian national interests come into conflict with Indian trust interests, all too often the Indian interest is sacrificed or compromised in favor of the non-Indian interest.

Second, despite the various policy statements of putting the "First American" first on the Nation's agenda, the visibility and importance of Indian matters within the Department remain at a low level.

Enactment of my bill would ameliorate the conflicts of interest which have plagued Indian affairs and would raise Indian affairs in the Department to its proper level. The first three sections of this bill would create a new Assistant Secretary of the Interior for Indian Affairs, reporting directly to the Secretary, and would abolish the existing position of Commissioner of Indian Affairs.

The two major differences between the proposal submitted by the President and sections 1 through 3 of my bill are as follows: So that no debilitating competition exists between officials speaking on Indian matters, my bill abolishes the post of lesser Commissioner of Indian Affairs. To insure that the Indian affairs are not again subordinated to other matters within the Interior Department's jurisdiction, the responsibilities of the new Assistant Secretary are limited in my bill to Indian matters. The House-passed bill also abolishes the Commissioner's post and focuses the Assistant Secretary's duties on Indian affairs.

Section 4 of my bill is not found in the House-passed bill or the administration's proposal. It would amend perhaps the most important legislation in recent years in the Indian field: the Alaska Native Claims Settlement Act.

Serious questions have been raised concerning the fairness of the election held pursuant to the Alaska Native Claims Settlement Act to determine whether a 13th region outside of Alaska should be created for Alaska Natives who are not residents of Alaska.

The election provisions in the act were sponsored by me for the purpose of allowing nonresident Natives to determine their own destiny. Many Natives may have intimate ties back to their villages and regions and wish to share in the land distribution and in the expenditure of claims funds for public facilities and other projects to benefit resident Natives. Other nonresident Natives who have no remaining ties and wish to stake their future in the lower 49 States may wish to receive the claims funds through a new regional corporation which represents their interests.

Recently the Department of the Interior announced that the election results have been tabulated and that the 13th region has failed. A storm of protests resulted from this announcement. Facts gleaned from the web of conflicting interpretations, charges, and explanations given to me and to staff of the Interior Committee in discussions with and papers submitted by personnel of the Department of the Interior and representatives of organizations of nonresident Natives strongly suggest that the cumulative effect of the many inequities in the treatment of the enrollment of resident Natives and nonresident Natives resulted in the alteration of the final election results—after appeals are counted—from a "yes" to a "no" vote for the 13th region. The inequities include failure to communicate critical information on changes in procedures and deadlines to nonresident Natives and their organizations; refusal to provide enumerators to nonresident Natives until very late in the enrollment process; the summary denial, prior to the August deadline for amendments to enrollment applications, of over 2,000 amendments which purportedly requested a change from resident to nonresident status and contained a "yes" vote on the 13th region; and, most of all, the counting of abstentions for the purpose of determining whether a majority voted for the 13th region—thus making all abstentions the same as "no" votes.

These inequities, unless corrected, will not only leave a legacy of bitterness among many Natives both outside and in Alaska and leave strong, lingering doubts as to whether the election was truly democratic, but will also insure lengthy delays in the implementation of the Alaska Native Claims Settlement Act. Preparation of the final roll and distribution of settlement funds which are to begin shortly after the 17th of this

month, selection of land by the Natives, and the setting aside of the so-called d-2 lands for national parks, forest, wild and scenic rivers, and game and wildlife refuges may be postponed indefinitely while the election results are challenged in the courts.

One such challenge has already been made. On November 30, 1973, a class action lawsuit naming the Secretary, the Commissioner of Indian Affairs, and others was filed in the U.S. District Court in the District of Columbia (No. 2133–73) by the Alaska Native Association of Oregon and several nonresident Alaska Natives challenging the enrollment and election. A hearing is already scheduled on a motion for preliminary injunction which would, among other things, hold up final completion of the roll. A second lawsuit reportedly is being filed in the same court on December 4, 1973 by the Alaska Federation of Natives Internation. This suit also seeks injunctions, but also requests the court to declare that the election is void and a 13th region has been established. Attorneys for the plantiffs inform me that other suits will likely be filed and that the litigation could take a year or two, or even more, to complete.

Section 4 of the bill I introduce today is designed to correct the inequities and reduce the possibility of such delays. Section 4 would direct the Secretary to call for a new election to be completed—and the results announced—within 90 days of the bill's enactment. The language of the bill is designed to correct the procedural inequities of the last election and to remedy the erroneous interpretation of the language of the Settlement Act which led to the counting of abstentions in a manner which rendered them "no" votes. The bill concludes with a subsection which insures that no delay of the distribution of funds under the Settlement Act would result from the necessity of holding a new election.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD at the conclusion of my remarks.

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

S. 2777

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be in the Department of the Interior, in addition to the Assistant Secretaries now provided for by law, one additional Assistant Secretary of the Interior for Indian Affairs, who shall be appointed by the President by and with the advice and consent of the Senate, who shall be responsible for such duties as the Secretary of the Interior shall prescribe with respect to the conduct of Indian affairs, and who shall receive compensation at the rate now or hereafter prescribed by law for Assistant Secretaries of the Interior.

SEC. 2. Section 5315 of title 5 of the United States Code is amended by striking out "(6)" at the end of item (18) and by inserting in lieu thereof "(7)".

SEC. 3. Section 462, Revised Statutes, as amended and supplemented (25 U.S.C. 1), and paragraph (45) of section 5316 of title 5 of the United States Code, are hereby repealed.

SEC. 4. The Alaska Native Claims Settlement Act (85 Stat. 688) is hereby amended by inserting at the end thereof a new Section 28, as follows:

"SEC. 28. (a) All votes cast, and all abstentions from voting, concerning enrollment in a thirteenth region for Natives who are non-residents of Alaska pursuant to subsections 5(c) and 7(c) of this Act are hereby declared to be null and void. Within seven days of the date of enactment of this amendment, the Secretary shall call for a new election (hereinafter referred to as "the election") to be conducted no later than sixty days after the date of enactment of this amendment. The Secretary shall cause to be sent a ballot and instructions to all Natives whose applications for enrollment were received on or before March 30, 1973. Each Native who is eighteen years of age or older and who was not a permanent resident of Alaska and was eligible for enrollment on the date he filed an application for enrollment pursuant to this Act (hereinafter referred to as an "eligible voter") shall have the opportunity to cast a vote in the election on the single question of whether he wishes to be enrolled in a thirteenth region for Natives who are non-residents of Alaska.

"In order to insure wide participation in the election, the ballot, instructions, and the voting procedures shall be made as simple as practicable and the Department shall provide enumerators who shall make every effort to assist each eligible voter to cast his vote in full compliance with such procedures. The enumerators shall be selected by the Secretary; must have no financial, personal, or other interest in the outcome of the election; and shall maintain a strict posture of neutrality in providing assistance pursuant to this section.

"(b) If a majority of all eligible voters who cast votes in the election elect to be enrolled in a thirteenth region for Natives who are non-residents of Alaska, the Secretary shall establish such a region for the benefit of the Natives who elected to be enrolled therein, and they may establish a Regional Corporation pursuant to this Act. If a majority of all eligible voters who cast votes in the election elect not to be enrolled in such thirteenth region, each eligible voter shall be enrolled as provided in subsection (b) of section 5. The choice of each eligible voter shall apply to all dependent members of his household who are less than 18 years of age, but shall not affect the enrollment of anyone else. The ballot of any eligible voter who abstains from casting a vote for or against enrollment in a thirteenth corporation shall not be counted for the purpose of determining whether a majority has or has not elected to be enrolled in a thirteenth region.

"(c) Any rules, regulations, or information concerning the election shall be transmitted directly to all known organizations representing Natives who are not residents of Alaska, the twelve regional corporations in Alaska, and, wherever possible, all eligible voters.

"(d) No moneys distributed or to be distributed pursuant to this Act may be expended or obligated by any Native, Native corporation, Native organization, representative thereof, or advisor thereto, to assist in, communicate on, or otherwise influence the election.

"(e) The results of the election shall be tabulated and announced no later than 90 days after the date of enactment of this amendment. The roll of Natives required by section 5 of this Act shall not be completed until the results of the election pursuant to this section have been incorporated therein. The completed roll, reflecting any changes required as a result of the election, shall be the roll upon which distribution of moneys from the Alaska Native Fund and land selection pursuant to this Act shall be based. Notwithstanding any delay, made necessary by the implementation of this section, beyond the December 17, 1973 deadline for completion of the roll provided in subsection 5(a) of the Act, distribution of moneys in the Fund pursuant to subsection 6(c) may be initiated on the basis of the incomplete roll available on that date. Distribution of moneys in the Fund pursuant to subsection 6(c) shall not be delayed pending the completion of the election results. The Secretary shall make provision for adjustments in such distribution or the recovery and redistribution of any funds already distributed in order to insure a final distribution of such funds in accordance with the completed roll."

By Mr. STENNIS (for himself and Mr. THURMOND) (by request):

S.J. Res. 176. A joint resolution to authorize the production of petroleum from naval petroleum reserve. Referred to the Committee on Armed Services.

Mr. STENNIS. Mr. President, the bills and joint resolution I introduce are of interest to a number of Senators who have been asking about them.

By request for myself and the senior Senator from South Carolina (Mr. THURMOND), I introduce, for appropriate reference and by request a joint resolution providing for production of petroleum from Naval Petroleum Reserve No. 1.

I would observe, Mr. President, that this matter would come before the Committee on Armed Services since this committee has jurisdiction over the naval petroleum reserves.

I ask unanimous consent that a letter of transmittal requesting consideration of the legislation and other material explaining its purpose be printed in the RECORD immediately following my remarks and the printing of the joint resolution.

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

(See exhibit 1.)

Mr. STENNIS. My position is this: That I strongly insist on protection of our military oil reserves for the benefit of all the armed services.

I shall further insist that all military services reduce oil and gas consumption and reduce training and other operations when reasonably possible.

This legislation is designed to permit expanded production of oil for national defense purposes from the Elk Hills Naval Petroleum Reserve in California, a move that would substantially offset military demands on dwindling civilian petroleum supplies.

The Elk Hills oil field, known as Naval Petroleum Reserve No. 1, was established September 2, 1912, by an Executive order signed by President Taft. It was enlarged October 15, 1942, by an Executive order signed by President Roosevelt.

By law, the reserve produces only small amounts of petroleum unless it is found that increased production is necessary for national defense and is authorized by a joint resolution of Congress.

The Secretary of the Navy has determined that U.S. Armed Forces are unable to procure on the open markets enough petroleum products to maintain desired levels of military readiness and has requested increased production by Naval Reserve No. 1.

It is estimated that the reserve could produce 100,000 barrels of oil per day within 60 days after the start of the increased rate of production and that production could be increased to 160,000 barrels per day with the expenditure of additional funds.

This joint resolution will be referred for what I think is an important hearing, and I have asked the Senator from Nevada (Mr. CANNON) that his subcommittee conduct these hearings and report the resolution to the full committee.

EXHIBIT 1

S.J. RES 176

Whereas chapter 641 of title 10, United States Code, directs the Secretary of the Navy, among other things, to use and operate all properties within the naval petroleum reserves as are or may become subject to the control and use by the United States for production of petroleum whenever and to the extent the Secretary, with the approval of the President, finds such production required for the national defense: *Provided, however,* that no petroleum shall be produced pursuant to such a finding unless authorized by the Congress by joint resolution; and Whereas such a finding of the necessity for such production to the extent herein authorized has been made by the Secretary of the Navy in his action dated 6 November 1973 which finding has been approved by the President:

Therefore be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

AUTHORITY FOR PRODUCTION

That the production of petroleum (including crude oil and associated gas and other hydrocarbons) from Naval Petroleum Reserve No. 1 is hereby authorized at a rate to help ensure that the needs of national defense are met, but not to exceed the maximum efficient rate in accordance with sound engineering and economic principles. Such production (to the extent in excess of that otherwise authorized by chapter 641 of title 10, United States Code) is to commence within forty-five days after the effective date of this Resolution, and to continue for a period of not more than one year after production commences.

DISPOSITION OF PRODUCTION

SEC. 2. The Secretary of the Navy shall dispose of the production herein authorized as provided in chapter 641 of title 10, United States Code, by means of sales, uses, or exchanges effected, determined, or agreed upon after the effective date of this resolution. As required by said United States Code, all sales shall be effected by competitive bid. The terms of the dispositions shall be so arranged as to give full and equal opportunity for acquisition of the oil by all interested companies, including major and independent oil refineries alike.

DISPOSITION OF RECEIPTS

SEC. 3. (a) There is hereby established on the books of the Treasury Department the Naval Petroleum Reserve Account. This account shall be administered by the Secretary of the Navy under such regulations as the Secretary of Defense may prescribe. Into such account there shall be transferred or credited during the period of increased production authorized by this Act or as may be hereafter authorized (1) unobligated balances of appropriations made available to the Department of the Navy for fiscal year 1974, for exploration, prospecting, conservation, development, use, and operation of the naval petroleum and oil shale reserves, (2) all proceeds realized (i) under chapter 641 of title 10, United States Code, from the sale of petroleum or refined products, oil and gas products, including royalty products, and (ii) the net proceeds realized from sales within the Department of Defense of refined petroleum products accruing to the benefit of the Department of Defense as the result of exchanges, and, (3) such funds as may be appropriated for the Naval Petroleum Reserve Account, to remain available until expended.

(b) Funds available in the Naval Petroleum Reserve Account shall be available for the expenses of: (1) production, including preparation for production, as authorized by this resolution and as may hereafter be authorized, (2) all capital costs necessary for facilities both within and outside the reserve incident to production and delivery of crude petroleum, and (3) exploration, prospecting, conservation, development, use, and operation of the naval petroleum and oil shale reserves as authorized by chapter 641 of title 10, United States Code.

THE WHITE HOUSE,
Washington, D.C., November 7, 1973.

Hon. JAMES O. EASTLAND,
President pro tempore of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is a letter from the Acting Secretary of the Navy which provides his finding of the need for increased production of petroleum from the Elk Hills Naval Petroleum Reserve for national defense purposes. I approve his findings and conclusions and urge adoption of the enclosed proposed joint resolution which would give the approval of the Congress as required by Chapter 641 of Title 10, United States Code.

I request that the Congress act upon this resolution at the earliest possible time.

Sincerely,

RICHARD NIXON.

DEPARTMENT OF THE NAVY,
Washington, D.C., November 6, 1973.

THE PRESIDENT,
The White House.

DEAR MR. PRESIDENT: In accordance with the provisions of Chapter 641 of Title 10, United States Code, there is enclosed my finding that production of petroleum from the Elk Hills Naval Petroleum Reserve is needed for the National Defense, and a proposed joint resolution by which the Congress would give its approval so that production may begin.

I hereby request that you approve my finding and transmit the proposed joint resolution to the Congress.

Sincerely,

JACK L. BOWERS,
Acting Secretary of the Navy.

DEPARTMENT OF THE NAVY,
Washington, D.C.

SECRETARIAL DETERMINATION OF NEED WITH RESPECT TO NAVAL PETROLEUM RESERVE NO. 1

Whereas, chapter 641 of title 10, United States Code, authorizes the Secretary of the Navy to determine that the production of naval petroleum reserves is needed for national defense; and

Whereas, the Armed Services of the United States are currently unable to procure on the open market necessary petroleum products to maintain the desired military readiness posture. Present supplies of petroleum are not sufficient, even through mandatory allocation, to meet both the needs of military readiness and essential civilian needs, including those vital to defense. As a consequence, adequate petroleum to meet defense needs cannot be assured from normal sources of supply. In addition and contributing more seriously to the growing deficit in sources of military petroleum supply, certain international events have led to reduced availability from sources outside of the domestic United States. Since the Armed Services normally procure 50% of their needs from these international sources, the military petroleum shortage is even more critical.

Now, therefore, I find that the production of Naval Petroleum Reserve No. 1 is needed for national defense.

In order to authorize production of an amount which will help to insure that the needs of national defense are met, yet not seriously deplete the reserve, it is concluded that the production should be at a rate not to exceed maximum efficient rate in accordance with sound engineering and economic principles. Further, since it is anticipated that other Government agencies will be working aggressively to solve the current problems of energy shortage, the production should continue for a period of one year only. In order to provide for an initial period during which the full production rate can be established, the one year production span should commence 45 days following approval of this Determination of Need by the President and joint resolution of the Congress.

Noting that the Naval Petroleum Reserves are still not fully explored and developed, with the most valuable resources in Naval Petroleum Reserve Number Four almost wholly unexplored, it is further determined that it will be in the interest of the United States to take aggressive action toward such exploration. The Department of the Navy completed a plan in April of 1973 to guide such exploration and development and it is proposed that the first step in implementing this plan be taken concurrently with production of Naval Reserve Number One. To implement this action most directly, it is proposed that the Congress, by the same resolution with which it orders production, order that funds derived from the sale of Naval Petroleum Reserve Number One oil be made available for such exploration and development. All funds received would be applied to this purpose after having first provided for the operations at Naval Petroleum Reserve Number One during the one-year period and providing for facilities necessary to that production and delivery of oil. By this action the Congress can, without using other sources of funds, greatly enhance the capacity and readiness of the Naval Petroleum and Oil Shale Reserves to respond in the future.

JACK L. BOWERS,
Acting Secretary of the Navy.

Dated November 6, 1973.

By Mr. DOMENICI (for himself, Mr. DOMINICK, Mr. EASTLAND, and Mr. HUMPHREY):

S.J. Res. 177. A joint resolution to authorize the administrator of any direct Federal loan program or any federally guaranteed loan program to renegotiate or reschedule repayment by any person or business suffering severe economic harm as a result of the energy crisis on a loan under any such program. Referred to the Committee on Government Operations.

Mr. DOMENICI. Mr. President, we are all aware that governments at all levels are gearing up to deal with the energy crisis which with every passing day becomes more ominous. We have passed emergency energy conservation legislation and the President has instituted administrative measures to conserve energy. In addition, our citizens have been asked to comply voluntarily with some stringent, yet very necessary energy saving steps.

I am concerned, Mr. President, that these factors will combine to create economic hardships on individuals and businesses. Of course, some hardship, some disruption of normal business activity is inevitable under these circumstances and we must all be prepared to bear an

equitable part of that burden. There is no doubt in my mind that the American people will respond to this challenge as magnificently, as unselfishly as they have at times in this Nation's history when sacrifices and sharing have been the order of the day for the common good.

Today I address a specific problem which will be generated by compliance with energy conservation measures. Mr. President, there are many thousands of individuals and businesses across this country who have been able to take advantage of the programs of the Federal Government to loan or guarantee the loan of money for business or personal purposes. Undoubtedly many of these persons and businesses will suffer economic losses due to the energy shortage and conservation measures implemented to equitably distribute the shortage while carrying on the vital activities on which our continuance as a strong, free nation depends. Undoubtedly, some of these losses will be so great as to prevent repayment of Federal loans, both direct and guaranteed, on schedules established prior to conservation measures to meet the energy shortage.

These conservation measures instituted by the Government are in the public interest. Of that, there is no doubt. It is, therefore, in the public interest for individuals and organizations to comply and cooperate to the fullest extent with all conservation measures. In other words, Mr. President, the countermeasures to the energy crisis, mandated by the Federal Government in the public interest, could in many instances, work very serious hardships on individuals and businesses now operating under Federal loans. It is encumbent on the Government, in my opinion, to insure that these entities do not suffer out of proportion because of the national effort to respond to the energy crisis. This is entirely consistent with the basic premise which is the stated Government policy and the intent of Congress, that all Americans should share an equal part of the burden.

The joint resolution I introduce today directs appropriate Federal agencies to make adjustments and allowance with regard to repayment of Federal direct and guaranteed loans where adherence to the original terms of such loans becomes impossible as a direct result of Federal programs to conserve energy.

Mr. President, literally thousands of these situations could be conceived, but I want to cite at this point just a couple of examples of business enterprises in New Mexico that have already experienced severe adverse economic impact. For that purpose I request unanimous consent that the lead article from the November 27 edition of the Albuquerque Tribune headlined "Ski Resorts, Gas Dealers Hit Hard In Energy Move" be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. DOMENICI. As that article points out, service station operators in New Mexico depend on weekend sales for a great deal of their business. Closing on Sunday, in compliance with the President's request, will result in such economic losses to some dealers that they may be forced out of business. At the very least, many who have loans from the Federal Government or guaranteed by the Federal Government will be unable to meet the original repayment schedule on these loans.

The situation may be even more critical for the recreation industry in New Mexico since most of those businesses depend heavily on weekend activities and since many of them require more than a tankful of gas in the round-trip from major population centers. A drastic decline in business is the probable result when the full range of energy conservation measures have been implemented.

I am concerned and disturbed that vacation and recreation plans of countless people will be interfered with, but I am even more concerned for the people who depend for their livelihood on recreational enterprises—those who own and operate the business and those who are employed by those businesses. The ripple effect in the small communities in New Mexico would be disastrous. We coud ease those hardships by allowing rescheduling of Federal direct and guaranteed loans to affected businesses.

To do less, in my opinion would be a dereliction of our duty, feeling as I do that when we authorize the intrusion of the Government into people's livelihood, albeit in a good purpose, we have the obligation to mitigate the adverse effects of that intrusion to the maximum extent possible. Certainly included with this obligation is the rescheduling of loans controlled by the Federal Government.

Another important segment of the economy in New Mexico is the general aviation industry. New Mexico shares with only a few other States its immense dispersion of major population areas and centers of commerce which dictates the conduct of business by aircraft to a far greater extent than in most States. Information available to me indicates that there are approximately 5,500 licensed pilots in New Mexico and that there are approximately 3,500 aircraft in the general aviation category. Of the total flying hours by these pilots in these aircraft, fully 50 percent is related to transaction of business. In other words, the use of aircraft is critical to business and commerce in New Mexico. Consequently, the fuel restrictions proposed for general aviation will be felt much more severely in New Mexico than in most other States. I want to provide a means to allow those who cannot meet Federal loan repayment schedules as a result of the fuel reductions to be able to reschedule those payments rather than lose the business or default on the payment.

Mr. President, authority to reschedule and negotiate loans of these kinds may already exist, but I want to make sure that such flexibility is assured in these circumstances and that it is utilized by the appropriate Federal agencies. As I said previously, Mr. President, literally thousands of such situations could be conceived, but the main point is that we cannot penalize innocent parties who are victims of a situation the Federal Government can do something about.

In conclusion, Mr. President, this is simply a directive by the Congress that the Federal Government should use some discretion, intelligence, common sense, and compassion in dealing with a national emergency so as to avoid more problems than it solves. I urge its immediate and favorable consideration by my colleagues.

I request that this joint resolution be printed in the RECORD at this point.

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

S.J. RES 177

Joint resolution to authorize the administrator of any direct Federal loan program or any federally guaranteed loan program to renegotiate or reschedule repayment by any person or business suffering severe economic harm as a result of the energy crisis on a loan under any such program

Whereas severe shortages of crude oil, residual fuel oil, and refined petroleum products caused by insufficient domestic refining capacity, inadequate domestic production, environmental constraints, and the unavailability of imports sufficient to satisfy domestic demand, now exist;

Whereas such shortages jeopardize the normal flow of interstate and foreign commerce and constitute a nationwide energy emergency which is a threat to the public health, safety, and welfare;

Whereas, in view of the above, drastic energy conservation steps to ensure that the shortage will be equitably borne by all Americans, including enactment of legislation and administrative action by the executive branch, have become necessary;

Whereas these conservation measures may create economic disruptions and hardships, including loss of jobs, closing of factories and businesses, reduction of crop plantings and harvesting, and curtailment of vital public services, including the transportation of food and other essential goods;

Whereas the government has the duty to mitigate disruptions and hardships due to compliance with energy conservation measures, both voluntary and statutory: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That any officer or agency of the United States which administers a direct loan program or guarantees a loan program may renegotiate, extend the maturity of, or in any other way reschedule the repayment of any direct or guaranteed loan under that program by any person or business that suffers severe financial hardship as a direct result of the national effort to conserve energy during the energy crisis.

SEC. 2. This Act applies to any direct or guaranteed Federal loan, final payment of which is due after December 31, 1973.

EXHIBIT 1

SKI RESORTS, GAS DEALERS HIT HARD IN ENERGY MOVE

(By Katy Woolston)

New Mexico's ski resort and service station owners apparently will be the hardest hit by President Nixon's latest proposals to cut back the use of energy.

And the state finance director says fuel conservation programs definitely will affect the state's economy.

Taos Ski Valley will lose from $350,000 to $500,000 this season if Congress bans the sale of gasoline for recreational travel on Sundays, Ernie Blake said today.

"This will cut our business in half," said Mr. Blake, who operates Taos Ski Valley.

Raymond McDonald, president of the Albuquerque Chapter of the New Mexico Gasoline Retailers Association, said:

"There's no question but what the dealers—with very few exceptions—will close their stations voluntarily on Sundays as Nixon asks.

"But it will be the death blow for a large number of smaller dealers.

"Fifty per cent of them will be out of business forever.

"President Nixon says he doesn't think closing stations down on Sundays will create any hardships, but I think he forgot the families most involved—those in the service station business.

"This will dramatically affect their lives."

Mr. McDonald said he closed his McDonald's Auto Clinic here Sunday for the first time in two years to go along with the President's request.

While cutbacks in weekend gasoline sales will hurt remote ski resorts such as Taos Ski Valley and Ruidoso, they may stimulate skiing at Sandia Peak Ski Area.

Ben Abruzzo, president of Sandia Peak Ski Area, said it "probably will result in more people skiing at home."

"Our Sandia Peak skiers may do more skiing here instead of traveling to a more remote area," he said.

Most of New Mexico's ski areas rely on weekend skiers for the bulk of their income. Areas which are more than a tankful of gas round trip from major population centers will feel a decline in their Sunday business. Those areas may include Taos, Red River and Angel Fire.

Areas which are further from major population centers and rely on skiers who spend a weekend could also be hurt. Many of the skiers who come to New Mexico are from Texas and live in communities which are more than a tankful of gasoline away.

Kingsbury Pitcher, owner of Santa Fe Ski Basin, predicts about 25 per cent reduction in business at his area.

"We don't necessarily see that as a disaster, but there will be an obvious reduction," he said.

Roy Parker, manager of Sierra Blanca Ski Area near Ruidoso, said he would prefer gasoline rationing to a complete ban on Sunday sales.

Blake said that the Sunday gasoline sales ban will contribute to a kind of "wartime atmosphere" and said that people will be more inclined to stay at home.

"In the next three or four years we expect the ski business to be down," he said. "A lot of people are just not going to travel."

Fabian Chavez, state tourist director, said the ban on gasoline sales "won't damage the state's tourist industry too much."

"People will eventually find some way to travel," Mr. Chavez said. "I'm more concerned that the President might call for rationing of gasoline or higher taxes on it."

Chavez said he doesn't believe that the President's order to cut fuel supplies to airlines will affect state tourism, "although I think we'll see more crowded planes."

Bill Roller, executive secretary, Winrock Merchants Association, said that Winrock Center's outside Christmas lights—turned on last Friday—will be turned off.

"They'll go out as soon as we locate all the switches," he said. Switches for the outdoor lights are so numerous that it takes about three hours to turn them all off, he said.

President Nixon, in his broadcast Sunday, had called for an immediate ban on electrical, outdoor Christmas displays by businesses and homes.

Coronado Center, for the first time in its history, had made the decision earlier not to have electrical holiday displays this season.

G. P. Reyes, Coronado Center manager, said that the center is "decorated only with plain decorations that still carry out the spirit of Christmas.

"If an industry is any good, it will voluntarily regulate itself," he added.

In other reactions to the President's speech, Associated Press reports that:

Gov. Bruce King says he feels the 50 mile an hour limit for passenger cars stated Sunday by the President is more related to automobile travel in the eastern seaboard states. It is an unrealistic speed limit in the wide open areas of the west, he said.

"I think by all means it ought to be 55 miles for passenger cars, if it can't be 60," Gov. King said.

The governor said he plans to discuss the speed limits with other governors next week when he attends the annual meeting of the Interstate Oil Compact Commission in New Orleans, La.

Some members of New Mexico's congressional delegation and the Governor's top energy adviser feel President Nixon didn't go far enough with his proposals to cope with the energy crisis.

U.S. Sen. Joseph Montoya, said the President's message was a reaction to the energy crisis and didn't offer solutions.

"It's not a positive message assuring us of any increase in supply.

"The American people are willing to undergo personal sacrifice but they expect some positive action from the government to accelerate an aggressive program of meaningful research and technology which will put us on the track to self-sufficiency," Sen. Montoya said.

The senior senator added that Congress is ready and willing to follow this kind of leadership.

State Finance Director Robert Kirkpatrick said today the state will be watching very closely the impact the energy crisis and related conservation programs will have on New Mexico's economy.

Mr. Kirkpatrick said fuel conservation programs definitely will affect the state's economy.

Kirkpatrick pointed out a mainstay of New Mexico's economy is tourism, which is bound to be adversely affected by the energy conservation programs.

The impending ban on Sunday gasoline sales, announced by President Nixon Sunday night, obviously will have an adverse effect on tourism.

A decline in tourism will mean a decline in business volume for the motels, hotels, restaurants and service stations which depend to a great extent on tourism.

U.S. Sen. Pete Domenici, said he has real doubts the country will get by with just the cutbacks the President called for in his speech.

"Unless we have all good breaks, it's going to be very hard to have a basically voluntary program. I think it is incumbent upon Congress to pass legislation that will move us towards a better supply of fossil fuels and other sources of energy," Sen. Domenici said.

He said one of the terrifying aspects of the energy crisis is the impact that the shortage of oil could have on the economy through unemployment. "I hope we can make rational adjustments rather than have this turn into an economic disaster," said Domenici.

Domenici said regardless of the controls imposed by the federal government, local authorities must have authority to make exceptions to the policy in the face of particular local problems.

Congressman Harold Runnels said he's been expecting this much and a "lot more to come in the future."

Runnels said, "Those of us who have been in the oil industry have been advocating for a long time that our exploration has not matched our increasing needs.

"It's just beginning to dawn on some people that we really have an energy crisis."

Runnels, who just returned from a Middle East fact finding trip, said the oil pinch could be eased quickly if a settlement could be reached between Israel and the Arab nations and the oil boycott lifted.

"I'm just not sure closing gas stations on Sunday is going to solve anything," said Runnels. He also said we must continue to produce in petro-chemical industries or the economic effects could be disastrous.

Gov. Bruce King's energy adviser, Frank DiLuzio, said most of the President's proposals were "psychological."

He said cutting down on gasoline production now will just lead to a severe shortage of that fuel in the future.

The governor's adviser said Nixon avoided the important problems of the propane shortage in many areas, including rural parts of New Mexico, and industries using petroleum in production.

"New Mexico might be uncomfortable, but at least we don't have to worry about putting a lot of petroleum related jobs on the line," he said.

DiLuzio said the big problem in New Mexico is getting enough propane to heat rural homes and schools.

He also criticized the President's approach as being unfair because it places the responsibility for conserving fuel on the consumer while industry is coming off with a very profitable year.

DiLuzio said the President is asking consumers to pay more money for colder homes.

ADDITIONAL COSPONSORS OF BILLS

S. 2126

At the request of Mr. EAGLETON, the Senator from Maryland (Mr. MATHIAS) was added as a cosponsor of S. 2126, The Educational Technology Act.

S. 2488

At the request of Mr. KENNEDY, the Senator from South Dakota (Mr. ABOUREZK), the Senator from Nevada (Mr. BIBLE), the Senator from Massachusetts (Mr. BROOKE), the Senator from Idaho (Mr. CHURCH), the Senator from Missouri (Mr. EAGLETON), the Senator from Maine (Mr. HATHAWAY), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Rhode Island (Mr. PELL), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from California (Mr. TUNNEY) as cosponsors of S. 2488, to extend title VII of the Older Americans Act of 1965, the nutrition for the elderly program.

S. 2744

At the request of Mr. RIBICOFF, the Senator from Utah (Mr. MOSS) was added as a cosponsor of S. 2744, The Energy Reorganization Act of 1973.

NATIONAL FUELS AND ENERGY CONSERVATION ACT OF 1973—AMENDMENT

AMENDMENT NO. 757

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

Mr. JACKSON. Mr. President, on behalf of myself and Senators MAGNUSON and RANDOLPH, I send to the desk and ask to have printed an amendment in the nature of a substitute for S. 2176, the National Fuels and Energy Conservation Act of 1973.

S. 2176 was introduced by me on

July 13, 1973. On September 27, 1973, the measure was reported by the Committee on Interior and Insular Affairs and was re-referred jointly to the Committees on Commerce and Public Works. On November 15, 1973, an amended S. 2176 was reported by the Commerce Committee.

The amendment which Senators MAGNUSON, RANDOLPH, and I are introducing today includes revisions of the amendment to S. 2176 reported to the Senate by the Commerce Committee last month. It also includes amendments proposed by members of the Public Works Committee.

This amendment represents an attempt to incorporate the changes suggested by members of all three Senate committees participating in the national fuels and energy policy study. It is the product of extensive negotiation and consultation between the members and staffs of these committees. It bears the endorsement of all three committee chairmen.

This approach, we hope, will reduce the number of amendments to be offered on the floor and enable the Senate to act expeditiously on this important legislation.

EDUCATION AMENDMENTS OF 1973—AMENDMENT

ADMENDMENT NO. 758

(Referred to the Committee on Labor and Public Welfare.)

TEACHER CORPS AMENDMENTS OF 1973

Mr. NELSON. Mr. President, I submit an amendment to the education amendments of 1973, S. 1539 now pending before the Senate Subcommittee on Education.

The purpose of my amendment is to shift the focus of the successful Teacher Corps program from the recruitment and training of new teachers for poverty areas to helping local schools reform and improve the education offered poor children by retraining present staff.

The basic purpose of the teacher corps as we drafted it in 1965 would remain the same: "to strengthen the educational opportunities available to children in areas having concentrations of low-income families and to encourage colleges and universities to broaden their programs of teacher preparation."

And it would continue to attract and train Teacher Corps interns as it has done so successfully since the first young Americans stepped forward for the program in 1966. For despite the overall surplus of teachers in the Nation, there is not an adequate supply of teachers trained and dedicated to teaching in poverty areas.

But the very format that made the Teacher Corps a success—the Teacher Corps team, the drawing together of local school and local university to plan and carry out a program of reform, the involvement of the community—can now be put to the wider use of helping local schools improve the quality of education throughout entire schools by including in the program not only new teacher-interns but also experienced teachers within the school.

Over the last decade a number of promising new techniques for training and using teachers have been developed or refined—team teaching, individualized instruction and the training and certification of teachers based on competence rather than accumulated course credits. The Teacher Corps has been an important instrument in the hands of local university and school officials in developing these newer teacher training techniques.

But moving these newer methods into the classroom requires the often retraining of the entire school staff. It is in this area that the new Teacher Corps legislation offers hope.

Just as newer techniques for teacher training first attempted with Federal dollars and Teacher Corps interns are now being adopted widely in schools of teacher education, so newer teaching and retraining methods, tested on a substantial scale under the legislation I am proposing today, could lead the way for wider use by school systems.

A measure of the success of the Teacher Corps program is that it continues to attract 100 applications for every 17 slots, that it has pioneered recruitment and training of minority young people—over half the present corps members are black or Spanish surnamed, and 6 percent are American Indian. And, according to an Office of Education report, over 70 percent of the Teacher Corps graduates remain in poverty area teaching.

This legislation would make it possible to use this proven Teacher Corps format for retraining existing teaching staff alongside the training of intern teams.

I am happy to say that the concept has the support of the Commissioner of Education, Mr. John Ottina. I look forward to working with him and his office in a cooperative manner as consideration of this legislation proceeds. I ask unanimous consent that my letter to Commissioner Ottina, dated November 26, and his reply be printed in the RECORD at the close of my remarks.

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

(See exhibit 1.)

Mr. NELSON. Let me point out that these amendments are not the first extension of the Teacher Corps concept. In 1969 we added language to bring the Teacher Corps format to the corrections field and the Teacher Corps now spends some $2 million a year in training people to work with young offenders. And we also approved legislation to create a voluntary tutoring program to work alongside existing Teacher Corps programs. It too has worked out well with some 769 volunteers enrolled last year.

The Teacher Corps is now operating on $37.5 million a year. There are now some 2,500 interns and 1,500 experienced teachers and volunteers in the program. Each year 39 or 40 new projects begin. The programs now last 2 years, long enough for the interns to earn a masters degree in education.

In summary the new legislation would make the following changes:

First. Including retraining of existing teachers and other staff as a major aim of the Teacher Corps program;

Second. Increase authorizations from the present $37.5 million to $100 million over a 3-year period, $50 million for fiscal year 1975, $75 million for 1976, and $100 million for 1977;

Third. Lengthen the term of service in the program to 5 years from the present 2 years; and

Fourth. Set aside 10 percent of Teacher Corps funds—but not more than $4 million—for technical assistance, evaluation, and dissemination of Teacher Corps findings.

EXHIBIT 1

COMMITTEE ON LABOR AND PUBLIC WELFARE,
Washington, D.C., November 26, 1973.

MR. JOHN OTTINA,
Commissioner of Education, Department of Health, Education, and Welfare, Washington, D.C.

DEAR MR. COMMISSIONER: Since its enactment in 1965, the Teacher Corps has proven to be an extraordinarily successful program, for drawing into the teaching profession, and training for service in low-income area schools, persons with energy and commitment. An Office of Education report on the progress from 1966 to 1973 states that 77 percent of the graduates take jobs in poverty area schools.

The success of the program is based in part on the commitment young Americans are willing to make to the difficult task of education in poverty areas. The Teacher Corps format is also crucial. It gives local schools and local colleges of teacher education and local community people the opportunity to work together in designing and carrying out innovative programs for training teachers and using them within their schools.

The acute crisis in the supply of teachers that faced us in the mid-60's has eased. It is still the case that shortages remain for teachers of the handicapped and the disadvantaged, especially teachers dedicated and well trained for these purposes.

It is my belief that the Teacher Corps program could be made even more effective, and could meet more precisely the challenge of the 1970's if its focus were broadened to include not only training teams of young teacher interns, as it has in the past, but also other teachers, para-professionals and administrators within schools primarily in low income areas.

In 1969 amendments authorizing student tutorial programs in association with ongoing Teacher Corps programs were approved by Congress. I am pleased to note the volunteer Teacher Corps program has been a success.

I intend to introduce legislation soon to broaden the format of the Teacher Corps further to include the training and retraining of the regular staff within schools that have Teacher Corps teams.

Among the advantages of this concept is that it would be possible to extend the reach and effectiveness of the Teacher Corps while lowering substantially the cost per average participant. For while the program must pay a stipend as well as the university training costs for each intern, the cost of re-training teachers within schools would be relatively modest.

As you know, the Congress is most concerned that decisions regarding educational content remain strictly the responsibility of local educational authorities. This is the way it has always been with the Teacher Corps. So it would be under the expanded format. However, there are a number of newer concepts in education—differentiated staffing, individualized instruction, competency based teacher education—that have been widely utilized by local school systems and universities in training Teacher Corps interns and which could be expanded to include larger groups of teachers within the schools programs. As the Teacher Corps intern program has helped in developing new ways of training beginning teachers, the new format could lead to constructive innovations in classroom teaching.

From the beginning, the Teacher Corps has been a bi-partisan program in both houses of Congress. The support and suggestions of Senator Javits and other Senators on the Labor and Public Welfare Committee have been particularly valuable. And the Office of Education—through two administrations—has continued its support of the concepts behind the program. Let me note that, although this year there were substantial cuts in many domestic programs, the Administration's budget called for the same $37.5 million for the Teacher Corps as in the previous year. It is my hope that this spirit of cooperation may continue as we move to consideration of this new stage in the development of the Teacher Corps program.

It is my understanding that your office has been re-examining the Federal role in teacher training. This letter is to ask for your comments on the proposed new use for the Teacher Corps format.

Let me thank you for your consideration in this matter. I look forward to hearing from you.

Sincerely yours,

GAYLORD NELSON,
U.S. Senator.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, OFFICE OF EDUCATION,
Washington, D.C., December 4, 1973.

Hon. GAYLORD NELSON,
U.S. Senate
Washington, D.C.

DEAR SENATOR NELSON: I appreciate very much your invitation to comment on your plans for introducing legislation to broaden the format of the Teacher Corps. As you note, support for the Corps has been bipartisan since its earliest days. It makes great sense to me to continue this tradition in consideration of new directions for the Corps.

The apparent gross surplus of teachers, coupled with the questionable success of some of the Federal training efforts of the past, certainly indicates the need for re-examination of the Government's role in support of teacher training. Such an examination has been underway for some time, and, although it is not complete, the results should be reflected in future legislative and budget requests.

It is clear, however, that there remains a pressing need for improving the quality of teaching, especially in schools serving low-income populations. In my opinion, the appropriate Office of Education role in this is not in supporting the retraining of large numbers as such of present staff in those schools, but in supporting the installation by local educational authorities of new ways of training and retraining those staffs, and determining what works best and what doesn't work as well. The original purposes of the Teacher Corps seem well suited for this task.

The changes you propose, broadening the membership of the Corps to include experienced teachers, paraprofessionals, administrators and other school staff; and placing more emphasis on its innovative role, therefore appear to be useful and timely. It seems to me that the following changes would also be useful:

1. Providing for longer term projects, perhaps up to five years in length.

2. Providing sufficient flexibility in setting stipend rates to accommodate broadened membership eligibility. Your point on the possibility of substantial participant cost reduction is well taken.

3. Some project support should be permitted outside of low-income areas to confirm the general validity of teacher training improvements made for the low-income schools. This should probably not exceed ten percent of the program.

I hope these suggestions are helpful. Please let me know if my staff and I may be of further assistance. Thank you again for the opportunity to comment on your plans.

Sincerely,

JOHN OTTINA,
U.S. Commissioner of Education.

INDEPENDENT SPECIAL PROSECUTOR ACT OF 1973 (S. 2611)—AMENDMENT

AMENDMENT NO. 759

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

Mr. PERCY (for himself and Mr. BAKER) submitted an amendment intended to be proposed by them jointly to the bill (S. 2611) to insure the enforcement of the criminal laws and the due administration of special justice; establish an independent special prosecutor.

INDEPENDENT SPECIAL PROSECUTOR ACT OF 1973 (S. 2642)—AMENDMENT

AMENDMENT NO. 760

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

Mr. PERCY (for himself and Mr. BAKER) submitted an amendment, intended to be proposed by them, jointly, to the bill (S. 2642) to establish an Independent Special Prosecution Office, and for other purposes.

EXPANSION OF NATIONAL FLOOD INSURANCE PROGRAM—AMENDMENT

AMENDMENT NO. 761

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

Mr. BAYH submitted an amendment, intended to be proposed by him, to the bill (H.R. 8449) to expand the national flood insurance program by substantially increasing limits of coverage and total amount of insurance authorized to be outstanding and by requiring non-flood-prone communities to participate in the program, and for other purposes.

NATIONAL ENERGY RESEARCH AND DEVELOPMENT POLICY ACT OF 1973

AMENDMENT NO. 762

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

Mr. TUNNEY. Mr. President, I offer the following amendment to S. 1283, the National Program for Research and Development and Demonstration; to initiate a coordinated effort for the foreign exchange of energy and energy-related technologies in the areas of magnetohydrodynamics, coal mining, geothermal, solar, and other technologies.

The United States has been rudely plunged into an energy crisis. This dramatic change has manifested itself in almost every sector of our private and public lives. We join with Europe and Japan in a dependence on imported oil. The Japanese are deeply concerned with the problems of growth-rate modification, especially in light of the fact that the country lacks energy resources of its own. It is, therefore, in our mutual interest and benefit to exchange ideas in this area. I believe this is the time for energy consumers and producers to begin thinking and working together quietly and thoughtfully.

Work already occurring within the United States-Japan Natural Resources Panel and the United States-German Natural Resources Panel provides for a number of alternative energy resource options to be explored simultaneously and thus shorten the leadtime needed to achieve the most meaningful results.

Foreign scientists and institutional facilities with different perspectives than those in the United States may develop new insights into the resolution of technical problems particularly in energy and energy-related technologies. Field locations abroad often offer an exceptional opportunity for work comparing domestic sites and contacts stemming from cooperative research for a respository of past and future research data and expertise that would not otherwise become available to the United States.

Our new conciousness of shared interests should extend to the technology we need for increased self-reliance. In the long run, development of alternative sources holds much promise towards expanding the range of our energy supplies and reducing our reliance on purchases from abroad. The United States, Japan, Europe and other foreign countries all have active and highly advanced programs of energy research and development. We are now in a position to come together and identify new or expanded opportunities for our respective programs, to reinforce, to reinvigorate and to compliment each other.

I ask unanimous consent that my amendment be printed in the RECORD at this point.

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

AMENDMENT No. 762

On page 63, after subsection (f) on line 7, add a new subsection (g) to Committee Prints Number 4: (g) to provide for a program of exchange to include, but not be limited to, a coordinated effort for the exchange of energy and energy-related foreign technologies in the areas of magnetohydrodynamics, coal-mining, geothermal, and solar technologies.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 697

At the request of Mr. KENNEDY, the Senator from New Jersey (Mr. CASE), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Massachusetts (Mr. BROOKE), and the Senator from Vermont (Mr. STAFFORD) were added as cosponsors to amendment No. 697, intended to be proposed by him to H.R. 9142, the Midwest and Northeast Rail System Development Act.

AMENDMENT NO. 698

At the request of Mr. KENNEDY, the Senator from New Jersey (Mr. CASE), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Massachusetts (Mr. BROOKE), and the Senator from Vermont (Mr. STAFFORD) were added as cosponsors of amendment No. 698, intended to be proposed by him to amendment 456 to S. 2188, the Midwest and Northeast Rail System Development Act.

AMENDMENT NO. 699

At the request of Mr. KENNEDY, the Senator from New Jersey (Mr. CASE), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Massachusetts (Mr. BROOKE), and the Senator from Vermont (Mr. STAFFORD) were added as cosponsors to amendment No. 699, intended to be proposed by him to S. 2188, the Midwest and Northeast Rail-System Development Act.

NOTICE OF HEARINGS ON SENATE JOINT RESOLUTION NO. 5

Mr. BAYH. Mr. President, the Senate Subcommittee on Constitutional Amendments is scheduling hearings on Senate Joint Resolution 5. These hearings will take place on Tuesday, December 11, in room 2228 of the Dirksen Senate Office Building at 2:30 p.m.

Senate Joint Resolution 5 proposes a constitutional amendment to lower the age of eligibility for Congress by 3 years. Thus, a person could run for the Senate at age 27 instead of 30 and in the House the age of eligibility would be 22 instead of 25. The lowering of the eligibility age for Congress by 3 years would correspond with the 26th amendment, which lowered the voting age by 3 years, from 21 to 18.

Any persons wishing to testify or submit statements for the hearing record should contact J. William Heckman, chief counsel of the subcommittee, room 300, Russell Senate Office Building, Washington, D.C. 20510, as soon as possible.

NOTICE OF FEDERAL ADVISORY COMMITTEE HEARINGS

Mr. METCALF. Mr. President, on Thursday and Friday, the full Government Operations Committee will hold hearings regarding the proposed Federal Energy Administration. In order to devote full time to these hearings, I have canceled the scheduled December 6 hearings by the Subcommittee on Budgeting, Management and Expenditures relating to the Federal Advisory Committee Act. The hearings have been rescheduled for Thursday, December 13. They will begin at 10 a.m. in 1318 Dirksen Senate Office Building.

On December 13, the subcommittee plans to receive testimony from Congressman WILLIAM MOORHEAD, chairman of the House Subcommittee on Foreign Operations and Government Information, and Ronald Plesser, an attorney with the Corporate Accountability Research Group of Washington, D.C.

Information concerning these hearings may be obtained from the Subcommittee on Budgeting, Management and Expenditures, 225–1474.

ADDITIONAL STATEMENTS

SENATOR RANDOLPH RECOGNIZED FOR FORESIGHT IN INITIATIVE AND ACTION ON CREATING POLICY ON ENERGY

Mr. ROBERT C. BYRD. Mr. President, it is gratifying to West Virginia citizens and to me that columnists and editorial writers have in recent weeks recognized the foresight and early initiative of my colleague from West Virginia (Mr. RANDOLPH) in the efforts to develop a national fuels and energy policy.

Senator RANDOLPH since 1959 has been attempting to develop a basic governmental structure and commitment to insure that our Nation has the necessary energy resources to maintain a strong and viable economy. In fact, Mr. President, had this country heeded his prophetic warnings and acted affirmatively on his recommendations, we would not be confronted with the critical energy crisis we have today.

Another native West Virginian, Holmes Alexander, the syndicated columnist, appropriately stresses the activities of Senator RANDOLPH in a column entitled "Plenty of Warning About Fuel Shortage."

Mr. Alexander calls attention to the fact that the last four Presidents have had placed before them the warnings of Senator RANDOLPH and have been urged to take action.

Mr. Alexander writes that:

President Nixon, to take him first, shows a nerve of brass whenever he blames Congress for the energy shortage. More than three years ago, June 16, 1970, Randolph introduced a well-sponsored bill to create a National Commission on Fuels and Energy. It was opposed by the President who said it would overlap studies by his Domestic Council, then headed by John Ehrlichman. "If such studies were in fact ever made by the Domestic Council," groaned Sen. Scoop Jackson recently, "They have never seen the light of day."

He notes that:

President Johnson, throughout his entire tenure, had before him the voluminous findings of the Senate National Fuels and Energy Study Group (Senate Document Nos. 87–159) which identifies 12 energy policy issues. Among other observations there is this: "The nation has the ability to be self-sufficient in oil if it so wills."

And Mr. Alexander carries this history back to the early 1960's and late 1970's when he outlines these facts:

President Kennedy and his Interior Secretary Stewart Udall were too bemused with aesthetic conservation to heed Randolph's S. Res. 105 (with 63 cosponsors) and its warning. 'This nation has a foreign policy, a defense policy, a farm policy and the beginnings of a transportation policy," said Randolph. "But not one of them is so basic to our national security and economy as would be a national policy in respect to these energy fuels. . . ."

President Eisenhower, nudged by still another Randolph Senate resolution with 43 sponsors, issued in 1959 an executive order and created a mandatory oil import quota. At the Conventions of 1960 each party platform called for "a national fuels policy." But there was little attention and less action devoted to increasing domestic production and decreasing the dependence on foreigners.

Finally, Mr. President, Holmes Alexander calls attention to a quality of Senator RANDOLPH of which all Members of this body are aware:

I have talked with Senator Randolph who is not a man for recriminations, but who knows this subject too well to believe in instant solutions.

ACCURACY—AND HONESTY—IN MEDIA

Mr. BUCKLEY. Mr. President, I do not believe it is necessary to point out that there is a great and widspread distrust of printed and electronic journalism in this country. Contrary to what some media spokesmen would have us believe, this widespread distrust is not a result of what Walter Cronkite once called a "conspiracy" by the present administration against the media. Rather, it results from a common understanding that much of our interpretive reporting is dominated by a single point of view; and one, at that, which differs significantly from that of the average American. Thus when a Spiro Agnew calls for a better balance in reporting, he strikes a responsive chord.

For the simple fact is that there is an obvious and demonstrable bias in the media, one which it is no longer possible to deny.

Mr. President, at the conclusion of my remarks, I will ask unanimous consent to have printed in the RECORD certain articles illustrating the enormous impact that a less than objective attitude to reporting can have on our understanding of world realities. They illustrate the extent to which some of our most influential media have fallen down on their responsibility to keep the American public fully and fairly informed.

These pieces speak for themselves. I do not know if Mr. Eric Sevareid has responded to the very reasonable request of accuracy in media that he present some support for his claim that the massacres in Hue were "heavily reported." I also do not know if the Newsweek reporter has answered the charges of unprofessionalism leveled against him by the Wall Street Journal's analyses. But surely, given the thoughtful and informed comments made by accuracy in media and in the columns of the Wall Street Journal, we can do without the sanctimonious arrogance with which so many in the media react to honest and well-documented criticism.

Mr. President, I ask unanimous consent that the following articles be printed in the RECORD: "Eric Sevareid Versus Alexander Solzhenitsyn on News Media Coverage of the Hue Massacres of 1968," Accuracy in Media, November, 1973 pp. 1–6; "Slaughterhouse in Santiago," Newsweek, October 8, 1973, "Those Horror Tales From Chile," Pablo Huneeus, the Wall Street Journal, November 2, 1973, page 8; "and a Few Loud Echoes From Academia," Everett G. Martin, the Wall Street Journal, November 2, 1973, page 8.

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

ERIC SEVAREID VERSUS ALEXANDER SOLZHENITSYN ON NEWS MEDIA COVERAGE OF THE HUE MASSACRES OF 1968

Did the American news media heavily report the massacre by Communist troops of some 3,000 civilians in the Vietnamese city of Hue during their 25-day occupation of that city in February 1968? Or was this bestial atrocity only lightly noticed?

Alexander Solzhenitsyn, the Nobel Prize winning Soviet author and a courageous critic of the Soviet regime, published a

3,000-word letter in the Norwegian newspaper, *Aftenposten*, on September 11, 1973, in which he charged that the Hue atrocity "had been lightly noticed and almost immediately forgiven" in the West because "the sympathy of society was on the other side."

Solzhenitsyn added: "It was just too bad that the information did seep into the free press and for a time (very briefly) cause embarrassment (just a tiny bit) to the passionate defenders of that other social system."

This was but one example of several cited by Solzhenitsyn to demonstrate the existence of "a lopsided moral outlook" on the part of many Western intellectuals. Other examples he cited were the insensitivity of former Attorney General Ramsey Clark to torture of American POW's in North Vietnam, British Labor Party leader Harold Wilson's forgiving visit to Czechoslovakia in 1972, the expressions of moral outrage over the sins of South Africa compared with the tolerance of the oppression perpetrated by the Soviet Union, and the fervent protests by Australia and New Zealand of French atomic tests, unmatched by equal protests against Chinese atomic tests.

SEVAREID SCOLDS SOLZHENITSYN

This was too much for Eric Sevareid, the ace commentator for CBS News. Sevareid discussed Solzhenitsyn's criticism in his commentary on CBS television and radio on the evening of September 12. After paying tribute to Solzhenitsyn for his courageous stand for civil liberties in the Soviet Union and describing him as "quite possibly the world's most important living writer," Sevareid said:

"Solzhenitsyn, proposing Sakharov for the Nobel Peace Prize, now makes a detour, attacking the American Democratic Party, Senate investigators of Watergate, and those American critics of the Vietnam war who he thinks have been morally harder on South Vietnam than on the Communist North. And he suggests that the United States is in the same state that Russia was in the last days of the Czars. In all this he reveals that his profound understanding of his homeland is matched by a profound misunderstanding of this country. Like so many West European intellectuals, he sees America through the prism of European experience and social ethic. He makes the mistake of classifying the cancerous abuse of power revealed by Watergate as just another example of American political chicanery. He claims that American war critics were scarcely bothered by the frightful massacres committed during the Tet offensive by the North Vietnamese. He criticizes Australia and New Zealand for criticizing the French nuclear tests in the Pacific but not the Chinese tests."

He is saying in general that Western liberals tend to excuse the profound inhumanity of communist regimes. Some do. But this theme of Solzhenitsyn requires some rebuttal. *The Hue massacres were heavily reported.* Many other brutalities by the North were missed or reported sketchily at second hand, simply because we could have no reporters or cameras with the enemy forces. *Australia and New Zealand protested the French atomic tests because they took place in their neighborhood.*

WERE THE HUE MASSACRES HEAVILY REPORTED, AS SEVAREID CLAIMS?

Sevareid's rebuttal of Solzhenitsyn was of particular interest to AIM because it raised the much neglected question of how the American news media had reported the Hue massacres. Sevareid said they were heavily reported and this meant that Solzhenitsyn had simply been careless with his facts in stating the contrary.

Who is right, Sevareid or Solzhenitsyn?

On the very evening that Mr. Sevareid broadcast his rebuttal of Solzhenitsyn, AIM's chairman, Reed J. Irvine, sent a letter to Eric Sevareid, describing what his clipping file on Vietnam revealed about the reporting of the Hue massacres.

Here are some excerpts from Mr. Irvine's letter:

I have checked my clipping files on Vietnam for evidence of this heavy reporting of the Hue massacres. I am sorry to say that I cannot find it. The first clipping I find on the massacre was in *The New York Times* of February 12, 1968. The Times devoted all of 5-column inches on page one to a charge by the mayor of Hue that the enemy had executed 300 South Vietnamese civilians and buried them in a common grave.

On May 1, 1968, *The Times* had another page one story headed: "U.S. Mission Says Enemy Slaughtered 1,000 Hue Civilians." The story was given 4-column inches on page one and 19.5 column inches on the inside. The same day, *The Washington Post* put this story on page 22, giving it 11-column inches. *The Post* did follow this with a short, 150-word editorial on May 2 which condemned the slaughter. I could find no editorial comment in *The New York Times*. Neither of these papers carried any photos of the mass graves, corpses or coffins.

The next story I find on this subject was published in *The Washington Post* over a year and a half later, on December 7, 1969. In fact, *The Post* had two stories on the subject that day, one from Hue, saying that 2,750 bodies had been discovered so far, and the other from Hong Kong reporting on Douglas Pike's analysis of the massacre.

While I may have missed something in between, my file gives no indication that the Hue massacre story was subject to anything that could reasonably be called "heavy" reporting. On the contrary, I would consider it one of the most under-reported stories of the decade. . . . Of course, you may consider two front page stories in *The New York Times* "heavy" coverage, but I suggest that you contrast this with the coverage The Times gave to the My Lai massacre, an atrocity which did not begin to compare with the Hue butchery. This story broke in November 1969. *The New York Times Index* for 1969 alone contains 3½ pages of entries (over 50 entries per page) on My Lai plus one page of photos.

It is remarkable that Solzhenitsyn, lacking access to the American press, perceived so accurately the disproportion in the attention devoted to the massacre at Hue and that at My Lai, while you, with all the resources at your disposal, should have failed to note this glaring disparity. Surely on this point you owe Solzhenitsyn an apology and your audience a correction.

SEVAREID REFUSES TO COMMENT

After some prodding, AIM received the following reply from Eric Sevareid:

When your organization was founded I took it to be what its title implied, an agency designed to focus a politically neutral, objective scrutiny of the media. I thought it might be helpful, to the press as well as the reading and listening public.

Since then it has become clear that AIM is, in fact, ideologically motivated. Its only interest lies in refuting inaccuracies or alleged inaccuracies that reflect adversely on the right wing philosophy, right wing interests and the military establishment.

This is why I have not replied to your queries about my broadcast piece on Solzhenitsyn, and why I shall not acknowledge your queries or protests in the future.

AIM SCORES SEVAREID FOR REFUSING TO DEFEND OR CORRECT HIS STATEMENT

Evidently, Eric Sevareid could not demonstrate that the news coverage of the Hue massacres had been "heavy." Nevertheless, he did not want to admit to a serious error and make a public correction of it. His escape was to make a totally unjustified attack on AIM, using that as an excuse for his refusal either to prove that he was right or admit he was wrong.

Abraham H. Kalish, AIM's Executive Secretary, immediately responded to Sevareid, making the following points:

1. It is true that AIM has an ideology in the sense that we believe in freedom and democracy. We do not conceal that ideological bias, but we do not think that all believers in freedom and democracy should be labeled "right wing."

2. Mr. Sevareid knows very little about AIM and how it operates, apparently not knowing that AIM does very little monitoring of TV news and depends almost entirely on complaints received about inaccuracies and bias. We have never refused to investigate any complaint of substance and would not do so on ideological grounds.

3. It is surprising that Sevareid should refuse to accept criticism from those who might differ with him politically even if it relates to questions of factual accuracy. This conflicts with the following statement by Walter Cronkite, Mr. Sevareid's colleague at CBS, on May 18, 1971:

No one doubts the right of anyone to seek to correct distortion, to right untruths. Newsgathering is not an exact science. We commit errors of fact and the offended *always* must have the right to bring us to task when such occurs by sloth or inadvertence. (Italic added).

4. A Freedom House panel composed of distinguished scholars and journalists recently issued a report on the news media and government, which included the following statements that had been agreed upon unanimously:

The Constitutional freedom of the press includes the right of all news media to inform, but they must not resist legitimate inquiries by the public into their performance.

We urge that the press be sensitive to the complaint of *any* segment of the community which feels that it has insufficient access to the media.

Responsible journalism provides a balance so that adequate play is given to all sides of controversial news.

5. AIM has the support of both liberals and conservatives, but even if it were all liberal or all conservative, it would still be a part of the community and would be entitled to make inquiries into media performance and would be entitled to be treated with politeness and respect, if not love and affection.

6. Proven errors should be corrected, regardless of the source of the complaint, since the correction is not for the benefit of the complainant alone, but for the benefit of the audience.

7. Unless Eric Sevareid can dispute the factual accuracy of the AIM criticism, he has an obligation to Alexander Solzhenitsyn and to his audience to make a correction.

CBS REFUSES TO MAKE A CORRECTION

The above letter did not succeed in touching the conscience of Eric Sevareid, as far as we know, but we did finally pry a comment out of a CBS official. Mr. David Klinger, a Vice President of CBS News, wrote to us on October 2, saying that the President of CBS News, Mr. Richard S. Salant, would not require Mr. Sevareid to be responsive to AIM inquiries. He also informed us that CBS News would not broadcast any correction of Mr. Sevareid's statement about Solzhenitsyn "because we do not agree that the statement was factually incorrect."

Mr. Klinger, however, failed to provide any evidence to support his statement, including any record of the amount of coverage CBS News had given to the Hue massacres. We have therefore asked Mr. Klinger and Mr. Salant to furnish the evidence that will back up the claim that Sevareid was on sound ground. We have submitted to them additional evidence that press coverage of the Hue massacres was scanty, citing an article by James Jones in *The New York Times Magazine* of June 10, 1973, which fully con-

firms Mr. Solzhenitsyn's description of the paucity of news coverage of this terrible atrocity. Mr. Jones wrote:

The battle for Hue itself received enormous publicity in America in 1968, but the aftermath (the massacres) didn't . . . Some pieces were written about it in America but dropped from sight quickly. It was not until a year later that many of the mass graves were discovered. And it was not until November 1969, when a Nixon speech used Hue as a justification for slow withdrawal, that the subject got additional attention in the press. But at that time, few American reporters saw fit to take it on and go into it. Nobody tried to do a serious expose. Hue was no longer news. Anti-U.S. feeling was high at home. Why buck it in the cause of unpopular truths? Much better to concentrate on our own rottenness at My Lai.

THE SEVAREID SYNDROME

Does it really matter whether Eric Sevareid was right or wrong? Is a correction of his misstatement of any importance?

We think it is important. The failure of the American news media to expose fully the Hue massacres and to arouse the American people to an awareness of what happened at Hue is a serious blot on American journalism. It is a reflection of the "lopsided moral outlook" that Alexander Solzhenitsyn tried to call attention to in his letter to *Aftenposten*. Since Eric Sevareid refuses to acknowledge its existence even when it is clearly demonstrated for him, and since he is one of television's most prestigious journalists, the attitude deserves to be called "the Sevareid Syndrome."

In an article in TV Guide of October 6, 1973, Edward Jay Epstein shows that TV reporting of the Tet offensive in 1968 played a decisive role in undermining popular support for the war in the United States. Tet was an enormous military defeat for the communists, and the unbelievable atrocities they committed at Hue, if reported with anything like the attention given to My Lai, would have produced an even more serious moral and psychological defeat.

In his memoirs, *The Vantage Point*, President Lyndon B. Johnson wrote:

There was a great deal of emotional and exaggerated reporting of the Tet offensive in our press and on television. The media seemed to be in competition as to who could provide the most lurid and depressing accounts. (Popular Library Edition, p. 384)

In his *TV Guide* article, Epstein writes:

In late 1968, Jack Fern, a field producer for NBC, suggested to Robert J. Northshield a three-part series showing that Tet had indeed been a decisive military victory for America and that the media had exaggerated greatly the view that it was a defeat for South Vietnam. After some consideration the idea was rejected because Northshield said later, Tet was already "established in the public's mind as a defeat and therefore it was an American defeat."

Epstein adds: "In a very real sense, he was correct."

But what is important is that it was not a military defeat, but a defeat inflicted by America's own news media, which behaved with incredible perversity to convey a false impression of what had really happened in Vietnam.

The best explanation for that perverse conduct would appear to be the prevalance of the Sevareid Syndrome, which leads even distinguished and veteran journalists to mistake fiction for fact.

The Sevareid Syndrome is dangerous and can result in great harm. But it can be cured if only those afflicted with it can be brought to recognize that they have a problem. They must first overcome their arrogance.

WHAT YOU CAN DO

You can help bring home an awareness of the problem by writing to Eric Sevareid, CBS News, 2020 M Street, N.W., Washington, D.C. 20036. You might suggest to Mr. Sevareid that the record seems to suggest that he was in error in his rebuttal of the Solzhenitsyn broadcast on September 12. Ask him either to demonstrate that he was correct or that he is big enough to correct his error on the air.

Send copies of your letter to AIM and to Richard S. Salant, President, CBS News, 524 West 57th St., New York, N.Y. 10019. We would be interested in any replies that you may receive.

SLAUGHTERHOUSE IN SANTIAGO

Pablo Neruda, Chile's Nobel Prize-winning poet, was dead of cancer, and even as his body was lowered into its grave, his countrymen set about trying to murder his words. Books of all kinds, not only Neruda's but those by Mao and Marx and Marcuse, were seized by the tens of thousands from homes, bookstores and libraries and then fed to bonfires in the streets of Santiago. And the military junta that has ruled Chile for three weeks didn't stop there. Chilean universities, once proud bastions of independence, were purged of suspected leftists, and ordinary people learned to dread the midnight knock on the door. All that was bad enough, but NEWSWEEK correspondent John Barnes discovered last week that the reign of terror has already gone much further than most people thought Below, Barnes report:

The military junta will not admit that there have been mass executions since the overthrow of Salvador Allende's Marxist government. "We have executed perhaps eight people since then for shooting at troops," Col. Pedro Ewing told newsmen. But that simply is not true. Last week, I slipped through a side door into the Santiago city morgue, flashing my junta pass with all the impatient authority of a high official. One hundred and fifty dead bodies were laid out on the ground floor, awaiting identification by family members. Upstairs, I passed through a swing door and there in a dimly lit corridor lay at least 50 more bodies, squeezed one against another, their heads propped up against the wall. They were all naked.

Most had been shot at close range under the chin. Some had been machine-gunned in the body. Their chests had been slit open and sewn together grotesquely in what presumably had been a pro forma autopsy. They were all young and, judging from the roughness of their hands, all from the working class. A couple of them were girls, distinguishable among the massed bodies only by the curves of their breasts. Most of their heads had been crushed. I remained for perhaps two minutes at most, then left the building.

The next day I returned to the morgue with a Chilean friend so that I would have a witness. I also took along a camera. As I walked through the swing doors of the corridor, the sickly sweet smell of the decomposing bodies almost knocked me back. There were more bodies, perhaps 70, and they were different from the day before. Just as I was pulling the camera from my jacket, a man in a white coat walked through the doors at the other end of the corridor, "What do you want?" he asked. "I'm looking for the bathroom," I said. "Come with me," he said. As I followed him, I took a sharp right and ran out of the building. He shouted after me but did not try to follow. I did not have the courage to try again. Later, in my hotel room, my friend burst into tears. "These were my countrymen," he cried. "My God, what has happened to us?"

BODIES

Workers at the morgue have been warned that they will be court-martialed and shot if they reveal what is going on there. But I was able to obtain an official morgue body-count from the daughter of a member of its staff: by the fourteenth day following the coup, the said, the morgue had received and processed 2,796 corpses.

No one knows how many have been disposed of elsewhere; a gravedigger told me of reports that helicopters have been gathering bodies at the emergency first-aid center in central Santiago, then carrying them out to sea to be dumped. One priest informed me that on the Saturday after the coup he had managed to get into the City's Technical University, which had been the scene of heavy fighting, on the pretext of blessing the dead. He told me he saw 200 bodies, all piled together. Tales like that abound in Santiago, and though information is almost nonexistent for the rest of Chile, the presumption is that the executions have followed a similar pattern in other cities. But the morgue count alone sets the regime's kill rate at an appalling 200 Chileans a day—just for the capital.

With hardly an exception, the victims come from the *poblaciones*—the slums that encircle Santiago and house half the city's 4 million inhabitants. During the three turbulent years of Salvador Allende's administration, the poor of the poblaciones never wavered in their support of his government, for the fact was that the *rotos* (broken-down ones, as they are contemptuously called by the more affluent) had never had it so good. Despite the soaring inflation, they earned enough money to buy undreamed-of luxuries like new clothes, radios, television sets, refrigerators. Community food-distribution centers in the poblaciones were always well stocked, while the shelves of stores elsewhere remained barren. Presumably, the junta believes that since the poblaciones provided the former government's main support, they must be terrorized into accepting the fact of its demise. So the local leaders are now paying with their lives for their love of Allende. Not one población has escaped the terror.

ROUNDUP

I spoke with three women from the Pincoya población. One of them, a mother of two, had just found out that she was a widow. She told me this tearful story: "Soldiers raided our población last Saturday at 8 in the morning. In the section where we live, they rounded up about 50 men and held them until a police lieutenant came to take his pick. When the lieutenant saw my husband, he made him step forward and told him: 'Now you will pay for all you people have done.' The *carabineros* took him and a few others to the police station, and the rest were arrested by soldiers." For three days, she and the other women of Pincoya searched for their men in police stations and the two soccer stadiums where thousands are incarcerated. It was only after they heard that a 17-year-old boy from their block had been found at the morgue—shot in the head and chest—that they made the journey to see the lists of the dead. There they found her husband, Gabriel, as well as every adult male from one block of their población.

I joined a funeral procession of weeping families following three coffins to burial. Carabineros, I was told, had raided a home in the Parque Santa María población and had picked up three petty thieves aged 18, 19 and 20. A sergeant told them they would be released if they paid 7,000 escudos—only $5, but a lot of money to the población poor. Their barrio raised the money and the youths returned home. But two hours later, a carabinero patrol came back to get them. That was the last their families heard, until they found their names on the morgue list. One of the boys was so riddled with bullets that they could hardly dress him for burial. But the fate of the other two was worse. Coffins in Chile have small window doors over the face of the dead, and the women opened them for me. There were no heads inside.

Orlando Contreras, who lives with his wife and seven children in the José María Caro población, is in daily dread of an official knock at his door. He is a laborer who worked in Santiago's office of social develop-

ment, a particular target of the new regime. And he is well aware of the danger he faces, should the soldiers come after him. On the day the coup took place, he told me, he and one of his sons saw ten high-school students marched from their school, their hands over their heads, after a brief skirmish with carabineros. They were forced to lie face down on the ground, and then a policeman walked the line of prone youngsters, spraying them with machinegun fire.

The stories of atrocities are endless, and by now, inhabitants of the poblaciones are utterly terrified. "I am too afraid to look for him," says a woman from the Ultima Hora población, whose husband was last seen covered with blood being hauled away in a police truck. "I am afraid that they will take me, too, and what would happen then to my four children?" Many are now afraid even to associate with families that had any connection with Allende's regime—whether as party members, union leaders or employees in the food-distribution centers. "They can kill whomever they want to kill," says Contreras bitterly. "There is nothing, absolutely nothing, that we can do about it."

Because of the total censorship of domestic reporting, most middle- and upper-class Chileans have no idea what is happening. They hear rumors, but their hatred for Allende compounded by their historic contempt for the *rotos* leaves them little desire to verify them. Many do not believe the stories about slaughter in the poblaciones; many simply don't much care. "Why should we?" a Chilean lawyer asked me over an expensive lunch in a wealthy section of Santiago. "I don't believe the stories you tell me, but after the things the supporters of Salvador Allende have done to Chile, they deserve whatever happens to them."

[From the Wall Street Journal, Nov. 2, 1973]

THOSE HORROR TALES FROM CHILE * * *

(By Pablo Huneeus)

SANTIAGO, CHILE.—The military coup turned Allende's comedy into Chile's tragedy. But the Newsweek article "Slaughterhouse in Santiago," Oct. 8, turned our tragedy into a horror tale. It caused such a misunderstanding as to the true nature of what happened down here that I decided to retrace the steps of Newsweek's correspondent John Barnes to double check the information that he said came from the Santiago morgue.

Known here as the Medical Legal Institute it is a small, neat grey building near the General Cemetery. It looks like a hospital except that all the people lying on the stretchers are dead. An autopsy is the only operation performed by its doctors.

Over two days I interviewed a random sample of seven doctors, five clerks, three typists and four porters. To each I showed or translated the Newsweek article and questioned them about their reactions. Here's a summary of what they said:

1. Without a single exception all uttered comments like "lies," "what an exaggeration," "brilliant imagination," or "absolutely false." Dr. Vargas, an elderly experienced pathologist, dismissed the whole story on the grounds that the Newsweek correspondent suffered what is called "perception shock." When exposed to a couple of bodies, he explained, the shock alters perception capabilities. "When there are 10 bodies together many persons can't even recognize their wives or fathers. That must have happened to that correspondent," he said, presuming he ever got in the morgue."

2. Also without exception, the staff doubted that he was ever inside the morgue because his descriptions didn't fit. For example, Newsweek describes a corridor with 50 bodies in it, but there isn't any corridor large enough to hold that many bodies. The only corridor in which there are bodies to be seen under normal conditions is outside the autopsy rooms and it can handle only a few in line. Mr. Barnes also claims to have seen bodies upstairs, but the staff says none have ever been taken up there. Upstairs there are only offices and laboratories. The autopsy rooms are on the ground floor and the refrigeration storage rooms in the basement.

3. A picture of a man with a missing leg published by Newsweek with the caption, "A dead amputee in Santiago: The reign of terror was worse than anyone imagined," is actually a man who died some time earlier in a traffic accident. He was run down by a Chevrolet pick-up truck.

4. By far the worst misrepresentation in the Newsweek article was the report during the two week period after the coup 2,796 bodies had come to the morgue. Newsweek says ". . . though information is almost nonexistent for the rest of Chile, the presumption is that the executions have followed a similar pattern in other cities."

Every dead body that arrives receives a number that goes up on a list posted outside with the name. Number one begins on January first. The Newsweek figure is for all the bodies received at the morgue from the beginning of the year to Sept. 21. It's this figure that is being quoted all around the world as the casualty rate in Santiago alone for the first 14 days of the coup.

(Kenneth Auchincloss, executive editor of Newsweek, says he has "complete confidence" in Mr. Barnes, "he's covered wars before." Mr. Auchincloss says Mr. Barnes was given the 2,796 dated figure by a daughter of a member of the morgue staff, adding, "I think it is conceivable that there was a misunderstanding. But that is pure speculation on my part. I haven't checked it out with Mr. Barnes. There is no reason to doubt his reporting.")

This is enough to demonstrate the falsehoods in the Newsweek story. To me it's a case of journalistic imperialism. A rich American magazine sends from London a British correspondent a week after the coup. He makes no effort to understand what is really going on here. He only wants to use us for a story that will sell. He knows the market wants a horror story. He flavors his story with an underlying contempt for Chile and its people, tops it with a total lack of respect for the truth and cooks it with imaginative fiction writing. It brings glory to him and disgrace to us.

Not that I am happy with the junta. Every Chilean feels that no matter how low the death toll, what happened is a tragedy. We are accustomed to see our presidents end their constitutional term and walk quietly home. But the military intervention is the logical outcome of a Marxist regime. I am no wizard, but in a book I wrote a year ago I said that Chile was heading towards a military regime. There was such hatred among Chileans that the only way of holding us together was through force.

This hatred springs from a long history of frustration with politicians. By 1970 we had already tried most political formulas: a populist government with Ibanez, a conservative right wing one with Alessandri and a liberal Christian Democrat one with Frei. All failed to give us the results we wanted and so we tried Marxism.

It was the great experiment. But the guinea pigs rebelled.

But intellectuals throughout the world doted on the Allende regime. Soon it was evident that under the cover of clever public relations, a machine aimed at taking over total power was being built. In the first months of his term, Allende admitted to Debray that his respect for the constitution and democratic institutions was only a tactic to gain power.

The country unanimously agreed on nationalizing copper and monopolistic corporations. But soon para-military brigades began roaming the countryside and seizing farms by force and expelling farmers at gun point. Industries, even very small ones, were seized; workers who opposed were suppressed or beaten; an opposition leader was assassinated; technicians were fired for political reasons. Because of the imported doctrine of class warfare, the official gospel was hate. Dr. Allende started it when he declared at the beginning of his term that he was *not* the president of all Chileans.

Our technicians left the country and we began to import slogans from China, educational programs from East Germany, high-government officials from Cuba and terrorists from all over Latin America. Our president imported guns labeled art objects. He had a guerrilla training camp in his house and there were finally enough arms in the country to supply 20,000 irregulars.

Allende lost all legitimacy. It was worse than Watergate. We were sinking and the man at the helm was unable to govern. Even Marxists agreed that we were sinking, the only debate was over whose fault it was.

I would have preferred a democratic solution, a plebiscite or a new election for congress and the presidency as the opposition leaders proposed. But Allende refused to compromise and he refused to follow the majority's will. He was determined to persuade us with guns.

That's why this deadly war machine was unleashed. It's sad so many died, but it's good so many survived.

SLAUGHTER IN SANTIAGO

"Last week I slipped through a side door into the Santiago city morgue. . . . One hundred and fifty dead bodies were laid out on the ground floor. . . . Upstairs I passed through a swing door and there in a dimly lit corridor lay at least 50 more bodies. . . . Most had been shot at close range under the chin. Some had been machinegunned. . . . Their chests had been slit open and sewn together grotesquely. . . . They were all young and, judging from the roughness of their hands, all from the working class. . . . Most of their heads had been crushed. I remained for perhaps two minutes at most, then left the building. . . . Workers at the morgue have been warned that they will be court martialed and shot if they reveal what is going on there. . . . But the morgue count alone sets the regime's kill rate at an appalling 200 Chileans a day—just for the capital."—Correspondent John Barnes in Newsweek, Oct. 8.

Correspondent Barnes' vivid account of the Chilean coup has turned into one of the most effective bits of journalism in years. Senator Kennedy placed it in the Congressional Record. It is being used in advertisements by organizations opposed to the present Chilean regime. Its staggering casualty figures have been accepted as gospel in many European countries. It may have been instrumental in causing the U.S. to delay aid to Chile "until Human Rights are restored." But was it true?

Dissenting is Pablo Huneeus, a Chilean journalist and professor of sociology at the University of Chile, who previously has assisted American correspondents, including those of The Wall Street Journal and Newsweek, in preparation of reports on Chile.

. . . AND A FEW LOUD ECHOES FROM ACADEMIA

(By Everett G. Martin)

So many misleading reports and analyses of the events surrounding the military coup in Chile have appeared in reputable publications, in special programs on public television and on radio that it's probably impossible now to set the record straight on even a few points.

It's not just opinions that differ. Interpretations, mostly by members of the academic community and by journalists who look more to what excites their editors than at what Chile is about, have distorted the events out of all sense of reality.

Thus Chile, which is one of the most complex nations in the world, has been turned into a simple black and white situation of good guys (the Marxist followers of the late

President Salvador Allende) and the bad guys (anyone who opposed them). The remorseless villain of this simplistic plot is Washington, which by merely turning off the spigot of low-interest loans was able to destroy all the achievement of the good guys and send the Chilean people (usually called the masses) back into slavery.

Newsweek's convincing-sounding account of the military slaughtering victims at the rate of 200-a-day in the capital city of Santiago alone seems to have been based on events which didn't happen and figures that were misinterpreted. Even though other publications have carried more moderate stories, and a recheck of the Newsweek reporting by The New York Times found many exaggerations, the Newsweek report is still being taken as the final word on the coup in many places around the world.

Yet as bad as Newsweek's misrepresentation of the facts was, it was at least in the general direction of the target because there have been killings and executions that certainly seem excessive. (The military junta last week finally ordered an end to summary executions, but executions after sentencing by military tribunals will continue.)

Much more insidious and subtle are articles such as the one appearing in the Oct. 29 issue of The Nation magazine written by E. Bradford Burns, professor of Latin American history at the University of California at Los Angeles. Cloaked in scholarly authority, one would think that a Professor Burns would be someone who could be believed; but consider what he has to say.

He was an eyewitness, he claims, on September 4, exactly one week before the coup, to the gathering of 800,000 Chileans in front of the government palace to celebrate the third anniversary of Dr. Allende's election. It was the largest political rally in Chile's history, he writes, equal to nearly a tenth of the national population. Britain's venerable Guardian makes the same point, but sets the crowd total even higher: at 1,250,000.

I was there too. The rally was held in the smaller of the two plazas on either side of the government palace, the side that savvy Chilean leaders always use when they expect a bad turnout because the crowded quarters makes it seem like more people This time they didn't even fill that plaza. With two other journalists, we estimated 20,000 people; and we noted that a large contingent marched around and around one block to make it look larger. Police later put the figure at 18,000 persons.

This argument over crowd size may sound picayune. But The Nation and The Guardian articles use their figures as evidence that Dr. Allende's popularity had reached new heights before the coup. Professor Burns suggests that it was the sight of this rising popularity that caused the military, urged on by the representatives of the rich, to stage the coup without further delay. Professor Burns not only inflated the crowd count 40 times to make his point, but he conveniently ignored a rally the next night that really was several hundred thousand strong of people demanding Dr Allende's resignation.

Professor Burns, like many other scholarly writers, also plays games with Chilean election figures to make the claim of Dr. Allende's rising popularity.

Earlier this year members of the academic community excoriated the U.S. press for referring to Dr. Allende as a minority president based on the fact that he had won with only 36.2% of the vote in the 1970 presidential election. They argued, and with reason, that in the April, 1971, municipal elections his followers won practically half the vote.

I accepted their argument; so when Dr. Allende's forces got a reported 44% of the vote in congressional elections last March, it followed logically that his support had declined. Now, however, the professors want to forget about the municipal elections and talk only about Dr. Allende's popular support rising from 36% to 44%.

They also choose to ignore the fact that 56% of the country voted against Dr. Allende, and that it was a relatively united opposition. It wasn't a simple case of president with a commanding party facing a splintered opposition ranging from Left to Right as in the past. They also don't mention the mounting evidence that there was considerable fraud during the congresional election to achieve the 44% total.

Professor Burns and others hammer and pound Chilean reality like soft copper to make it fit their pre-conceived notions. For them, the struggle must be between all the workers on one hand and "the bitter opposition of the middle and upper classes, a combined group which composed no more than 30% of the population," to use Professor Burns' words.

Who, then, were the 56%—or more likely the 60%—who voted against the Marxists? If they were all the wealthy and their well-to-do middle-class allies then perhaps Chile never had a serious problem of poor income distribution after all.

It's clear that the scholars don't consider this majority as Chileans with any rights, which is a curious comment on their concept of democracy.

The Nation article implies that the military played the role of devious plotters against the Allende government, continually being supplied by U.S. aid and imbued with U.S. military training. That's what some would like to believe in retrospect, but the facts are that the armed forces were loyal to the government until the last week and were the last to turn against him. Three times they joined his cabinet to help him against the opposition during national crises.

It was Dr. Allende's opponents who resented the U.S. aid to the Chilean military, whose commanding general had for the first time in recent history committed the armed forces to support a government's political program.

Few articles on the Chilean coup even mention the large arms buildup by private Allende forces, the training of a guerrilla army by foreign "revolutionaries" numbering in the thousands, or the infiltration by the left of the military's ranks. Any kind of investigation of this claim leaves little doubt that these clandestine forces existed and were soon to be used against the military. It also happens to be exactly the same strategy that the Communist Party of Indonesia attempted in 1965.

Writers such as Professor Burns give the Marxist economic disaster only passing reference, saying that Chile has always had economic problems and anyhow all the difficulties were caused by the U.S. credit blockade.

It's true there was a credit blockade by the multinational lending institutions and by the Export-Import Bank, but to lay all the blame on this for Chile's greatest economic disaster in history is ludicrous—American egocentrism at its worst. Despite the credit blockade, Dr. Allende's regime received more international credit than any other Chilean government in history. And how could U.S. bankers and companies with investments in Chile be expected to operate differently, since the Allende government wasn't paying its debts to most of them?

Besides this there was a startling degree of corruption within the regime, officials feeding into the black market merchandise they had illegally obtained. Last June Dr. Allende's own nephew, Eduardo Grove Allende, who was a loyal supporter of his uncle and the first head of the nationalized textile industry, told me that within the ruling circles "there's no more ideology, everything is corrupt. All they think about is power and money."

In a nutshell, the grand experiment that was supposed to be taking place had foundered some time ago and was replaced by a naked, almost conventional, struggle for power. Many aspects of the famed Chilean democracy, such as rule-of-law and the art of compromise, had died long before the military moved in with the *coup de grace*.

And when the analysts in the Kremlin sit down to analyze what went wrong in Chile, as they inevitably will, it's doubtful that they will find much that's accurate or useful in the colored accounts the U.S. academic community is currently putting out on the subject.

THE PASSING OF DAVID BEN-GURION

Mr. HATHAWAY. Mr. President, I would like to join with the people of Israel and those throughout the world, both Jew and gentile, who mourn the passing of Israel's first Premier, David Ben-Gurion. Here was a man who saw a dream realized, who built a nation, and who received the recognition of history during his lifetime.

On May 14, 1948, when David Ben-Gurion read the Declaration of Independence and pronounced the existence of the State of Israel, the Jews were at war with the Arabs. His passing comes as the Jews and Arabs end what the world hopes is their final war. May the peace which David Ben-Gurion realized was so essential to the future of Israel now come to pass.

Mr. President, I would like unanimous consent to have an article written by Alvin Rosenfeld which appeared in the Washington Post on Monday, December 3, 1973, printed in the RECORD.

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

BEN-GURION LIES IN STATE

(By Alvin Rosenfeld)

JERUSALEM, December 2.—They knew him as *Ha'zaken*, "the old one," who had symbolized the ideals of Jewish statehood and self-reliance for as long as any of them could remember, and they came in a steady stream to say farewell to David Ben Gurion.

Thousands were waiting in line when the gates of the Knesset (Parliament) opened this morning. At night crowds were still passing by the coffin at the head of the vast Knesset Plaza.

Intermittent rain did not deter the mourners. Before midnight more than 200,000 persons—close to 10 per cent of Israel's population—had passed the bier.

There were women dressed in the latest fashion and others wearing the turbans of the East. There were businessmen and workmen. They came as they were. Bearded soldiers in wrinkled uniforms and dusty boots, in from the Suez, walked past the coffin singly or in groups.

School children came in organized groups, sometimes following a school flag, but there were also youngsters who came on their own, carrying their books with them. Some children wore their gym clothes.

Women walked past with children in their arms. Men filed past wheeling baby carriages. A three-year-old girl clutching her mother's hand walked past softly singing a song of the approaching Hanukah holiday.

The boys and men automatically covered their heads with a hand or a handkerchief as they passed the bier. Most people were silent, but some stopped for a moment to murmur a prayer.

A man with a briefcase stopped and spoke to Ben Gurion briefly, but no one could hear what he said. A man walked along with his eyes on an open prayer book.

The VIPs had all paid their respects before the gates were opened to the public, but some public figures made a second visit in the slow-moving files of ordinary citizens.

Among them was the man who prosecuted Nazi war criminal Adolf Eichmann, brought to Israel from his Argentine hiding place on Ben Gurion's orders.

The crowds did not stop coming. It was the public's only opportunity for a personal association with the passing of Ben Gurion. Because Israel is still at war, there will be no formal procession or state funeral, only a brief service at the Knesset before a small group of invited guests.

Ben Gurion, who despised pomp, had asked for simplicity at the end. The coffin, placed before the slender columns of the Knesset building, was a plain wooden box, unpainted, unvarnished, its simplicity was covered with Israel's blue-and-white colors.

The catafalque stood before two tall candlesticks burning jets of gas. The pedestal was unadorned except for the seal of Israel. A Knesset guard stood at each of the four corners. On each side stood an army rabbi, reading silently from the Book of Psalms.

The wreaths of flowers hanging behind the coffin included one from the town council of Rishon L'Zion, where the young immigrant Ben Gurion worked in the fields and sometimes made do with a single loaf of Arab bread a day.

Another wreath was from Dimona, the town planted in the Negev Desert on Ben Gurion's instructions because he believed that the future lay in development of the wilderness.

There was a wreath from the Security Service, Israel's CIA, which carried out the Eichmann kidnaping and many other assignments from Ben Gurion. Another wreath came from the families of fallen soldiers.

There were signs of Ben Gurion's influence everywhere. The Knesset guards carried Uzi submachine guns, developed here when Ben Gurion was preaching that Israel had to be as self-sufficient militarily as possible.

Order was maintained by the officers of an army he molded as a nonpolitical force. The state seal bore the name Israel, which he chose over Judea and other suggestions.

There were few tears and no apparent sense of tragedy. The public seemed to feel that here was a man who had lived a full life and was taken in the fullness of years.

There was, however, a sense of history. Asked why they had come, people answered in much the same way: "To honor him. . . . It's the least we could do. . . . He symbolized an era. . . . He is part of a myth. . . . He deserves all honor. . . . It's an act of identification—with him and with the state. . . ."

A high school girl said, "We haven't learned very much about him at school. You know, we learn more Bible than modern history. But it's enough to know he built the state. I came to give him a last honor."

CAMPAIGN FINANCING ISSUES

Mr. TAFT. Mr. President, I take this time to comment on the resolution of the public financing issue as related to the debt ceiling legislation. I felt compelled throughout to support the position of eliminating the campaign financing legislation from the debt ceiling, because of the immediate financial crisis that the country faced and because I felt the public financing of the campaigns have not been given the careful consideration that it deserves by the proposed amendment. The attempt to compromise this at the last minute with a lesser House version did not help the situation much.

My feeling is that the time has arrived to consider public campaign financing for national office, but this should be done carefully and should avoid many of the pitfalls that characterized the Kennedy amendment. On the action now taken in leaving the matter with the Rules Committee, hopefully the committee will examine those pitfalls.

The first serious problem was that of control of administration of the program. The Kennedy amendment put this in one man, the Comptroller General. At the very least, the control body should be made up of a number of men and women and should be bipartisan and nonpartisan in its makeup.

I share deep concern for the problems of campaign financing and was happy to support the Federal campaign reform bill of 1973 which passed the Senate, but has bogged down in the House committee. If this committee wished to, it could report a public financing bill pronto. I would expect to support sound public financing legislation as well.

One of the major problems with regard to the Watergate scandals was the fund raising situation for the 1972 Presidential election. The entire direction and management of the campaign was done not through the Republican National Committee at all, but rather through a completely separate and independent committee—CREP—for which funds were raised separately under heavy pressure. As we have seen, this determined the entire course of the campaign. Senator KENNEDY's legislation would have perpetuated this by requiring "authorized" committees with enormous amounts of publicly supplied money to spend. The national party and State party committees would get no public funds and would be limited to spending less than one-seventh of the amount the "authorized" committees could spend. In essence, this approach undermines the two-party system and, indeed, the entire political system.

Additionally, the public funds to be provided through this legislation would come from you, the taxpayer, through the voluntary income tax checkoff system. If the checkoff system did not produce enough money—which it would not and has not to date—the balance would be taken from the general revenue. Moreover, these funds would have even become available not only to nominated candidates but to any adventurer, who, with minimum support, decided to enter a Presidential nomination race.

I firmly believe that the targets of public financing legislation should be confined to preventing corruption, bribery, and the "buying" of elections in return for favors. The Senate Rules Committee is currently studying the entire area of public campaign financing, and should be given time to present a fair and workable bill.

MARILYN P. DESAULNIERS

Mr. ERVIN. Mr. President, while the Senate was in recess over Veterans Day, a lovely lady died, leaving not only her family grief stricken, but many coworkers all over the country. Marilyn P. Desaulniers of Springfield, Va., died suddenly Monday, October 22, of a heart attack. My acquaintance with Mrs. Desaulniers has spanned the last 2 years in which she has been very active in fighting ratification of the equal rights amendment. As coordinator of the National Coalition for Accountability, an organization formed for the purpose of coordinating efforts on the State and local levels to defeat the ERA, Mrs. Desaulniers has been very active in convincing State legislators that the amendment would not be in the best interest of women and should be rejected. As many Members of Congress are aware, her efforts were not in vain and many State legislatures have rejected the amendment and one State has rescinded a prior ratification. In her own State of Virginia, the amendment was defeated almost unanimously, the result of a successful lobbying effort by Mrs. Desaulniers and her many supporters in Virginia.

There is no doubt that Mrs. Desaulniers will be sorely missed in the continuing fight against ratification of the ERA. My heartfelt sympathy goes out to her husband, John, and three children, John, Jr., Laura, and Patty, for their great loss and ours.

I ask unanimous consent to have an article from the Washington Post on October 27, 1973, about Mrs. Desaulniers printed in the RECORD.

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

EDUCATION LECTURER AND AUTHOR

Marilyn Patricia Desaulniers, 42, an author and speaker on controversial issues involving education and intergovernmental relations, died Monday at her home, 6117 Greeley Blvd., Springfield, Va., after a heart attack.

Born in Boston, Mrs. Desaulniers was a graduate of Boston Latin School.

She became active in a number of organizations in 1969, after moving to Northern Virginia when her husband, Army Lt. Col. John J. Desaulniers, was assigned to duty here.

Mrs. Desaulniers was a founder and coordinator of the National Coalition for Accountability, which has been fighting the Equal Rights Amendment. The group favore equal rights for women but opposes the wording of the amendment.

Mrs. Desaulniers also was a member of the Leadership Foundation and the Taxpayers Alliance of Northern Virginia. She had also worked closely with Accuracy in Media.

In addition to her husband, she is survived by three children, Patricia, Laura and John, all of the home; her mother, Marion Adams of Fitchburg, Mass., and a sister, Jane Rostoker, Framingham, Mass.

ST. ALBANS HOSPITAL

Mr. JAVITS. I am gratified to note that the House Appropriations Committee reported H.R. 11575, the defense appropriations bill which contained provisions and recommendations for the continued operation of St. Albans Naval Hospital in New York City. As stated by the House committee, it would be a waste of Government funds not to keep this medical facility open and available to eligible persons in the New York area. This has now been approved by the House of Representatives.

I am strongly for keeping St. Albans Hospital open, which serves the largest concentration of retirees and active military personnel in the Nation. The medical facilities of New York State are so strained now that it would be impossible to load new responsibilities on existing facilities.

Therefore, I certainly support the action already taken and trust that the

Senate Appropriations Committee would similarly support it.

I ask unanimous consent that a letter from Senator BUCKLEY and myself urging the committee to support the House action be printed in the RECORD.

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

DECEMBER 3, 1973.

Hon. JOHN L. MCCLELLAN,
Chairman, Senate Appropriations Committee, Washington, D.C.

DEAR SENATOR MCCLELLAN: On Monday, the House Appropriations Committee reported H.R. 11575, the Defense Appropriations bill, which contained provisions for the continued operation of Saint Albans Hospital in New York.

This facility serves over 340,000 retirees and active military personnel living in the Queens borough alone, as well as all of Long Island, New York City, New Jersey and as far north as Syracuse, which constitutes the largest concentration of veterans in the nation. The medical facilities of New York State are so strained now that it would be impossible to load new responsibilities on existing facilities. The House Committee found that it would be a waste of Government funds not to keep this medical facility open and available to eligible persons in the New York area.

In view of this clear need and the important work of this hospital, we urge the Senate Appropriations Committee to similarly support this much needed medical facility.

With best wishes,

Sincerely,

JACOB K. JAVITS,
JAMES L. BUCKLEY.

DR. ARTHUR LOGAN

Mr. HUMPHREY. Mr. President, I was saddened to learn of the death of a good friend, Arthur Logan.

In a Washington Post article entitled "He Fed Us Strength," Roger Wilkins has captured the spirit of this physician and civic leader whose intelligence and achievement were matched only by his boundless compassion.

As Mr. Wilkins points out, Arthur Logan was in many ways a privileged man, with access to education and the creature comforts that can be so easily taken for granted. His father was treasurer of Tuskegee Institute. Arthur himself was one of the first blacks to attend Williams College, where he graduated Phi Beta Kappa, and then Columbia University's College of Physicians and Surgeons.

He could have moved into the upper stratum of society and blocked from view the pain and suffering that are endured by those less fortunate. But that was not his way.

Arthur Logan was not a showboater. His motive was not to capture headlines. He lived his own special brand of black power, defined not in terms of radical rhetoric or violence, but instead in quiet pursuit of the goals we have fought so hard to reach—decent health care, economic independence and educational opportunity.

Among his friends were such great national figures as Dr. Martin Luther King, Jr., Bayard Rustin, Duke Ellington, Jackie Robinson and many, many others who have been instrumental in the fight for civil rights.

Yet his friendship and compassion were not limited to the great. As a physician and surgeon, he could have limited his services to the affluent. But his arms were big enough to comfort the poor old lady in Harlem who suffered alone in quiet desperation, sick and friendless.

It was my privilege to count Arthur Logan among my friends. I was among those who called on him for inspiration in the often difficult days of the civil rights struggle, during the battle to remove the legal barriers to true equality for all Americans.

My sympathy is with his wife, Marian, and his children. I was fortunate to be associated with his son-in-law, Clifford Alexander, and his wonderful wife Adele during my term as Vice President.

His death is a personal loss. He will be missed, not only by those who were the direct beneficiaries of his wisdom and courage, but by those he never knew—those whose lives his efforts have enhanced, both in the field of medicine and through a determination to see a better day for black people.

Mr. President, I ask unanimous consent to have printed in the RECORD the article by Mr. Roger Wilkins and a New York Times article by Judith Cummings.

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

[From the Washington Post, Nov. 30, 1973]

HE FED US STRENGTH

(By Roger Wilkins)

Arthur Logan is dead. That doesn't mean much to most folks, but when Arthur died the other day, the amount of good in the world dropped perceptibly. He was that much of a man.

Arthur was a black man with white skin, light eyes, straight hair and a sense of black power that came not from mindless exhilaration at some rally, but from a powerful and sustained love of black people. He was a 64-year-old Harlem doctor who showed all the signs of bourgeoise achievement that the young black radicals said they hated so much. Arthur lived well. He had a nice house in Manhattan, but he wasn't rich and didn't seem to care to be. His daughter went to Radcliffe, came to Washington with her husband, moved with him through the Kennedy-Johnson White Houses to live with grace and style in this town. Arthur and his last wife, Marion, ran the most eclectic and exciting informal salon in Manhattan. One night it might be pork chops, good wine and Murray Kempton. The next it would be pig knuckles and Martin Luther King. Arthur usually cooked the meat.

So, where's the black power in that? Arthur sure didn't shout, "Black Power!" And, if he had, people would have laughed—he was too white. Adam Powell—ruddy white with flowing hair—once clapped Arthur to his bosom and said, "Us black folks got to stick together." They gleamed white together. It was absurd, but absolutely real. Each man, in his own way, knew precisely about the pain in the black psyche and touched it as best he could through the foreshortened days of his life. Each man paid a price. Each of them is dead.

Arthur Logan was a lot of things. He was certainly a "civic leader." And he was also one of those "first Negroes." There is all the stuff for solid obituaries—member of the board of the New York City Health and Hospitals corporation, chairman of the New York Poverty Corporation, chairman of Haryou-Act, founding member of the Upper Manhattan Medical Group, son of the treasurer of Tuskegee Institute, one of the first blacks to go through Williams College and then go on to graduate from Columbia University's College of Physicians and Surgeons—and so on. That's all good enough to make him an honorable poobah, but the question persists, where's the black power?

It was in the love. Arthur didn't have to wait until 1966 to learn to respect himself, to learn to love other black people or to know the honor that comes from patiently and carefully putting building blocks into place in black communities for decent things that he might never see. He knew about the diseases in black folks' bodies and of the pain in their hearts. He doctored on the first and "pastored" to the other.

Percy Sutton, the black borough president of Manhattan, said, a couple of days ago, "Arthur was the glue. We hurt and he gave. So we asked some more. He fed us strength and we got the headlines. He may have been the best of all."

Arthur looked at Harlem and saw people needlessly sick, so he became the apostle of preventive medicine. He looked at the whole family and knew there was a need for comprehensive treatment so he pushed for the creation of a medical group that could treat a child or a grandpa or one man's eyes, toes and liver all in one fell swoop. The dream of his last years was a drastic expansion of hospital facilities for the people of West Harlem. Nobody had to preach the gospel of "black community" to Arthur. He lived it—and he didn't have to. He could have taken his medical degree and fled the pain to affluent stupefaction. Most black doctors of his generation did that with no compunction.

So there was that—patience and institution building in a black community for days he might not see and for people he did not know. But there was more. There was the "pastoring."

Rep. Andrew Young (D-Ga.), once one of Martin Luther King's closest aides, said that when Dr. King was down and in trouble, he would go to Arthur. "Arthur was one of the few people who could pastor to Martin," Young said. "It wasn't talk about strategy and all of that, it was when Martin felt bad about not seeing his kids enough—things that were deep and that hurt him. That's when he would to to Arthur." And so did Duke Ellington and Whitney Young, Jackie Robinson, Bayard Rustin—and hundreds of other blacks who nobody ever heard about, but who were stretched almost to the breaking point and needed patching up in order to do the next day's battle.

And he nourished young blacks. One night at a party at his house, he got a young black woman, who no one there then knew, to play the piano and to sing some songs. When she sat, Arthur said to Ellington, "Duke, this is the girl I told you about. Now listen." The maestro's heavily bagged eyes narrowed to a weary and sophisticated slit. He nodded and wasn't interested—until the music started. Then Duke became young, interested and an instant fan. He may have helped her on her way, for all I know. At least it was clear that was what was in Arthur's mind. "The first time ever I saw his face," she sang. She worked then at Mr. Henry's up on the hill, and pretty soon everybody knew about Roberta Flack.

But, there wasn't just music at the house. There was talk, too. If you wanted to raise money to fight the drug traffic in Harlem, help make Charlie Evans the first black mayor in Mississippi, send some black South African kid to school, help Martin march across Alabama or do anything that touched the heartstrings and built the world, all you had to do was to call Arthur and Marion. They would open their doors, provide the booze and let the speakin' begin. After it was over, they would put their son, Chip, to bed and lay the first cash money on the line.

So that was Arthur. The kind of fellow who would get out of bed at two in the morning to see some sick black person. It might be Martin and it might be some name-

less old lady five flights up who nobody else cared enough to see. They were black and they needed love, so he went. It was all the same to him.

Black power to you, Arthur Logan.

[From the New York Times, Nov. 30, 1973]

TWO THOUSAND PAY TRIBUTE AT DR. LOGAN'S FUNERAL

(By Judith Cummings)

The funeral of Dr. Arthur Courtney Logan filled Riverside Church to the balconies yesterday with friends and associates, the powerful and the ordinary, in tribute to the surgeon and civic activist who was regarded as one of the most influential black men in the city.

Dr. Logan, a board member of the city's Health and Hospitals Corporation and a long-time supporter of the civil-rights movement and a wide range of community causes, died last Sunday at the age of 64 after falling from a viaduct over the Henry Hudson Parkway in upper Manhattan.

Well before the noon service began, mourners approached out of the blustery chill. Several buses from the Department of Hospitals pulled up, discharged their passengers and waited. Roy Wilkins, executive director of the National Association for the Advancement of Colored People, arrived in a limousine direct from a flight from San Francisco. Six medical workers from Harlem Hospital uniforms.

Mr. Wilkins was one of five friends of the physician and surgeon who paid special tribute to him in brief remarks during the service. The others were Robert C. Weaver, former Secretary of Housing and Urban Development; former Mayor Robert F. Wagner; Dr. George Cannon, a medical colleague; and Ramsey Clark, the former United States Attorney General.

TWO THOUSAND ATTEND SERVICES

The service, attended by more than 2,000 people at the church on Riverside Drive at West 120th Street, lasted nearly two hours.

Mr. Wagner, who appointed Dr. Logan to head the city's Council Against Poverty in 1965, called him "a person of absolute integrity," who "never shied from unpopular causes."

"Together we explored the art of compromise and made progress," the former Mayor said.

One of Dr. Logan's unfinished projects, to which he had in recent years devoted much of his time in planning and fund-raising, was the proposed creation of a new medical facility to take the burden off Knickerbocker and Sydenham Hospitals in Harlem. Dr. Weaver noted that the physician's plan "included housing for the people who lived in the area" as part of his "concern for the future of upper Manhattan."

Mr. Wilkins called Dr. Logan "one of the most successful local men who did not forget his less fortunate fellow citizens."

The civil-rights leader noted that Dr. Logan's active concerns ranged far beyond medical services to encompass all areas of human rights. "He realized that people need access to a psychological atmosphere in which they would be free to make their way unfettered by the petty obstacles of skin and color," Mr. Wilkins said.

Beginning with the singing of "Lift Ev'ry Voice and Sing," known as the black national anthem, by the entire congregation on its feet, the service took on something of the flavor of a "down home" funeral within the church's majestic carved stone walls. A red-and-white-robed choir from the Canaan Baptist Church of Christ sang spirituals, throbbing out the verses of "I Shall Be Free Someday."

ROBERTA FLACK SINGS

A popular recording artist and friend of the Logan family, Roberta Flack, sat at the piano and sang "It Is Well With My Soul," and at one point the widow, Mrs. Marian Bruce Logan, raised her arm in an apparent sign of affirmation.

Among the mourners who filled the church were Mayor Lindsay, with the city Human Rights Commissioner, Mrs. Eleanor Holmes Norton; the Rev. Ralph David Abernathy of the Southern Christian Leadership Conference; Vernon Jordan, executive director of the National Urban League, and Mrs. Evelyn Cunningham, director of the women's unit in the Governor's office.

The eulogy was delivered by the Rev. Wyatt Tee Walker of Canaan Baptist Church of Christ, who recalled that Dr. Logan, despite his many community activities, was a practicing physician who did not place himself above making house calls. Early Saturday morning, the day before his death, Dr. Logan visited one of the minister's parishioners in a four-flight walk-up in Harlem, the minister said.

Percy E. Sutton, Manhattan Borough President, remarked in presenting the obituary that a number of black people who now hold elective offices in the city—he included himself and Representatives Charles B. Rangel and Shirley Chisholm, who were present—could not have attained such office without the friendship of Dr. Logan and his wife.

"It was in their home that we had access to the giants and those who support the giants," he said.

CONSERVATION OF ENERGY

Mr. HARRY F. BYRD, JR. Mr. President, correspondence I have received indicates that many Virginia firms and individuals are responding vigorously to the President's appeal for conservation of energy.

One organization which has announced a major energy-saving program is Virginia National Bank. This bank's effort goes beyond the President's recommendation.

I commend Virginia National Bank and the many other Virginia companies and citizens who are working to conserve scarce fuel resources.

I ask unanimous consent that the text of a news release announcing the Virginia National Bank program be printed in the RECORD.

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

VIRGINIA NATIONAL BANK NEWS RELEASE

NORFOLK.—The state's largest bank has joined the fight to conserve power during the energy crisis. Eliminating the lighting of all outdoor signs is just one step which Virginia National Bank is taking to help alleviate the country's growing energy shortage.

In his most recent energy message Sunday night, President Nixon requested the elimination of commercial lighting except signs identifying places of business. However, Virginia National has taken the President's recommendation one step further by voluntarily extinguishing all outdoor lighting at the bank's 116 offices in Virginia. This action should mean a cut in power consumption of more than 1200 kilowatts per day.

Following the President's earlier recommendations, Virginia National has already lowered the thermostats in its offices to 68 degrees. All other lighting not necessary for building maintenance and the safe operation of bank facilities, including nighttime floodlighting of buildings, has been cut out. Also, the hot water temperature in bank restrooms has been reduced. And the only energy expended in dressing VNB up for the Christmas season will be the human energy required to hang Yuletide decorations since no lighting will be used.

Bank officials expect these actions will mean a considerable reduction in power consumption since they are being put into effect at all 116 VNB offices. These measures should produce a major cut in energy use at the Virginia National headquarters building alone. The headquarters at One Commercial Place in Norfolk is the largest private office building in the state.

A spokesman for the Virginia Electric and Power Company said he is pleased by VNB's energy conservation program. Vepco marketing official John Marsh pointed out that the lights on one Christmas tree normally consume some 300 kilowatts of electricity in a month. Referring to Virginia National's actions, Marsh said: "If every company would take these steps, we'd see a considerable saving in energy."

Marsh noted that while Vepco does get nuclear power from its Surry facility, most of the company's power plants still rely on petroleum for fuel. By reducing its power consumption, VNB expects to reduce Virginia's consumption of dwindling oil supplies.

HYDROELECTRIC POWER CAPACITY

Mr. HATHAWAY. Mr. President, the hydroelectric power potential of this Nation is one of our most valuable untapped natural resources in this time of energy shortage. It is valuable both in terms of potential power generation, and in terms of its nonpolluting, renewable nature.

Yet, according to official estimates of the Federal Power Commission, only about 30 percent of the total conventional hydroelectric power capacity of the United States has been developed to date.

For years I have spoken of the necessity of constructing the Dickey Lincoln School Hydroelectric Power project in northern Maine. For months I have been saying that the energy crisis adds an element of urgency to the need for constructing Dickey Lincoln. Now, paraphrasing an old adage, "figures speak louder than words," I would like to call the attention of my colleagues to the following statistics:

In order to get the equivalent of the 1.2 billion kilowatt hours that Dickey Lincoln would produce annually, you would have to use the following quantities of natural resources: 10 billion cubic feet of natural gas; or 1,700,000 barrels of oil; or 71,400,000 gallons of oil; or 600,000 tons of coal; or 8,300 acres of redwoods; or 180,000,000 square feet of solar cells; or 1,000 pounds of uranium; or 30 tons of uranium ore concentrate—based on a 1,700,000 kilowatt powerplant operating at 80 percent base load.

These figures leave little doubt that Dickey has a vital role to play in this Nation's future power picture. Let us get on with building it, and other hydroelectric power projects, wherever feasible, throughout the country.

MAYOR TOM BRADLEY OF LOS ANGELES ON THE ENERGY CRISIS

Mr. CRANSTON. Mr. President, last Sunday night Mayor Tom Bradley of Los Angeles made a television-radio address about the effects of the energy crisis on Los Angeles.

Mayor Bradley's talk, by coincidence, followed that of President Nixon on the same subject.

The effect of both of their appeals for action to conserve energy points up once again the enormous problems we are facing in this current energy shortage.

The plight of Los Angeles in the energy crisis is by no means unique.

Residents of other cities—especially in the Northeast and Midwest—may suffer a great deal more than Los Angeles this winter. We have the benefit in southern California of a mild climate all winter long.

Nevertheless, there are enormous economic consequences of the energy shortage for Los Angeles. We have in this area, I believe, more automobiles and other gasoline and diesel-fueled vehicles than any other area in the world. Our economy and living style are vitally dependent on keeping those cars and trucks rolling with gasoline and other petroleum products. Mass rapid transit systems do not exist. Buses are available to only a small fraction of the working population and our industry is heavily dependent on petroleum and natural gas fuels.

Mayor Bradley, in the short time he has been in office, has been providing leadership in the fields of transportation, energy and smog control—all of which are closely interrelated.

His example is worth noting. His ideas are stimulating and challenging. Those of us in Congress can benefit from those ideas and his leadership.

Mr. President, because I think other cities might benefit from Mayor Bradley's suggestions and programs for energy conservation I ask unanimous consent that his address be printed in the RECORD.

There being no obection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS BY MAYOR TOM BRADLEY ON THE ENERGY CRISIS, NOVEMBER 25, 1973

Good evening. The news that I have tonight is not good. It is news that will affect every one of us, and affects us for the worse. It is going to mean inconvenience, perhaps hardships for many. And it is news about a problem which we can at best ease, rather than solve soon.

I am talking about what we are calling the energy crisis. There may be debate about whether there is an ample supply of fossil fuel under the earth . . . But the crisis arises because we cannot guarantee delivery of the oil where we need it and when we need it. There is not enough fuel available to run our automobiles, fuel to meat our homes and schools and offices and hospitals, and fuel to power our machines. Suddenly, in 1973, the United States of America seems literally to be running out of gas—and the consequences touch me and you and all of us. Because nothing we do with our lives—from going to work or to market, to cooking dinner, to watching television, to working a lathe or a blow torch—nothing is exempt from the need for fuel. And as of now, neither the city of Los Angeles, nor any other part of the United States, will have enough of this fuel.

The crisis is complicated because there just isn't enough fuel to go around. Gasoline consumes 41%, oil for electrical generating plants 18%, diesel fuel and heating oil consume 24%, and other products take up 16% of our fuel supplies. We cannot make any cuts in three of these areas. Therefore, the only place where a cut can be made is in gasoline, so we have to shift gasoline supplies to these other scarce fuels.

Many of you will not believe how serious this problem is. You have seen the news on a big screen television, heard the grim prophecies in an air-conditioned automobile, laughed at requests for 50 mile-an-hour speed limits, seen your neighbors enjoying their life style, free from Government restrictions. Many of you may say, "It's another overgrown crisis that sells newspapers and fills news programs—or perhaps a ploy by the giant oil companies to pad their profits."

You have reason for being skeptical about Government pronouncements. The last year has proven that. The Federal Government did not take the necessary actions to plan for, and even possibly avert, the current crisis. And there is no question that, when the time comes to apportion blame, our oil giants also are going to bear very heavy responsibility. For all of the tens of billions of dollars in special tax breaks given them over years to insure a flow of oil, for all of the special laws banning imports to keep our companies producing, and despite record-breaking profits this last year, we now learn that these companies cannot keep that commitment which won them all these billions: the commitment to keep the flow of oil moving.

For a generation, all of us have heard dire prophesies—depression, war, famine. We have survived those dire predictions. We have come to believe that somehow, if we can sit back and wait, the "crisis" will go away.

This time I am convinced that the problem won't go away—we are going to feel this fuel shortage and we are going to feel it directly and seriously. And when it begins to be felt widely, we must not panic and adopt ill-conceived measures which will undo things we have tried to achieve for years. For instance, it is being said by some that air quality laws should be suspended. I disagree.

In reality, the major source of both air pollution and energy shortages lies in wasteful use of limited resources. It is true that we may have to permit, however reluctantly, the burning of some high sulfur oil in our power plants. But it should be the last resort . . . and only *under the most carefully controlled circumstances*. This crisis must not change our determination to retain hard-won progress in air quality. Twenty years in the future, shall we tell our children that we could not control our desire for more "convenience," and so gave up the effort to assure them good health?

Now let's discuss the problem we are faced with today. Our current needs would require us to burn 24 million barrels of oil in the year from mid 1973 to mid 1974.

However, a failure to anticipate an extremely high rate of growth in the demand for energy—energy to power expanding industries, to run more household appliances, to light, heat, and air condition homes, offices buildings, new shopping centers, and the failure to consider the possible interruption of our major source of supply in the middle east has presented us with (chart 11) this situation:

This chart shows the same year, the same demand, *but we can no longer count on delivery of 48% of the oil we expected to receive*. The area in red represents this shortage, the arrow half way across indicates where we stand at this moment.

This means that we cannot count on this oil—almost half the year's supply. It also means that we must carefully plan the way we will use that which we are certain of getting.

Even if the Arab embargo were lifted today, the high growth rate in demand for energy would still impose upon us many of the special measures I must describe tonight.

More importantly, I must also tell you that long ago the Department of Water and Power made the decision to place its largest orders for oil with Arab Bloc Nations. As a result of the Arab embargo, our potential shortage is more than *twice* that of other American cities. For instance, New York City will fall 20% short of its needs compared with our 48%. . . .

Therefore, I am pleased that the city council took quick action on the department of water and power's five-step plan for curtailment of uses of energy . . . steps which grow more and more restrictive as the supply of oil on hand grows shorter. These five steps are (1) conservation—or careful elimination of wasteful uses of energy; (2) voluntary cutbacks in energy use which all of us will make by ourselves; (3) mandatory cutbacks on everyone's electricity required by law; (4) variances, granting electric power plants permission to use the high sulfur content fuel, and finally; (5) rolling blackouts—or turning off all electricity—on a rotating basis in entire sections of the city for as much as three hours a day. I now ask you to begin voluntary cutbacks. If this phase fails, we will have no choice except to turn to mandatory cutbacks, and then perhaps rolling blackouts.

What would be the real effect of rolling blackouts, which could occur early next year? There would, of course, be great inconvenience in our homes, as our lights, refrigerators, stoves, clocks, television sets, and so on, would go off for three hours each day. Much greater problems will arise at our work places—in retail businesses, in commerce, industry and manufacturing. It is not hard to imagine the effect of a three hour blackout on elevators in office buildings, for instance, or what would happen to a machine shop which relies on electricity to drive its lathes and drill presses . . . or an automobile assembly line. What about service businesses which represent the electronic brains of our banking and commercial exchanges? The computer centers which code, sort, and forward millions of checks, credit card receipts, and inventory accounts each day would be stopped.

There are more serious considerations yet. Unemployment might well double its present rate—to 8 or 9%. In some special trades and professions it might reach 10 or 12%. And among minority males who are between 16 and 24 years old, unemployment could soar to 40%. Where will returning Vietnam veterans find work in such a situation?

I must also state that 20 months ago I presented a motion in the city council requesting the department of water and power to develop a long-range energy plan anticipating shortages and setting a policy of stabilizing the growth of energy use. If the department of water and power had implemented such a plan then, the crisis we now face might not have been so severe.

But blame-fixing will be cold comfort—literally—in the months ahead. Whether the fuel we need is missing because of Arab embargo, or corporate greed, or environmental pressure, or shortsighted leadership, it is not here. And that is the problem we must face openly and directly. What must be done now?

Let me say a few words on what government can do:

Here in Los Angeles we have already begun to put our house in order.

I have directed city employees to:

Drive city vehicles at 50 mph maximum speed, and not to use car air conditioners except in extreme heat.

Lower thermostats to maintain a 65–68° temperature.

Turn off all lights in unoccupied rooms.

Turn off all decorative lights.

Turn off all air conditioners and open windows.

Turn off all decorative water fountains.

Ban use of individual electric heaters.

We are eliminating or reducing use of city vehicles. We have begun to replace big cars with compacts and sub-compacts. Currently

we are exploring the conversion of city cars to natural gas.

We are creating a city inter-departmental committee on energy conservation. It was created to develop even further programs to reduce energy use within the city.

We have already begun city employee car pooling. We are in the process of establishing a city subscription bus program. It is our intent to expand both programs to county, state and federal employees working in the downtown area.

The city council has recently created a number of street lighting districts. In view of the current energy crisis, I believe the council should reassess its position on establishing these districts. On Monday I will be sending a message to the council requesting that they curtail the approval of street lighting districts during this crisis period.

The most important role of this government will be to assure every individual in our city that he or she will not have to carry an unfair share of the burden while others escape. I pledge that we will be untiring in our efforts to prevent the inequities which can easily happen under these circumstances of "not enough to go around."

We will take special care to protect the health and safety of those aged and infirm citizens who would be most endangered by these shortages.

As I have already stated, I do not believe that air quality laws should be suspended.

In our efforts to solve the energy crisis we recognize that the government cannot ask its citizens to move from its cars to transportation which is not adequate to the new public demand for services. In my first months in this office I have given highest priority to development of immediate and long-range programs toward a balanced transportation system.

I now ask your help in this endeavor—help with your representatives in the state capital and Washington.

At the state level I call upon the legislature and the governor to:

Adopt a 50 mph State speed limit.

Enact legislation proclaiming a "State energy emergency." It should require development of a statewide energy conservation and curtailment plan for reducing petroleum consumption. It should plan the continuation of vital public services in the event of severe fuel shortages.

I call upon the Congress and the President to:

Speed adoption of the "National Energy Emergency Act of 1973";

To pass emergency legislation of year-round daylight savings time.

To pass emergency legislation to sharply increase funding for mass transit, including subsidies for reduced fares. The Federal highway trust fund must be substantially opened to provide these funds:

To pass legislation to establish an excess profits tax for energy producers. This tax should be applied to development of new and clean energy sources or increased energy supplies. We are entitled to more controls on the producers and distributors of energy to assure that fairness will prevail. No unfair profit must be made on the suffering and inconvenience of all of us;

The President should allocate, on a priority basis, low sulfur fuel to those regions of the country, such as Los Angeles, because of the public health dangers from burning high sulfur fuel;

To pass emergency legislation to open the Elk Hills oil reserve near Bakersfield. Priority allocation of the oil should go to California. Utilization safeguards must be taken to avoid the creation of economic windfalls to only one company.

To regulate wholesale and retail prices of oil and refinery products to assure adequate allotments of gasoline, diesel and heating fuels.

To start congressional review of tax laws, such as the oil depletion allowance, to see whether they are encouraging increased exploration and production;

To pass emergency legislation to establish strong controls on the export of domestically produced oil.

When there has been a failure to anticipate fuel shortages . . . and when our companies are still exporting a million barrels of oil a year . . . and low sulfur coal . . . and when Congress and State legislatures can't get facts about oil reserves, production plans and pricing information from the giant oil companies, I think the time has come for the Congress to consider strictly regulating such companies as they do other public utilities.

It is important that the President sign the mandatory fuel allocation legislation to assure that vital public services, such as buses, receive adequate fuel to continue operation.

I call upon the Congress and the President to set aside ill-conceived proposals for surcharge taxes on gasoline or a ban on Sunday driving or weekend closing of gas stations. These would punish the people who could least afford it. Instead, and only if absolutely necessary—and I now think this to be the case—a carefully structured system of gasoline rationing should be adopted. Any rationing plan must be fair to all with provision for relief in hardship cases.

In the private sector, I call upon all individuals, organizations, businesses, and corporations to set a goal of a 20% voluntary cut of all uses of energy; and

2. To establish a company energy conservation committee to suggest and monitor energy conservation programs.

In this endeavor, commerce and industry should establish and publish individual and industry-wide conservation plans.

3. Commerce must curtail lighting of outdoor signs. The outdoor advertising industry should adopt immediately a plan for voluntary cutback of lighted billboards.

4. I call on retail stores to reduce their business hours to no more than 50 a week. Such plans should go into effect by January 1974.

5. Retailers can further conserve by consolidating deliveries.

6. I ask schools everywhere to join in exploring the problem and to start special educational programs, including essay and poster competitions. What the children learn in school they will take home to their parents. They can also be effective monitors at home to remind parents when they forget to follow conservation recommendations.

Now a few words on what we all can do.

It is absolutely essential that every citizen of Los Angeles do everything he or she can to reduce consumption of petroleum products. Your individual efforts can help. In fact, the effort cannot succeed without everyone's help.

There are two ways each of us can help the most—we must significantly reduce the use of our automobiles, and the heating, lighting, and use of electrical appliances in our homes.

First, each driver in Los Angeles should set himself a personal goal of at least a 20% reduction in gas consumption.

Here's now:

50 mph speed limit.

Do not use air conditioners in the car.

Eliminating all unnecessary trips, by planning ahead to combine shopping, visiting, and commute trips as much as possible.

Take a bus instead of driving.

Join a carpool for commuting to work and double up with friends who may be going to the same sports or social events.

When we *must* use our cars, there are ways to minimize gas consumption: Avoid quick starts and drive at a steady speed.

Keep our cars well tuned . . . this helps greatly but is one measure which is easy to delay or overlook.

Make the most sparing use of recreational vehicles.

The second place we can make the most significant difference is in our homes. Most of the measures I will mention here are becoming familiar in the news. But we in Los Angeles must realize them in our homes as soon as we can:

1. Let us turn down our thermostats so that our homes will be heated from 65 to 68 degrees this winter. This can save as much as 10% in the use of fuel.

2. Close off rooms which are not in use.

3. Let us seal and insulate our houses so that less fuel will be required to reach the new setting. These are simple measures that can be done quickly, and often by the homeowner or renter, himself.

4. Limit your trips to the refrigerator. Every time that door is opened, there is a heavy drain on electricity.

Lighting of homes is an area where we can save with relatively little inconvenience. We should set ourselves a goal of reducing by ⅓ the electric lighting we are accustomed to:

Easiest of all, we can simply turn off lights when we leave a room.

Turn off outdoor flood lights and decorative lights, try using lower wattage bulbs. Fluorescent bulbs use far less electricity and they are now available in the screw-in types.

We need not use our air conditioners this winter, and sparingly—if at all, next spring. Open the windows instead!

The TV set uses as much electricity as all the lights together in most homes. I ask that you operate only one set at a time . . . and as sparingly as possible.

Swimming pools consume large amounts of electrical power *and* heating fuel. Turn off the heater.

Finally, conscience requires me to make a difficult request. Although Christmas decorations use relatively little energy, as a symbol of our determination to meet this crisis in earnest, I must ask that we all not use lighted Christmas decorations this year.

We can no longer retreat, each from each, into our homes and automobiles and private lives, secure in the knowledge that unlimited, cheap energy will be ours to consume at will.

That era is over. It will not come again for three, perhaps five years, perhaps more. We do not know. But we do know that some of our habits, which in the past have been simply wasteful, are now habits which cannot be followed any longer. We must change by choice now, or we will surely be forced to change more drastically later. It may be that it is already too late to avoid some of the harsher steps; it may be that whatever we do, there will be further costs to pay.

But if we begin now, we can at least try to make the burden of the energy crisis as limited, and as equally borne, as is humanly possible. If we begin to use what we have wisely, we just may get through the worst of the energy crisis without paying the highest price.

Los Angeles, with its mobility, its freedom and independence, has been called a model for all cities of the future. Perhaps, as the first of the new world cities, it was destined to be first to experience the full burden and challenge of this new era of cooperation or collapse. With your help I cannot doubt a successful outcome. And in gaining this new freedom born of necessity, this wonderful collection of people, this City of the Angels, will again light the way for the world.

We will make preparations because we have no choice. We will work together. We will share burdens now to lift them a few years from now. We will stand together the way we did when a depression threatened our survival, when a war threatened our freedom.

This is a hard time ahead. But I have noticed that, after hard times pass, Americans look back with a sense of pride at the way they banded together and helped each other out, and got by. If we can capture that spirit again, we have nothing to fear.

Thank you.

GENOCIDE CONVENTION: A CONSTRUCTIVE ATTEMPT

Mr. PROXMIRE. Mr. President, day after day I rise to implore the Senate to ratify the United Nations Convention on the Prevention and Punishment of the Crime of Genocide.

Critics might call those of us who call for approval of the Genocide Treaty idealists for believing that the Genocide Convention is necessary to prevent the destruction of a national ethnic, racial, or religious group. I would like to answer them by quoting the words of the late President Woodrow Wilson:

> Sometimes people call me an idealist. Well, that is the way I know I am an American. America is the only idealistic nation in the world.

Since 1776 Americans have created ideals and strived to fulfill them. We can attribute the success of our country to the ideals which we have established for ourselves.

Idealism pervades our most cherished documents. The Declaration of Independence, for example, is the paragon of idealism. And yet opponents of the Genocide Convention argue that the convention is too idealistic.

How idealistic is the Genocide Convention? The Genocide Convention puts the lofty principles embodied in the Declaration of Independence into the framework of international law.

It is a constructive attempt to diminish the threat of genocide, outlawing it, and establishing procedures for trying and punishing it.

The Senate cannot reject the Genocide Treaty on the grounds that it is too idealistic. Idealism is a characteristic of any treaty.

Mr. President, I ask the Senate to ratify the Genocide Convention without further delay.

DEATH OF DR. EDWARD WILSON DAVIS, OF SILVER BAY, MINN.

Mr. MONDALE. Mr. President, it was with great sorrow that I learned of the death yesterday of Dr. Edward Wilson Davis, of Silver Bay, Minn.

Long regarded as one of the world's foremost authorities on taconite mining and processing, Dr. Davis was the driving force behind the discovery of the process of liberating high-grade iron ore concentrate from the virtually useless rock called taconite.

As director of the University of Minnesota's Mines Experiment Station for 33 years, Dr. Davis began the first pioneering research on taconite rock, in which is embedded fine particles of magnetic iron ore. When he began his research, Dr. Davis was virtually alone in his belief that the apparently worthless rock would someday yield its richness to man for steelmaking. It was largely through his ability, confidence, perseverance, and dedication that a valuable resource was discovered.

In 1951, Dr. Davis became associated with Reserve Mining Co., then constructing a $350 million taconite mining and processing operation at Babbitt and Silver Bay, Minn. It was at a time when two World Wars and a national industrial expansion had virtually depleted Minnesota's great deposits of natural iron ore that Dr. Davis began his efforts to put his discoveries into use in Minnesota.

Following retirement from the university in 1955, Dr. Davis served as a technical consultant to Reserve until the time of his death.

As a result of Dr. Davis' pioneering work, five companies now produce millions of tons of high grade iron ore from Minnesota's taconite. Reserve Mining alone produces one-third of all the iron ore pellets made in Minnesota and one-fifth of all the pellets produced in the United States and supplies 15 percent of the Nation's domestic supply of iron ore.

Among the many honors that have come to Dr. Davis are: Honorary doctor of science from the University of Minnesota; honoray doctor of engineering from Purdue University; the Richards Award of the American Institute of Mining, Metallurgical and Petroleum Engineers; the legion of honor of that association; the John Scott Award of the Trustees of the City of Philadelphia; Minnesota's Outstanding Senior Citizen Award; the Award of Merit from the American Association of State and Local History; and the certificate of merit from the regents of the University of Minnesota.

The State of Minnesota and the United States of America are grateful for the work of Dr. Edward Wilson Davis and mourn his passing.

DAVID BEN-GURION, FOUNDING FATHER OF ISRAEL

Mr. MONDALE. Mr. President, I join the world in mourning the death of Israel's first Prime Minister, who did more than any other human being to reestablish a Jewish homeland. The death of David Ben-Gurion, the man who proclaimed to the world the independence of Israel in 1948, comes less than 3 weeks before the opening of the historic peace conference in Geneva.

Ben-Gurion was fond of saying:

> If you don't believe in miracles, you're no realist.

Hopefully, these peace negotiations will realize the miracle which Ben-Gurion pursued since he first arrived in Palestine in 1906—Arab acceptance of a Jewish homeland as a fact of life.

Twenty-five years ago, on the 14th day of May 1948, Ben-Gurion read a brief declaration which stated:

> We appeal—in the very midst of the onslaught launched against us now for months—to the Arab inhabitants of the State of Israel to preserve peace and participate in the upbuilding of the State on the basis of full and equal citizenship and due representation in all its provisional and permanent institutions.
>
> We extend our hand to all neighboring States and their peoples in an offer of peace and good neighborliness, and appeal to them to establish bonds of cooperation and mutual help with the sovereign Jewish people settled in its own land. The State of Israel is prepared to do its share in common effort for the advancement of the entire Middle East.

These same sentiments hold true today and I hope that the miracle of peace will be soon achieved as the most appropriate memorial to this great statesman. I ask unanimous consent that the following two articles about Ben-Gurion's life be printed in the RECORD.

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

[From the Washington Post, Dec. 2, 1973]

DAVID BEN-GURION: SHAPED MODERN ISRAEL

(By Stephen Klaidman)

For 2,000 years the Jewish collective consciousness harbored a dream of nationhood. From that dream emerged a prophet, a statesman and a leader. The prophet was Theodore Herzl, the statesman Chaim Weizmann.

The leader was David Ben Gurion, first prime minister of modern Israel.

Herzl, who planted the seed, did not live to see the Promised Land reclaimed. Weizmann, old and sick, went there to die. But Ben Gurion, at the peak of his powers, tilled its sand and rock and brought forth fruit.

The regeneration of Palestine as a Jewish state was not his idea, but his heritage. And for a Jew in late 19th Century Russia, confined to the Pale and the ghetto, it was a heritage that cried out for fulfillment.

Ben Gurion conceived of Judaism as a nationality and therefore believed that Palestine was the natural and proper home for all Jews. He considered Zionism without immigration a hollow ideology and though he softened toward the end, throughout most of his later life he found it bitterly disappointing that more American Jews did not settle in Israel.

But despite opposition, sometimes even hatred, in Israel and abroad, few would argue that his life and accomplishments were not remarkable.

His messianic convictions about Jewish statehood carried him from a ghetto childhood in Plonsk, Russian Poland, through a malaria-wracked period as a youthful agricultural worker in Palestine, into ideological conflict with Zionists of varying persuasions and into physical conflict with marauding Arabs.

Later he turned to international diplomacy, the molding of a modern army and finally, the shaping of a Jewish state.

On May 14, 1948, he proclaimed the existence of Israel. He reflected on that day in response to a question by Moshe Pearlman in the book, "Ben Gurion Looks Back":

"For centuries we had been like flowers in a wood, some plucked by friendly hands, given water and nurtured, others trampled underfoot and crushed. At no time could we be ourselves, enjoy independence, with our own soil, making our decisions affecting our destiny. Now the hour had struck. We were independent once again."

Before many more hours had struck, Arab armies stormed across the new state's borders on three fronts. Egyptian planes bombed Tel Aviv, the Arab Legion struck at Jerusalem from Transjordan and Syrian and Iraqi forces move into Galilee and the Judean Hills.

By this time, the 62-year-old Ben Gurion was in battle dress leading what was to be the first victorious Jewish campaign since Judah Maccabee led an army against the Syrians 2,000 years earlier.

Israel's supreme weapon, Ben Gurion believed, was will. It was, more precisely, virtually her only weapon. She had no planes, no tanks, no artillery, almost no automatic weapons and even rifles were scarce. But despite the odds, Ben Gurion told Pearlman, "we had to seize the historic moment" and "we were certain we would win."

The primary instrument of victory was Haganah, at the time an army only by the loosest of definitions. It was a tiny ill-equipped underground force trained for static, small-scale defensive operations. In March, 1948, for the first time, it had committed a force as large as a brigade. In comparison Arab legions were vast, in possession of standard armaments and trained in traditional warfare.

Ben Gurion's tactics and methods were sometimes questioned, sometimes bitterly disputed. Two examples were the massive effort to lift the siege of Jerusalem, which many considered costly far beyond its military value, and the case of the Altalena.

The Altalena was an arms ship run ashore near Tel Aviv during a U.N. truce by the Irgun Zvai Leumni, a Jewish terrorist force whose tactics were at sharp odds with those of the disciplined Haganah. Ben Gurion ordered his troops to prevent the arms and Irgun volunteers aboard from coming ashore. Haganah soldiers fired, the ship was set ablaze and men were killed on both sides.

Some Israelis never forgave Ben Gurion for depriving Israel of the needed arms. Others considered it one of this most statesmanlike acts. Had he not asserted his authority so firmly, they argued, his army and his government could have been undermined to the point of anarchy.

But none argued with victory. Almost no one would dispute that the Israeli army of today—which was shaped under his guidance by a series of remarkable officers including Yigael Yadin, Moshe Dayan, Yigal Allon and Yitzhak Rabin—is one of history's great fighting forces, for its size and mission.

Shimon Peres, one of Ben Gurion's proteges and closest associates, once said that Ben Gurion's special strength is that "he is a Jew not afraid of Gentiles; so he doesn't hate them. What made him unique was that he wasn't afraid of Jews either. For this reason, he could fight them as well, whenever the occasion arose."

Ben Gurion's national political leadership, at times, was as controversial as his military command. Nine times he resigned from office. Eight times he was called back. Members of the coalitions that have always governed Israel quarreled with him, sharply challenged him, even cursed him, but time and time again they called the Old Man back.

Events that shook his government and divided the nation included the Lavon affair, involving an Israeli terrorist operation in Cairo in 1954, and the decision to bring Adolf Eichmann to trial in Israel. The latter divided opinion throughout the world.

The Lavon affair has never been fully explained, primarily because of the nature of the operation. It was believed to have been involved a plan to blow up American and British consular facilities in Cairo in order to sabotage U.S. and British relations with Egypt. Ben Gurion, at the time was temporarily out of the government and living at Sde Boker, a kibbutz (collective) in the Negev Desert to which he eventually retired to write history and memoirs.

The government of Prime Minister Moshe Sharett conducted hearings and failed to establish whether Pinhas Lavon, the defense minister, had ordered the operation, as was charged by a senior military officer. Lavon resigned and several months later became head of the powerful Histadrut, an Israeli superagency combining many functions of the U.S. Departments of Labor and Health, Education and Welfare.

Ben Gurion returned to the government in 1955 as defense minister and shortly afterward became prime minister again. In 1960 Lavon asked Ben Gurion to rehabilitate him. The prime minister said only a court could do that. Lavon was not satisfied. He arranged to have the matter reopened by the Committee for Foreign Affairs and Security of the Knesset (parliament).

The committee sessions were closed, but there were leaks resulting in banner headlines outraged charges and bitter counter charges. The committee dealt with substantive issues—although Ben Gurion always contended it was not constituted to do so—and exonerated Lavon placing blame for the misconceived and unsuccessful operation on the senior officer.

On the ground that a judicial inquiry had not been held, Ben Gurion felt there had been a miscarriage of justice. He resigned in January, 1961, only to be recalled immediately to form another government. He was forced to call new elections and his Mapai Party droped from 47 to 42 seats in the 120-man parliament. Despite his public disavowal of the Knesset committee's finding in the Lavon affair he received a vote of confidence. He continued to press unsuccessfully for what he considered justice even after his retirement from the premiership in June, 1963.

In reminiscing about it with Moshe Pearlman, he said:

"After reading all the old and new material on the subject of 'the affair.' I became convinced that there had been a distortion of justice—by the highest bodies of the State. Many came to me, urging me to stop pressing for further investigation for fear of a split in Mapali (Ben Gurion's party) and the government to consider."

"To each one I put the question: 'What would you do if you were convinced—as I am—that an injustice has been done? Would you remain silent?' Most of them do not reply to this. Some say: 'Ah, but there are the higher interests of the party and the government to consider.'

"This I reject outright. I think there can be no higher interest of the State—although not the only one—than the purpose of truth and justice; even if it leads to a split in my own party which I helped to found, the party which put me in power; even if it leads to the fall of a government dominated by my own party colleagues. Political parties may be ephemeral and governments come and go; but the State continues, and it cannot continue and educate its people to become a model society if it turns a blind eye to injustice."

His commitment to the Lavon affair, whether for an exalted moral purpose or, as many thought, for self-vindication, was one of the major factors leading to his final resignation as prime minister. He was succeeded by a former protege, Levi Eshkol, with whom he split in anger over that complex, mysterious and highly emotional security case.

The impact of the Lavon affair plus Ben Gurion's controversial positions in favor of diplomatic relations with West Germany and against terrorist attacks on Nazi scientists in Egypt, combined to force his return to Sde Boker in the desert.

Ben Gurion had said that from earliest childhood he was determined to help build a Jewish state in Palestine. His grandfather began teaching him Hebrew through word games at the age of three.

His home in Plonsk, 40 miles northwest of Warsaw, was traditional, but not orthodox. His grandfather, however, was an orthodox Jew and Ben Gurion recalled decades later that at age seven he himself was under a spell of religious orthodoxy. Later, however, religion was perhaps less than first among equals in his concept of Judaism that included history, language and nationhood.

Ben Gurion's father, Avigdor Green, was by ghetto standards a modern man of comfortable means. He did not wear the long coat and fur hat of the pale. Instead he dressed in a fashionable frock coat and top hat and wore a clipped imperial beard. Although unlicensed, he worked as an attorney.

Ben Gurion's mother, Sheindal, who died while giving birth to her 11th child, was a small, dark-haired woman with a warm manner who regularly went out of her way to care for the sick and feed the poor of the Plonsk ghetto.

Many years later, during a debate in the Knesset on a bill to assure equal rights for women, Ben Gurion said:

"My mother died when I was 10 years old, but I remember her as well as if she were still alive. To me, she will always represent the embodiment of purity, love, human nobility and devotion."

Ben Gurion was born not only with a birthright of Zionism, but into a home filled with its atmosphere. His father was deeply involved in a organization called the Lovers of Zion.

As a schoolboy Ben Gurion joined the labor Zionist movement and began his career as a polemicist trying to convince the "so-called" Zionists that Zionism meant immigration, and at the same time trying to instill a love of Zion in the deeply anti-Zionist Bund, whose members were the leading Jewish socialists of the day.

In 1906, at the age of 19, David Green who changed his name to Ben Gurion, traveled over and through the Russia of the anti-Semitic and repressive Czar Nicholas II to Odessa and from there sailed fourth class aboard a rusted 5,000-ton cargo ship which stopped in Salonika, Smyrna, Alexandretta and Beirut before reaching Palestine.

He set to work immediately picking oranges in the groves of Petah Tikah for pennies a day. He worked between bouts of malaria that recurred frequently throughout the first year. He then went to work at Sejera between Tiberias and Nazareth in lower Galilee.

During the next several years Ben Gurion was a laborer, labor organizer and journalist. He also left Palestine several times for various reasons.

The first time he left was in 1908 to be conscripted into the Russian army, from which he immediately deserted and returned to Palestine. The purpose of that maneuver was to save his father from paying a heavy fine that would have been levied had he not been available for conscription.

The next trip out was in 1912, this time to Salonika and Constantinople to learn the Turkish language and Turkish law so that he would be able to deal more effectively with Palestine's Turkish rulers. It was in Salonika that Ben Gurion first came into contact with Sephardic Jews, descendants of those expelled from Spain in 1942.

When asked long afterwards what he would change if he had his life over again, Ben Gurion said, of course I would return as a Jew, but this time a Sephardic one. He did not learn Ladino, the largely Spanish language of the Sephardic, for which he expressed regret much later when as prime minister he taught himself Spanish to "Don Quixote" in its original language.

He did, however, learn Turkish and French, the languages required for his law studies. Ultimately he spoke or read 10 languages, including German, English, Greek, Russian, Polish and Latin. He learned Greek to read Plato and the Septuagint Bible.

Shortly after returning to Palestine in 1914, Ben Gurion was jailed and then expelled—"never to return again"—for his Zionist activities. By the summer of 1915 he was in New York, where he was to acquire new converts for Zionism, a new language and a wife.

Together with Itzhak Ben Zvi, a future president of Israel, who was also expelled by the Turks, Ben Gurion founded in the United States an organization called Hechalutz (pioneers) in which young American jews were taught Hebrew and farming techniques in preparation for settlement in Palestine.

This observation on the American experience from "Ben Gurion Looks Back" is perhaps at the core of his thinking:

"We found in America, unlike in Plonsk, of course, an atmosphere of freedom for the Jews which they had never known in Russia or Eastern Europe. At no moment were we lulled into the illusion that this was real Jewish freedom, freedom for the Jewish people, the answer to the Jewish problem; but we were not effective in converting the bulk of American Jewry to our point of view."

In 1917, at New York's City Hall, he married Paula Munweiss, an outspoken nursing

student and daughter of an immigrant from Minsk.

Also in 1917, the Balfour Declaration established British acceptance of the principle of a Jewish homeland in Palestine. Shortly thereafter, World War I broke out and Ben Gurion returned to the Middle East as a corporal in the Royal Fusiliers' 29th battalion, one of two Jewish units he helped organize in the United States and Canada. He served in Egypt, but saw no action.

After the war he worked to unify the disparate political and labor groupings on the Jewish community of Palestine with the resulting formation in 1920 of Histadrut, as a general federation of labor. Ben Gurion became its first secretary general. Ten years later, the founding parties of Histadrut merged to form Mapai, Israel's dominant political organization until Ben Gurion's retirement from public life.

With the Balfour Declaration and Britain's subsequent mandate from the League of Nations to administer Palestine, it became clear to Ben Gurion that Jewish settlement was the only force that could demonstrate and dramatize the need and ardent desire for statehood.

Ben Gurion, with Chaim Weizmann in London, was the soul of the movement as fund-raiser, evangelist, organizer and strategist. Through Histradrut he began developing much of the machinery of modern Israel, including Haganah and a comprehensive national health service.

In the 1930s Histradrut became the most powerful force in Zionism and Ben Gurion, as its leader, made the logical jump to chairman of the Jewish Agency, executive body of the world Zionist organization.

He was with Weizmann—whom he was to propose as Israel's first president—in London in 1936 for testimony before the Peel Commission, which was established after a wave of anti-Jewish terrorism by Arabs in Palestine. According to Ben Gurion, Weizmann, who was president of the Zionist organization, spoke that day of the clear danger to millions of European Jews in his impassioned plea for the creation of a Jewish state.

The British Royal Commission, headed by Earl Peel, proposed partition of Palestine into Jewish and Arab states. The Jewish state, as outlined, would have included only the territory then settled by Jews, excluding the Negev, and leaving a tiny land incapable of supporting itself and absorbing hundreds of thousands of immigrants.

Ben Gurion, nonetheless, supported the partition plan at the 20th World Zionist Congress, which met in Zurich in August, 1937. He had few followers, but it proved academic when the Woodhead Commission, which had been appointed to work out a plan for implementing partition, reached an impasse. Britain finally rejected the idea completely.

In the next eight years, despite the fact that Weizmann's warning became a reality, events pushed the question of a Jewish homeland to the bottom of Britain's list of priorities. Europe was engulfed by total war. It emerged shattered, but most of its Jews did not emerge at all. For those who did, there seemed a clear need for Israel.

Ben Gurion toured the death camps from Dachau to Belsen while Ernest Bevin, Britain's foreign secretary, cooly deliberated in London. The need for massive and immediate immigration was evident to Ben Gurion, who had seen what he called "the pitiful relic of European Jewry." But Bevin set the immigration figure at a trickle—1,500 persons a month.

Two years of intense diplomatic battling with the Labor government of Clement Atlee—especially with Bevin—finally came to an end Sept. 1, 1947, when the United Nations recommended partition. In the meantime, illegal immigrant and arms ships bolstered the strength of the emerging state.

The War of Independence began with Ben Gurion's proclamation on May 14, 1948, and ended July 20, 1949, when Syria signed an armistice agreement negotiated for the United Nations by Dr. Ralph Bunche. Egypt, which initiated the armistice talks, had already signed, as had Jordan. Iraq never signed the agreement, but its troops had been driven out of Israel months earlier.

In January of the following year, Ben Gurion became Israel's first elected prime minister when his Mapai Party won 35.7 per cent of the vote.

Under the Israeli system in which votes are cast for party lists rather than individual candidates, it has always been necessary to form coalition governments. Ben Gurion fought the system for years, favoring the American-style two-party format.

Electoral reform was one of several changes Ben Gurion sought and failed to achieve in his lifetime. Another was universal free education. Tuition payments are still required in Israeli secondary schools.

In the case of free education, money was the obstacle. Electoral reform foundered on political opposition.

Part of the fallout of the political system, because of the need to form coalition governments, was what Ben Gurion considered excessive power for the religious parties. Some of his own views on religion were expressed in an interview with the London Observer:

"In Israel I've only been to a synagogue once—the day before the state was proclaimed. But I do go when I'm abroad . . . Most of the people who came to Israel were not religious. I believe the sanctity of the family is the essence of Jewry. If somebody wants to be a Jew, that's enough for me."

But failure and defeat were essentially alien to Ben Gurion. Only once during his tenure as prime minister did he step down for a significant period of time. In December, 1953, he simply said he was tired and he turned over national leadership to Moshe Sharett. He went to Sde Boker, his beloved kibbutz in the desolate Negev, and turned to writing, study and agricultural labor.

There in the desert, surrounded by his imposing library and the hardworking, kibbutzniks of Sde Boker, he could relegate politics to the dustier corners of his mind and concentrate on the thought of Aristarchus of Samos read Chinese history and absorb Indian philosophy. But his retirement lasted only 14 months. He assumed national leadership again in July, 1955.

Within a year another of Ben Gurion's controversial military policies emerged. Both Syria and Jordan were to feel the weight of Israel's "massive retaliation." The policy of striking back at the Arabs with tenfold force is followed more or less to this day, but many have argued that its sole effect is to keep tensions high.

On Feb. 28, 1955, Israel staged a major raid in the Gaza Strip causing more than 40 Arab casualties. It has been argued that this raid, ordered by Ben Gurion, was a critical factor in driving Egypt and ultimately other Arab countries into the arms of the Soviet Union.

The more conventional wisdom on this subject, however, is that the failure of the United States to supply funds for construction of the Aswan High Dam and the failure of Egypt's ex-Nazi scientists to design a supersonic jet aircraft were responsible for the Czechoslovak-Soviet arms deal with Egypt in September, 1955, which marked the beginning of large-scale Soviet-Arab military cooperation.

Ben Gurion did not forget, however, that "the Russians were the only power in the world that helped us in 1948." But he added a footnote in his interview with the Observer. "Of course, I understood that their real interest was not Israel, but to ensure the departure of Britain from Palestine."

Middle East tensions reached a climax in 1956, when Israeli forces overran the Gaza Strip and knifed deep into Sinai. Meanwhile, by prearrangement, British and French troops seized the Suez Canal. Militarily the operation was a total success.

But the United States intervened, formally through the United Nations, and forced Britain and France to evacuate the canal area.

Ben Gurion, however, ordered the Israeli forces to remain where they were. He wanted a guarantee that the Gulf of Aqaba—the same body of water over which the six-day war of June 1967, was fought—would be open to Israeli shipping.

After several weeks and several General Assembly demands for Israeli evacuation of Egyptian territory, President Eisenhower finally warned Ben Gurion to get out or face severe pressure from the United States. Despite countervailing pressure from his government, Ben Gurion was forced to order withdrawal.

In 1960, Ben Gurion courted world disfavor by bringing Adolf Eichmann to trial in Jerusalem. The trial, however, was sober and judged fair by most observers throughout the world. It certainly did no damage to Ben Gurion's reputation as a statesman.

When in 1963 he left high public office for the last time, it was for a life that could hardly be called retirement. He spent his time working on a massive history of modern Jewish settlement in Palestine, studying biology among other things and taking long walks in the desert.

Toward the end of his life, in the clear arid atmosphere of Sde Boker, he said this to an interviewer:

"I am very near the conception of Spinoza's pantheism—that God and nature are one thing."

[From the New York Times, Dec. 2, 1973]

BEN-GURION, SYMBOL OF THE TOUGH STATE OF ISRAEL, ACHIEVED A LIFELONG DREAM

(By Homer Bigart)

David Ben-Gurion symbolized the tough little state of Israel. Short, round, with a nimbus of white hair flaring angrily from a massive head, "B-G," as he was known to many, attained world leadership by firmly concentrating on the achievement of a dream.

That dream, the birth and triumphant survival of a Jewish homeland amid a sea of hostile Arabs, led Mr. Ben-Gurion through a lifetime of turmoil.

He was chairman of the Jewish Agency, the executive body of the World Zionist Organization, through the critical years of rising Arab nationalism, of Nazism, of World War II and of the postwar diplomatic struggle between Britain and the Jews of Palestine. When Britain finally gave up the Palestine mandate, it was Mr. Ben-Gurion who proclaimed the Jewish state.

This was his moment of supreme test. For on that same day, May 14, 1948, the Arab armies began their invasion of the fledgling state. Jerusalem was besieged by Transjordan's Arab Legion. In the Judean hills and in Galilee, Jewish settlements were under attack by Syrian and Iraqi forces, while Egyptians invaded from the south.

BATTLE DRESS AT 62

Exhilarated by the challenge, the 62-year-old leader put on battle dress and assumed the direction of military operations. He was de facto Premier and Minister of Defense.

Some of his decisions were questionable. He ordered a costly and ineffective attack to drive the Arab Legion from Jerusalem. But he had surrounded himself with young and competent officers such as Yigal Yadin, Yigal Allon and Moshe Dayan. The Arabs, who lacked unity of command, were soon routed.

To Mr. Ben-Gurion fell most of the credit for having won the first Jewish campaign since that of Judas Maccabaeus 2,000 years before.

He became an almost mystical figure to many Zionists: the wise patriarch who embodied all the traditional virtues and who

would ultimately lead Israel to triumph over the ring of Arab enemies.

But he embittered millions of others. He alarmed the United Nations and insured the continued hatred of the Arab states by adopting a policy of swift and ruthless retaliation for Arab raids on Israel. Although an armistice was arranged by the United Nations, technically Jordan, Lebanon, Syria and Egypt remained at war with Israel, and border incidents were frequent after the war of 1948-49.

ANGERED U.S. JEWS

Mr. Ben-Gurion also alienated many American Jews by insisting that all true Zionists must live in Israel. Distributed by the influx of Oriental Jews, which he feared would transform Israel into "just another Levantine state," Mr. Ben-Gurion dreamed of a vast migration of Jews from the Soviet Union and the United States.

In the early years only 5,000 American Jews were "ingathered," a scant migration that drew scornful reproaches from Mr. Ben-Gurion.

A fued between Mr. Ben-Gurion and a large segment of American Jewry dated from August, 1957, when he said at a Zionist ideological conference in Jerusalem that a sound Jewish life was not possible outside Israel.

"There seems to be a general agreement," he said, "that a Jew can live in America, speak and read English and bring up his children in America and still call himself a Zionist. If that is Zionism I want no part of it."

In subsequent speeches Mr. Ben-Gurion reiterated his belief that Jewish life in the outside world had a dim future. His dogmatism alienated potential friends of Israel among both Jews and gentiles. Non-Zionist Jews resented his insistence that Judaism was not a mere religion but a nationalistic ethos. Almost every Zionist faction in the United States joined the mounting protest.

ADAMANT ON ISRAEL'S ROLE

Stubbornly, though, Mr. Ben-Gurion insisted that essentially Judaism was a nationality and Israel was the only soverign spokesman for the world's Jews.

In June, 1962, he again infuriated American Jewish leaders at a Jerusalem conference by equating Judaism with nationality. Stanley H. Lowell, chairman of the New York City Commission on Intergroup Relations, retorted:

"You aren't the only answer to Jewish living, Jewish creativity and Jewish survival. This generation and the next generation and the next generations to come shall and will remain part and parcel of the great American experience of democracy."

In later years, though, with the 1967 and 1973 wars and increased United States aid, the old man's idea of Zionism came to be the accepted one. The anti-Zionist organizations became virtually extinct; by 1970, American immigration to Israel was reaching 10,000 a year.

At home, Mr. Ben-Gurion managed to roll elements of the population, even members of his own Mapai party, by methods that often seemed autocratic. He never enjoyed sharing authority, and he chafed under Israel's system of proportional representation, which assures religious parties of representation in the government. These parties were often in bitter disagreement with Mr. Ben-Gurion, who opposed their dream of a theocracy.

The Mapi party, although dominant, was never able to win a clear majority in the Knesset, or Parliament; this was a cause of the formation of 11 coalition governments in Israel, including the provisional government that was set up in April, 1948. (In March, 1949, Mr. Ben-Gurion became Premier in the first regularly constituted Government of Israel.)

These political marriages into coalitions were usually brief and stormy. The Socialist Mapai had little in common with the small left-wing labor parties and religious groups that were persuaded to join coalitions in exchange for concessions in legislation or for a ministerial post or two.

Sometimes Mr. Ben-Gurion would become so frustrated that he would resign and retire to his four-room cottage in Sde Boker, a kibbutz that was his favorite retreat, in the stony Negev Desert.

Usually the mere threat of resignation was enough to force the concessions Mr. Ben-Gurion demanded. The only Israeli with enough stature to offer alternative leadership was Moshe Sharett, another Mapai stalwart. But Mr. Sharett was considered too cautious, too temporizing. Israelis thought they needed daring leadership to meet the growing threat brought on by Egypt's acquisition of Communist-bloc arms, by the nationalization of the Suez Canal and by the military alliance between Egypt and Syria.

Mr. Ben-Gurion resigned several times, but his retirements to Sde Boker were fleeting except for one interval: In December, 1953, he turned over his office and leadership to Mr. Sharett, explaining that he felt "tired, tired, tired."

For 14 months he stayed in Sde Boker compling "Rebirth and Destiny of Israel," a collection of his addresses and essays, and working at agriculture in the kibbutz while his wife helped in the communal kitchen.

Even in retirement he cast his long shadow over the country; soon, in February, 1955, he was called to Jerusalem to resume the post of Minister of Defense, which he had held throughout his Premiership. He also assumed leadership of the Mapai and again became Premier in November, 1955.

Under Mr. Ben-Gurion, Israeli adopted a policy that led to war. There had been a flurry of frontier incidents. Israel complained that the United Nations truce supervision teams were futile instruments for checking Arab commando raids. Mr. Ben-Gurion mounted large-scale retaliatory operations aimed at destroying what he called guerrilla bases across the frontier.

To United Nations observers the border incidents about which the Israelis complained often appeared hardly serious enough to warrant the thunderous retaliation visited upon the Arabs by the Israelis. In balance, at least five or six Arabs died for every Israeli killed.

ATTACK IN SYRIA

In December, 1955, after Syrians had fired on Israeli fishing craft in the Sea of Galilee, Mr. Ben-Gurion ordered his army into Syrian territory. A network of Syrian coastal positions was blown up, and 50 Syrian soldiers were killed.

The raid was ill-timed politically. On that same day the temperate Mr. Sharett, then Foreign Minister, was waiting in Washington for an answer to his request for Western arms to offset Communist arms that were reaching Egypt. News of the raid shocked and vexed the State Department. Mr. Sharett returned empty-handed, furious with Mr. Ben-Gurion, whom he accused of having undermined his mission.

Mr. Ben-Gurion not only refused to modify his retaliation policy but also told Mr. Sharett that diplomacy was to be subordinated to security. In June, 1956, he ousted Mr. Sharett and chose as his new Foreign Minister Mrs. Golda Meir, a former Milwaukee teacher, whom he could trust to follow his line.

Tension rose during the summer of 1956, and in September a major retaliatory action le l by Dayan, then chief of the Israeli armed forces, resulted in the death of 37 Jordanians.

NASSER TERMED FASCIST

Such actions Mr. Ben-Gurion defended as "self-defense," and he told his Parliament that the greatest menace to Israel was an impending attack by "the Egyptian Fascist dictator," President Gamal Abdel Nasser. He proclaimed: "We will never start a war. We do not believe that wars provide comprehensive solutions to historic problems."

Two weeks after he had spoken those words Mr. Ben-Gurion, in complicity with France and Britain, launched a "preventive war" to knock out Nasser's army. Israeli forces overran the Gaza Strip, the tiny corner of the old British Palestine mandate administered by Egypt, and plunged deep into Sinai.

Mr. Ben-Gurion's objective was the fall of President Nasser and the signing of a peace treaty with Egypt.

By prearrangement, Britain and France moved to seize the Suez Canal. Port Said fell to the British and French forces. The invasion by the three nations was on the verge of success.

Then the roof fell in. President Dwight D. Eisenhower was furious at Britain and France for having committed open aggression while the West was reaping moral capital over the Hungarian revolt. So the United States supported United Nations demands that the invading forces vacate Egypt promptly and unconditionally.

Confronted also by threats of Soviet intervention, Britain and France withdrew their forces in 27 days.

Israel balked. Mr. Ben-Gurion wanted to keep the Gaza Strip. He also wanted assurances that the Gulf of Aqaba, the northern arm of the Red Sea, would be open to Israeli shipping. The gulf had been denied to Israeli ships for six years by Egyptian guns commanding the narrow passage at Sharm el Sheik.

President Eisenhower insisted that no nation invading another in the face of United Nations disapproval should set conditions on its withdrawal. Aggression, he said, must not be rewarded.

Mr. Ben-Gurion defied the world for weeks, flouting six successive General Assembly orders to get out of Egypt. His Parliament had approved a defiant resolution committing Israel never to yield either the gulf or Gaza.

But when President Eisenhower cut short a vacation to warn of "pressure" if Israel failed to cooperate, the tough little Premier knew the game was up.

Pale and drawn from pneumonia contracted after a PT-boat ride in the Gulf of Aqaba, Mr. Ben-Gurion went before his Cabinet to propose more flexibility in Israel's position. Knesset politicians were insisting on all-out defiance.

NOOSE IS TIGHTENING

"The noose is tightening around our neck," a bearded, skullcapped member cried.

"The devil with this," snapped Mr. Ben-Gurion. "The devil with the coalition." He threatened to quit and form a new government. Finally he got the leeway he needed.

Israel agreed to withdraw from Gaza and Sharm el Shiek on these "assumptions"; that freedom of navigation would prevail on the Gulf of Aqaba; that the Gaza Strip would be administered by the United Nations pending a peace settlement between Egypt and Israel; and that Israel had the right, under the self-defense guarantee of the United Nations Charter, to send ships through the Gulf of Aqaba by armed force if there should be interference and to "defend its rights" in the Gaza Strip if raids were renewed.

The collapse of the Sinai adventure was the bleakest moment in Mr. Ben-Gurion's career. That he survived it politically was considered a tribute to his toughness, his resilience, his ability to persuade most Israelis and a great segment of world Jews that his action was morally sound.

Again in 1960 Mr. Ben-Gurion risked alienating world opinion; he decided to try Adolph Eichmann, the Gestapo colonel who had shipped millions of Jews to death camps in World War II.

There was little or no sympathy for Eich-

mann, but there was widespread resentment over the way he was brought to justice. The Nazi was kidnapped in Argentina, put aboard an El Al Israel Airlines plane and eventually exposed to a show trial in a Jerusalem theater converted into a courtroom.

There were protests that Eichmann could not possibly have a fair trial in Jerusalem, that the case should be heard by a German court or an international tribunal. Many Jews assailed the "arrogance" of Mr. Ben-Gurion's contention that Israel, as the sovereign Jewish state, was "from a moral point of view" the only place where Eichmann could be tried.

The furor died quickly as the trial unfolded. The Israeli judges seemed impeccable in the hearing during the spring and summer of 1961. After they had condemned Eichmann to the gallows, Robert Servatius, his West German lawyer, conceded that the defendant had had a fairer trial than he would have got in West Germany.

The trial enhanced Mr. Ben-Gurion's exalted status in his own country. By bringing Eichmann to trial he had taught the new generation of Israelis that "Jews are not sheep to be slaughtered, but a people who can hit back—as Jews did in the War of Independence."

BORN GREEN, A POLE

Israel's man of decision was born in Plonsk, Poland, on Oct. 16, 1886. His name was David Green, and his father was Avigdor Green, an unlicensed lawyer who wore a silk top hat and a frock coat rather than the fur hat and caftan traditionally worn by the men of his community. David was to adopt the pen name of "Ben-Gurion" as a journalist in Jerusalem. He thought it had a resonant Old Testament ring—it was the name of one of the last defenders of Jerusalem against the Roman legions. The Hebrew word "Ben" means "Son of," and "Gurion" means "Lion Cub."

Mr. Ben-Gurion's mother, Sheindal, died during the birth of her 11th child. David, her sixth, was 10 years old at the time.

The tone of the family was vigorously intellectual. There were discussions of Socialism and the newly re-emerged Zionism advocated by the Viennese journalist Theodor Herzl at the historic Jewish conference at Basel, Switzerland, in 1897.

Mr. Ben-Gurion's formal education did not go much beyond the Plonsk Jewish schools, but he acquired an excellently stocked mind through wide reading, particularly in history. Possessed of tremendous concentration, he became in his lifetime a keen student of Greek and Eastern philosophies. He achieved a brilliant reputation as a linguist through his mastery of English, Russian, Greek, Yiddish, Turkish, French and German. He read but did not speak Arabic. He also studied Spanish.

ACTIVE SOCIALIST ZIONIST

In Plonsk he was active in the Poale Zion movement, which combined Zionism and Socialism. Plonsk was in Russian Poland, and the revolutionary movement against the Czars was followed by pogroms there. Many Polish and Russian Jews emigrated. In 1906, kindled by Herzl's aim for a Jewish commonwealth, David Green was one of a group of young Plonsk Jews who went to Palestine.

Of his first night in Palestine he wrote in a letter to his father:

"I did not sleep. I was amid the rich smell of corn. I heard the braying of donkeys and the rustle of leaves in the orchards. Above were massed clusters of stars against the deep blue firmament. My heart overflowed with happiness."

But Mr. Ben-Gurion was repelled by the political apathy of the Jewish settlers—there were about 60,000 Jews in Palestine when he arrived. He joined the small Workers party, Poale Zion, which was to emerge as Mapei, and soon became one of its leading organizers and propagandists. Today Mapai is moderately Socialist, probably no more leftist than the British Labor party, and has little in common with doctrinaire Marxism.

ONE MEAL A DAY

Mr. Ben-Gurion worked for a time as a farm laborer for wages just sufficient to provide him with a room and one meal a day. He displayed a natural ability to negotiate in labor disputes, and he soon had considerable prestige among his fellow workers.

Articles signed Ben-Gurion began to appear in the Poale Zion party newspaper, and Mr. Ben-Gurion was elected to the three-man administrative presidium of the party at the 1907 Jaffa conference. At that conference he succeeded in having this platform plan adopted: "The party will strive for an independent state for the Jewish people in this country."

In that year, to prevent difficulties for his father in Plonsk, Mr. Ben-Gurion returned to Russia to do his military service. He served for one week, deserted and made his way back to Palestine.

The success of Enver Pasha's "Young Turk" movement in Turkey in 1908 led Mr. Ben-Gurion and many of his associates to believe that reasonable coexistence could be established between the new and supposedly liberal Turkish Government and the Jewish community in Palestine, which was in the Ottoman Empire. Mr. Ben-Gurion and several other Zionist leaders went to Constantinople to study Turkish law and administration, hoping to enter the Turkish Government as representatives of Jewish Palestine.

EXPELLED BY TURKS

Early World War I, Mr. Ben-Gurion wrote articles advocating the creation of a Jewish battalion in the Turkish Army. But the Turks suspected his motives and expelled him as subversive. With his chief collaborator, a young Ukranian Jew named Itzhak Ben-Zvi, who was to become the second President of Israel, Mr. Ben-Gurion made his way to the United States in 1915.

It was in New York that Mr. Ben-Gurion and Mr. Ben-Zvi founded Hechalutz (the Pioneers), which created Jewish settlements in Palestine between the world wars. And it was here that he met Paula Moonwess, daughter of an immigrant from Minsk. She was a student at the Brooklyn Jewish Training School for Nurses. They were married at City Hall in 1917.

Paula, a direct and unihibited woman, was to become a legend in Israel. She is said to have startled Dag Hammarskjold, the late Secretary General of the United Nations, by saying to him, "Why don't you get married and leave the Jews and Arabs alone?" Mr. Hammarskjold remained a bachelor.

SERVED IN EGYPT

Until Russia had left the war and the United States had entered it, Mr. Ben-Gurion believed that the best interests of the Palestine Jews lay with Turkey. But by 1917 there were indications that the Turks might not be on the winning side. Mr. Ben-Gurion helped organize two Jewish battalions in the United States and Canada to serve with the British in the Middle East. He served as a corporal in one of the battalions, with the Royal Fusliers in Egypt, but saw no action.

The Balfour Declaration of 1917 established the principle of a Jewish homeland in Palestine, and in 1922 the British were entrusted by the League of Nations with a mandate for Palestine.

Dr. Chaim Weizmann, the intellectual who was to become the first President of Israel, headed the world Zionist movement mostly from London. Mr. Ben-Gurion preached Jewish working-class solidarity on the scene in Palestine.

To a group of Zionist delegates he once said:

"Let me inform you gentlemen that Zionism has no content if you do not constantly bear in mind the building of the Jewish state. And such a state is only possible on the basis of a maximum number of workers, and if you cannot understand that, woe to your Zionism."

The Jewish Legion had been formed too late to contribute much to the defeat of Turkey but its existence provided Mr. Ben-Gurion with a fine channel for propaganda. He proselytized for the Poale Zion party among the 3,000 legionnaires. It was largely because of his initiative that Histadrut, the General Federation of Labor, was formed in 1920, with Mr. Ben-Gurion as Secretary General.

This powerful body, now quartered in a modern Tel Aviv skyscraper that enemies of Mr. Ben-Gurion called the Kremlin, expanded into banking, health plans, contracting, agriculture, marketing, education, insurance, transportation, employment agencies, collectives and cooperatives of every kind.

For the next five years Mr. Ben-Gurion campaigned for the union of Palestine's labor parties, and in 1930 the Mapai was formed. In 1935, he became chairman of the Jewish Agency, the executive body of Zionism.

OPPOSED BY MANY

Mr. Ben-Gurion had many opponents in the general Zionist movement. Vladimir Jabotinsky was one leader of a nationalist movement opposed to what many Zionists believed to be Mr. Ben-Gurion's strong Socialist views.

In 1936, Palestinian Arabs staged a bloody revolt against increasing Jewish influence, and the next year Mr. Ben-Gurion favored a partition of Palestine as recommended by a Royal Commission under Earl Peel. The Arabs rejected the proposal, and the British dropped the plan.

British policy became clearly pro-Arab, and in 1939 the British Government issued a White Paper that limited Jewish immigration to Palestine and land purchases there and was aimed at insuring a permanent minority status for the Jews there.

When Britain declared war on Germany, the Jews in Palestine pledged support against the common enemy but continued their resistance to the British policy, which they considered a threat to their existence.

Mr. Ben-Gurion put it this way: "We shall fight in the war against Hitler as if there were no White Paper, but we shall fight the White Paper as if there were no war."

During the war years he was preoccupied with these aims and internal matters in Palestine. And the mass extermination of German Jews intensified his desire to establish a Jewish homeland.

In 1945 he visited displaced-persons camps in Germany and the next year told a conference of survivors: "We shall not rest until the last one of you who so desires shall join us in the land of Israel to build the Jewish state together with us."

Mr. Ben-Gurion believed that if the Jews in Palestine could not defend themselves they would be driven out by the Arabs. From 1907, when he was with "Hashomer," the armed guard movement, while he was a labor leader in Sejera, a small isolated village in Sejera, a small isolated village in Galilee, he acted in the belief that the Palestinian Jews would have to protect themselves.

After the United Nations, on Nov. 29, 1947, resolved to partition Palestine into Jewish and Arab states, Mr. Ben-Gurion assumed the security portfolio of the Jewish Agency Executive.

He planned and supervised the transformation of the Haganah from an illegal underground military arm of the Jewish Agency into the Israel Defense Forces. He sent men to Europe to buy arms, including World War II surplus equipment, and to recruit Jewish war veterans to operate the planes, tanks and artillery with which the Haganah had had no experience.

Volunteers came from the United States, Canada, South Africa, South America and most European countries. Mr. Ben-Gurion obtained funds from Jews in the United States and bought machinery to establish an arms industry.

COOPERATION WITH BRITISH

From time to time Mr. Ben-Gurion cooperated with the British against terrorists, and armed clashes were narrowly averted.

During the mandate the Irgun Zvai Leumi, an extreme nationalist group, had conducted terrorist activities against the British Government. Unlike the Haganah, it had spurned the authority of the official Jewish leadership.

During a United Nations truce, the Irgun ran the landing ship Altalena ashore at Tel Aviv with weapons and volunteers. Mr. Ben-Gurion ordered Haganah troops to fire at the ship, which blew up. Men were killed and wounded on both sides.

The Altalena affair was one of the most controversial events in Mr. Ben-Gurion's career as Premier. Many Israelis never forgave his order, which deprived Israel of badly needed weapons and nearly touched off a civil war. Others said it had been one of the most courageous and statesmanlike actions of his career. They believed that by handling the situation firmly in that crucial period. Mr. Ben-Gurion had established once and for all that there was no authority in the state but the Government of Israel and in fact averted a civil war.

After the truce, renewed sharp fighting with the Arabs secured for Negev and central Galilee for Israel. Armistice agreements with Egypt, Lebanon, Syria and Jordan in 1949 ended the hot war for the time being.

DRASTIC ECONOMIC STEPS

Because large-scale immigration had nearly doubled the population and it was still necessary to maintain military preparedness, the Israelis by 1951 found it necessary to take drastic steps to bolster the country's economy.

Premier Ben-Gurion came to the United States on a fund-raising drive. He was received with enthusiasm and initiated the sale of $500-million in Israeli Bonds.

At this time Israel abandoned her foreign policy of "nonidentification" and openly aligned herself with the United States in the cold war. Previously, Israel, in her independence struggle, had bought arms from Soviet-block countries and had enjoyed good relations with the Soviet Union, one of the first nations to recognize the State of Israel.

At home Mr. Ben-Gurion wrestled with succeeding Cabinet crises until the day in 1953 when he decided that he had had enough for a while.

In an article written for The New York Times from his retreat at Sde Boker on his retirement, he said:

"No single person alone can determine the fate of a nation. No man is indispensable. In war there may be a commander or statesman on whom much or even all depends. Not so in time of peace. The fate of a country depends upon its own character, its ability, its capacity, its faith in itself, its sense of responsibility, both individual and collective. A statesman who sees himself as the determining factor in the fate of his country is harmful and dangerous."

Yet for 15 years Mr. Ben-Gurion made most of the decisions for Israel, and the most fateful were to come after he had returned to Jerusalem in 1955 and had begun leading the nation on a more adventurous path.

Although his country was in reality a ward of the United States, absolutely dependent on financial aid from Washington and from American Jewish groups, Mr. Ben-Gurion refused to permit any outside meddling in her affairs.

He showed his freedom from American controls early by ignoring strong Washington pressure to put Israel's capital in Tel Aviv, rather than in Jerusalem, which the United Nations has proposed as an international city. (The United States has refused to move its embassy from Tel Aviv to Jerusalem.)

In domestic politics, Mr. Ben-Gurion also defied strong forces, notably the ultra-Orthodox religious groups. Once, during an interminable Knesset debate over whether swine—forbidden to Jews as food—should be bred in Israel, Mr. Ben-Gurion remarked that if the Lord had objected to pigs He wouldn't have led them to Noah's Ark.

At another time he shocked rabbis in the Knesset by announcing that after a study of Exodus he had concluded that only 600 Jews—not 600,000 as the Bible maintained—could have left Egypt and crossed the Sinai Desert.

STUDENT OF BIBLE

Mr. Ben-Gurion was a profound student of the Bible. His speeches were enriched with references to the heroes and Prophets of the Old Testament. He had little formal education, but his intellectual curiosity led him, at 56, to learn Greek so he could read the Septuagint, the Greek version of the Old Testament. At 68 his interest turned to the Dialogues of Buddha, and he began learning Sanskrit to understand them fully.

He already knew enough yoga to stand on his head, and photos of Mr. Ben-Gurion in wry comment. Friends insisted however that Hazaken—the Old Man—as he was affectionately called, was sharper-witted upside down than most of his opponents right side up.

The most serious domestic challenge to Mr. Ben-Gurion's rule came as a result of the celebrated "Lavon affair."

A former protégé of Mr. Ben-Gurion, Pinhas Lavon, had risen in the Histadrut until his political influence was so considerable that he was regarded as a possible heir to the national leadership.

But Mr. Ben-Gurion fell out with Mr. Lavon and sought to destroy his power. A cloak-and-dagger fiasco, involving the collapse of an Israeli spy network in Egypt, gave Mr. Ben-Gurion the chance in 1955 to force Mr. Lavon's resignation as Defense Minister.

CENSORS VEILED AFFAIR

The scandal smoldered for six years. Few Israelis knew what the affair was about. The press was allowed to print only the state censor's approved phrase, "a security disaster in 1954." The Egyptian Government charged in 1954 that it had uncovered an Israeli spy ring that planned to blow up British and American consular offices to sabotage relations between Cairo and the Western powers.

Then, in December, 1960, the Lavon affair burst into the news again. Lavon was able to prove at a meeting of the Israeli Cabinet that forged papers had been part of the evidence that forced him from office. Mr. Ben-Gurion stormed from the room, but even this did not prevent his Cabinet from clearing Mr. Lavon of responsibility for the 1954 fiasco.

Mr. Ben-Gurion followed his usual tactic of bringing down the Government by resigning. But this time other members of his six-party coalition were so disturbed that they refused to join him in a new government. Hoping to silence his critics, Mr. Ben-Gurion called for new elections. The results, he conceded, were "a national disaster," for Mapai slipped from 47 seats to 42 in the 120-seat Knesset. After lengthy dickering, however, he formed a new Cabinet, and meanwhile the Mapai Central Committee had destroyed Mr. Lavon's base of power by ousting him as Secretary General of the Histadrut.

Eventually Mr. Ben-Gurion suffered the bitter fate that overtakes a statesman who has been around too long. He became a bore to his people, and they rejected him.

He resigned as Premier in June, 1963, because of "personal needs." He said later that he wanted to write a history of the Jews' return to their homeland. But in semiretirement he erupted sporadically, like a cooling volcano. He became increasingly critical of Levi Eshkol, the new Premier, and the estrangement between the two grew wider when Mr. Ben-Gurion proclaimed that Mr. Eshkol was "unfit to lead the nation."

He demanded a reopening of the Lavon affair. But the country was bored by the 10-year-old scandal, and Premier Eshkol refused a judicial inquiry into the almost-forgotten fiasco.

Mr. Ben-Gurion's efforts to return to active politics ended in humiliation. The Mapai Central Committee refused to put him on the party's list for the 1965 election. So he formed Rafi, a splinter party, taking with him a handful of younger politicians including General Dayan, the former Chief of Staff. The new party ran a poor fourth with less than 9 per cent of the vote, and won 10 seats in Parliament.

Mr. Ben-Gurion's wife died in 1968 and the old warrior spent much of his time thereafter in solitary contemplation. In 1968, after his small Rafi party decided to join the newly formed Israel Labor party, a number of Rafi members led by Mr. Ben-Gurion broke away. They formed the Independent National List and won four Knesset seats in 1969.

He remained in the Knesset until 1970, when he delivered a hand-written resignation note to the speaker, Reuven Barkatt and, dry-eyed, left the chamber for good.

Soon afterward, he told a visitor to Tel Aviv that he had found farm work more satisfying than politics. And he had this to say about Soviet intentions in the Middle East:

"They want to get the two oceans, the Atlantic and the Pacific. So first of all they must have the Mediterranean, and it is not easy to get that without the Arabs. They want the Arabs. I do not think they are interested in destroying Israel, because if they do, the Arabs will not need them."

VIEWS ON TERRITORIES

Concerning the territories that Israel occupied in the 1967 Arab-Israeli war, Mr. Ben-Gurion took a relatively dovish position:

"I consider peace more important than territory," he said. "The area we had before the six-day war would be enough to take in all the Jews."

He continued: "For peace, I would be for giving back all the captured areas, with the exception of Jerusalem and the Golan heights."

Turning to his old theme of the need for further immigration, he said Israel still needed "another five or six million" Jews. But he observed wryly, "I don't believe that all Jews will settle in Israel—unless the Messiah comes."

On the sometimes controversial question of what constitutes being a Jew, Mr. Ben-Gurion later told a visitor to Sde Boker, "The essence of being a Jew, in my opinion, is the idea of the Prophets—not the Torah, but the Prophets. They have two ideas: You must love one single God and you must lead a moral life. That is all that matters."

"Later on," he continued, "when we Jews lost our independence and we had to live in ghettos and were hated, then our leaders provided other things and rules about things to wear and say. They needed these things to keep Jews together as a nation."

But he said that now that Jews again had a homeland and independence, the rituals and practices had faded in significance against the Prophets' more general messages.

In his last years Mr. Ben-Gurion aged considerably. His nimbus of white hair seemed to grow wispier, and his thoughts sometimes rambled.

He spent much of his time in his cluttered

study at Sde Boker, living among his books and in the past. There was a large portrait of his wife, a map of Israel, a vase of desert roses among the awards and mementos. On his desk, there was always a Bible and a bottle of apple juice.

When he was well, he participated in kibbutz activities—dedicating a new garden, leading a Bible-study group, pressing Tel Aviv for a teachers' training institute for the settlement.

His time was devoted to study, reflection, writing, and a teeming correspondence with Jews all over the world. He produced three big books in his last years, including the 862-page "Israel: A Personal History," published here in 1971.

On rare occasions, he made public appearances. In early 1971, he toured the fortifications along the Suez Canal with Gen. Haim Bar-Lev, then the Chief of Staff, engaging in the banter he loved.

The old man was shown a bunker. "What kind of Hebrew word is 'bunker'? he asked. An escort explained: "We use 'bunker." because we have not yet got around to Hebraizing defense terminology. On offense, we have no foreign words."

Mr. Ben-Gurion talked with a soldier. "You're younger than I," he said, "perhaps you can tell me when there will be peace." The soldier replied: "Who knows? It depends on the Arabs."

"And on us!" the patriarch put in.

Later in 1971, on his 85th birthday, he publicly rejected an appeal from Mrs. Meir that he give up his splinter party and rejoin Mapai. Mrs. Meir nonetheless went to the celebration in Sde Boker, and they talked for a bit—after five years of silence.

His last appearance was in May in Tel Aviv for Israel's 25th anniversary. He sat bent over in a grandstand watching the pomp, wearing a farmer's hat.

SYMBOL OF PAST

He had become a symbol of the past, a much-loved grandfather hovering at the edge of the thoughts and aspirations of the embattled nation.

He said little about the October war, though he was quoted as having referred sarcastically to the arguments among Israeli generals following the Egyptian and Syrian surprise attacks: "They think they're generals now."

Sometimes in his last years Mr. Ben-Gurion argued that the Israeli Government was not genuinely democratic. Old opponents replied that it was Mr. Ben-Gurion himself who had introduced authoritarian ways into Israel during his years as Premier.

But even these opponents conceded that he and his wife had never stood much on ceremony. When Mrs. Ben-Gurion was asked once whether her husband should be addresed as "Prime Minister" or "Mr. Ben-Gurion," she reportedly said, "Call him Ben-Gurion. Anyone can be a prime minister, but not everyone can be a Ben-Gurion."

AN INDEPENDENT SPECIAL PROSECUTOR

Mr. BAYH. Mr. President, on yesterday the Judiciary Committee filed its report on S. 2611, a bill designed to guarantee the independence of the Special Prosecutor by vesting his appointment in the courts. I hope the Members of the Senate will be able to find the time to read this document which I believe deals fully and conclusively with the issues which will be debated when this bill reaches the floor. The House will soon act on a similar bill, and I would draw the Senate's attention to an editorial which appeared in today's New York Times supporting what it calls this "essential" legislation. I ask unanimous consent that the editorial be printed in the RECORD.

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

[From the New York Times, Dec. 4, 1973]

TRULY INDEPENDENT

In reporting out its bill to provide for a court-appointed Watergate prosecutor, the House Judiciary Committee declared that "the only way to assure that the American people will have complete trust and confidence in the aggressiveness and independence of the special prosecutor is to make him truly independent of the Executive, give him tenure, and legislate limited grounds for his removal."

The bill meets those essential requirements. A three-judge panel of the United States District Court for the District of Columbia would appoint the special prosecutor for a term of three years. The three judges would have the sole power of removal and only on grounds of gross impropriety, gross dereliction of duty, or physical or mental incapacity.

At present, the past of special Watergate prosecutor is occupied by Leon Jaworski. He has a distinguished record as a corporate attorney in Texas and as former president of the American Bar Association. But the most convincing testament to Mr. Jaworski's independence and determination to do the job lies not in his own protestations but in the fact that he has retained the entire staff of his dismissed predecessor, Archibald Cox. In a sense, Mr. Jaworski is hostage to his own subordinates. Nevertheless, the President's power to fire him, though somewhat hedged about, it still real.

Many legal scholars have agreed that a court-appointed special prosecutor is constitutional. Such an appointment would help restore public confidence in the special prosecutor's independence, particularly as the White House has begun the same sniping at Mr. Jaworski that it had leveled against Mr. Cox. Congress has already delayed unduly long in enacting this essential statute.

FUEL RATIONING

Mr. BAYH. Mr. President, it appears that the Nixon administration, so intent on avoiding fuel rationing by coupons, is instead going to ration fuels by prices.

Treasury Secretary George Shultz said as much in a television interview Sunday. And the elevation of William Simon, Mr. Shultz' top assistant, to the head of a new Federal Energy Administration would seem to confirm that a decision has already been made to let gasoline and oil prices rise sharply. Mr. Simon previously has gone on record in favor of such an approach.

It is unclear whether the higher prices would be a simple product of market forces—in which the oil companies are permitted to exploit the fuel shortage for windfall profits—or through higher Federal taxes, or a combination of the two devices.

In any event, pricing alone is the wrong way to cope with the problem and suggests that the Nixon administration has yet to come to grips with sound energy policy.

Make no mistake, controlling the demand for fuels by raising prices is rationing. However, instead of rationing fuel according to need, the price approach rations fuel according to one's ability to pay the higher prices. Low- and middle-income Americans, already reeling under months of unprecedented inflation, can little afford a sharp increase in their fuel bills. On the other hand, those Americans with greater means could continue to have all the fuel they want. This is completely inequitable. Under the guise of free market economics such an approach would deny an essential commodity to millions of Americans.

If higher prices were used to ration fuels, thus increasing oil company revenues, it would mean a further sharp increase in the record profits already being realized by those oil companies. This would place the Government in the unwelcome position of legitimizing profiteering, and discourage necessary public support for Federal energy programs.

Raising consumer prices through significantly higher fuel taxes would be highly regressive. For example, in my own State of Indiana there are many factory workers who travel as many as 500 miles a week to and from their jobs. A sharp rise in gasoline taxes would place a totally unacceptable burden on these individuals, making it unprofitable for them to work.

Furthermore, no matter what device is used to raise prices for fuels, a sharp increase in the cost of this essential commodity would have a severe and unacceptable inflationary effect. The cost of living rose last month at an annual rate of 9.6 percent. It is painfully obvious that we cannot stand further inflation, and it would be especially ironic if the administration's response to the energy crisis was so poorly considered that it worsened our already excessive inflation.

It is important to note that increases in fuel costs fall unjustly on average wage earners in two ways. First there is the cost increase of an essential commodity, the gasoline that takes a person to and from work. Second, and perhaps even worse in the long run is the general inflationary effect of such price increases on all other consumer products. At the very least the cost of all products will be increased by raising fuel costs since transportation is a significant factor in the sale price of any product. But even beyond the increase in transportation costs is the fact that many products, from fertilizer to children's sneakers, from plastic food wrapping to automobile tires, depend, in part, on petroleum. The cost of these, and many other products such as chemicals, plastics, drugs, et cetera, will be seriously affected by raising the cost of oil. And, as is always the case when inflationary pressures mount, the American worker and his family will end up bearing the brunt of such price increases.

Mr. President, the Congress must make clear to the administration our unwillingness to tolerate rationing through pricing policy. Such a misguided policy would not only impede constructive programs for dealing with the energy crisis, it would do further damage to an economy already shaken by the unprece-

dented combination of inflation, high unemployment, and shortages in many major industries.

THE FAO CONFERENCE

Mr. HUDDLESTON. Mr. President, it was my privilege and pleasure to serve as a representative of the Senate at the Food and Agricultural Organization—FAO—conference, 17th session, in Rome.

There have, undoubtedly, been few times when an FAO conference was as timely and significant as the one just completed. In our own Nation this year, food prices have soared and we have witnessed, at times, scarcities of many familiar items. In Japan and Western Europe, higher incomes and a desire for additional protein have increased demand for certain foodstuffs, pushing already expensive food prices upward. In a number of the less-developed countries, such as India and Pakistan, the food situation has been tight and in the Sahelian zone of Africa it has been a tragedy.

The difficulty of coming to grips with world food problems is compounded by the difficulty of distinguishing short-term trends from longer ones, of identifying and providing for the supportive agricultural elements, such as fertilizer and energy supplies, and of analyzing and developing a policy which recognizes the North American Continent as a world granary.

In 1972, probably for the first time since World War II, world agricultural production fell, as did fishery production. While the overall decline was only about 1 percent, the decline in the production of coarse grains—which provide the major source of food in less developed countries and which contribute to the availability of high-protein foodstuffs such as meat—fell by about 3 percent. World rice production was reduced by about 4 percent over the 1971 figure.

AGRICULTURAL TRENDS

The decline—particularly in wheat and feed grain production—was attributable to several short-term factors, with weather being a principal one. In the early part of the year, hurricanes struck several areas in the United States which normally produce feed grains. Later, wet weather delayed and retarded the harvest; then, subsequently prevented early plantings of soybeans for 1973. Drought in several parts of the world—including Australia which is a traditional wheat exporting nation—exacerbated the problem.

The Peruvian anchoveta catch, which usually provides fish meal equal to 125 million bushels of soybeans, declined as the cold Humboldt current switched its course. The result was a greater demand for soybeans as animal feed.

The Soviet Union, which is normally self-sufficient and often an exporter of grains, experienced a major shortfall in production and entered the world market to purchase on a large-scale basis, aided in the United States by credit, shipping, and subsidy policies pursued by the Government.

Furthermore, the devaluation of the U.S. dollar made American farm products a good buy. In Japan, for example, which is the largest single importer of U.S. agricultural products, the dollar declined about 26 percent in value against the yen during the past 2 years.

Over the longer run, world population continued to expand, increasing about 2 percent per year; spreading affluence in Western Europe and Japan resulted in heightened demand for protein-rich foods; the Soviet Union embarked upon a program to improve its people's diets. In addition, there was evidence to suggest that worldwide weather patterns are changing and that certain waters, including those near Peru, have been overfished and will not, consequently, return to the production levels of previous years.

SUPPORTIVE FACTORS

In addition to the short- and long-term trends which affect the future of agricultural production and demand, a number of supportive elements or imputs also have vast ramifications.

In our own Nation, the most pressing problems in terms of inputs include fertilizer, energy supplies, and transportation facilities.

Nitrogen and phosphorous, two of the three main elements in fertilizer, are in short supply as in natural gas, which serves as a feedstock in production. As a result, world prices for these components soared, as they did for potassium, a supply of which is more available. Furthermore, until the latter part of October, fertilizer products came under ceiling prices administered by the Cost of Living Council, which were well below world market prices. This meant that U.S.-produced fertilizer often went abroad rather than remain at home. On October 25, the Cost of Living Council lifted the price controls and U.S. manufacturers agreed to concentrate on the domestic market. But, many export contracts had already been signed and by the latter part of November the need for an export licensing system had become evident.

About 30 percent of U.S. feed grain production is attributed to fertilizer, with nutrients being used on 96 percent of corn acreage, 62 percent of wheat acreage, and 31 percent of soybean acreage. It has been estimated that a shortfall of a million tons of nutrients, which is considered possible, could result in a reduction of up to 20 million tons of feed grains.

In addition to the shortage of natural gas, which is likely to affect fertilizer production, a lack of propane could threaten the drying of grains and a general scarcity of fuel could have an impact on planting, harvesting, and transporting farm products.

Transportation of grains, particularly at harvest time, has traditionally posed difficulties in the United States The energy shortage, together with increased demand for transportation, will undoubtedly bring new problems.

Both in the United States and the world, land is becoming a scarce commodity. With 1974, the United States will do away with set asides, encouraging cultivation of most available acreage—there are, however, some indications that farmers are not going all out on production.

In many other parts of the world, the major portion of cultivable land is in use, especially that which has moisture or is easily irrigated.

Furthermore, the less developed world is plagued by land tenure problems; a lack of basic infrastructures; unavailability of capital; and problems of communication and education. While two-thirds of those in the developing nations earn their living from farming, the average farmer may not own his land, may not have the funds to purchase high-yielding seed or the nutrients necessary to the seed, may not have access to a farm-to-market road or storage facility and may have no idea how to obtain the information and knowledge necessary to improve his farming methods.

EXISTING STOCKS

To complete the picture of the current world agricultural scene, one must add the existing stocks of grain to production trends and availability of inputs. We now have the lowest world grain reserves in 20 years. Furthermore, U.S. stocks are down—a matter of some importance since the United States, during the last decade, has supplied more than half of all carryover stocks from year to year.

The U.S. carryover of wheat and feed grains at the end of the current year—June 1974—is expected to be small, contributing to further tight supplies and continuing high prices for the raw grains and for flour- and feed-based foods.

These factors take on new importance in light of the fact that in recent years North America—the United States and Canada—has become the foremost world trader in grain. As the following chart prepared by the Overseas Development Council clearly indicates, there is simply no competition:

THE CHANGING PATTERN OF WORLD GRAIN TRADE

[Millions of metric tons]

Region	1934–38	1948–52	1960	1966	[1] 1972
North America	+5	+23	+39	+59	+84
Latin America	+9	+1	0	+5	−4
Western Europe	−24	−22	−25	−27	−21
East Europe and USSR	+5	.....	0	−4	−27
Africa	+1	0	−2	−7	−5
Asia	+2	−6	−17	−34	−35
Australia	+3	+3	+6	+8	+8

[1] Preliminary.

Note: Plus equals annual net exports; minus equals annual net imports.

In addition, the United States is responsible for over 90 percent of the world's soybean exports and is currently the principal exporter of rice.

U.S. POLICIES

The world food and agricultural situation has direct implications for U.S. policies in at least three fields: first,

farm programs; second, trade; and third, development assistance to foreign nations.

During most of the post World War II period, the United States lived with agricultural surpluses, a set-aside program which idled close to 50 million acres of farmland; a support program which led to Government acquisition of grains, and relatively low food costs. In 1972, those situations changed. Surpluses were gone, food costs rose, set-asides were abandoned over the upcoming 2-year period, the Government removed itself from the acquisition process and a new agriculture program which will provide support payments only when farm prices fall below "target levels" was adopted. In other words, a decision was made to go all out on production and to leave supplies in private hands.

Over the next several years, the production policy appears desirable. At the moment, 1974 and even 1975 are years of anticipated tight supplies. During those years, we must monitor the trends to determine whether the short- or long-term ones are persisting and to determine whether the current period is an aberration or whether it marks a true change in the supply/demand equation. If we return to surplus production—and the change from scarcity to surplus is small percentagewise—one policy will be required. If we face the prospect of continuing scarcities and tight supplies, another will be necessary.

During this period, decisions will also be required on proposals to establish domestic grain stocks and to create a world food security program. I am a cosponsor of a bill to provide for a minimal domestic reserve designed to protect our basic foods and believe careful consideration should be given to an international program—as well as the attendant problems of who will pay, who will administer and how—which the latter raises. Undoubtedly, the best forum for discussion of the latter is the world food conference proposed by Secretary of State Kissinger.

Special attention must be given to the supportive factors. As previously noted, the Cost of Living Council acted recently to lift the ceiling on domestic fertilizer costs and a licensing system has been imposed to help stem the movement of fertilizer abroad. But, this situation too must be monitored in the upcoming months and efforts made to increase domestic production.

In the meantime, efficient use should be made of the plant nutrients which are available. For example, soils should be tested to determine where fertilizers are needed—and where they are not needed. Liming should be used where it can improve the soil. Manure and crop residues should be utilized when they are available and will not pollute water supplies.

Priority in propane and petroleum allocations must continue both for production and distribution of foodstuffs.

Research should be expanded, especially in soybeans. World demand for soybeans is growing, as is production. Yet, most of the recent increase in production has resulted from the planting of additional acres, not from increased yield per-acre. With the increasing demand—particularly if the anchoveta catch does not return—and the declining number of available agricultural acres, we should strive for a breakthrough on per-acre yield.

TRADE

A second policy closely related to the food and agricultural situation is that of trade. In recent years, U.S. farm products, emanating from a capital and technologically intensive agricultural system, have proven to be a bright spot on the trade spectrum. The U.S. farmer is efficient and he can produce grains at a competitive cost.

During the 1972–73 year, U.S. agricultural exports reached $12.9 billion and contributed $5.6 billion to the trade balance—exports minus imports. Projections for the upcoming year suggest the figures may reach $19 billion and $10 billion, respectively.

There are several important implications of this trade. First, it helps stabilize the U.S. dollar abroad and assists in offsetting the expenditures which the United States must make in other countries for raw materials we lack and items in scarce supply at home.

Second, it allows the United States to pursue full production without causing a glut on the domestic market. The U.S. production picture, taken alone, is not a bleak one. Even with the reduced production of 1972, total wheat harvested in the United States was twice that required for domestic use. When the previous year's carry-in is added, the U.S. domestic requirements accounted for only one-third of overall supply. In 1973, a record wheat harvest of 1.7 billion bushels is anticipated, but only between 750 to 780 million bushels will be used domestically for food, seed, and livestock feed. With corn, 5.5 billion bushels will probably be harvested, while domestic disappearance is estimated at 4.7 billion bushels. Thus, exports are essential to the well-being of U.S. agriculture.

The problem lies in the handling of those exports.

During the past year, the export situation simply got out of hand, forcing our Nation to embargoes, export controls, and the institution of a monitoring or export reporting system.

Every nation must, of course, seek to protect its own food supply. The United States is no different. At the time they were initiated the controls were probably necessary—the situation had degenerated to that point. But, what we should strive for is a policy which will preclude the necessity for "drastic" actions—to use the administration's own terminology—on exports.

The monitoring system now in effect can be improved. Information on exports should be obtained more promptly and additional data on exports held for "unidentifiable" destinations should be required.

Consideration should be given to licensing of the export of any commodities expected to be in especially tight supply. Any such licensing considered should, however, go hand in hand with planning and should be implemented when data collections warn of potential shortages—not after some crisis is upon us.

Furthermore, improvements should be made in data collection and dissemination with new attempts to include expanded information on the Soviet Union and People's Republic of China.

Coupled with this should be a policy for fulfilling obligations should trade restrictions become necessary. For years, the United States has been encouraging the European Community and Japan to import additional U.S. grains. The summer embargo and then licensing of soybean exports dealt a blow to U.S. arguments for increased grain trade and raised questions about the stability of the United States as a supplier nation, which we, in effect, are. Thus, it would appear advisable to develop a policy, known to our trading partners, for dealing with scarce situations—a policy which should seek, after protecting our own interests, to protect the traditional U.S. purchasers—the ones who have been there in years past and will be there in the future—and then to provide assistance to those nations where it may make a difference in terms of survival. Development of such a policy would not only lend credibility to the United States as a supplier, but would also contribute to more stable trade patterns.

Movement toward such a policy might also provide the incentive for those nations which are now outside the major trade patterns but which can disrupt the market—notably the Soviet Union and the People's Republic of China—to become more cooperative on trade matters.

In short, each nation can proceed on the basis of pure self-interest and haphazard planning, fulfilling its own needs and then letting the trade chips fall where they may. Or nations can seek to utilize a mechanism—perhaps the General Agreement on Tariffs and Trade—GATT—which would allow them to protect their own supplies but also one which would provide policy guidelines and bring order to the distribution of scarce commodities when exports must be restricted.

DEVELOPMENT ASSISTANCE

Some 2 billion people live in the developing nations of Asia, Africa, and Latin America. More than two-thirds of these people live in rural areas and most of them earn their living by farming.

Yet, in these areas, a large segment of the population spends as much as 80 percent of its income on food, and these countries annually import billions of dollars of foodstuffs from the industrialized nations.

Insuring an adequate supply of food for these nations, especially when supplies are limited and affluent nations can bid prices up, is a major concern. If no provision is made, millions can starve; stability can be threatened in many parts

of the world; and development which would enable these nations to participate in the world trade flow is retarded. Thus, humanitarian concerns, security and economic well-being, especially in a time of resource and raw material shortages, argue for attention to the needs of these peoples and nations.

To permit the industrialized nations' preoccupation with their own needs and the prevailing disillusionment with development aid to eliminate concern for the requirements of two-thirds of the world's inhabitants would be a long-term mistake.

There are, furthermore, steps which can be taken. Voluntary population control programs can be pursued and expanded. Despite the efforts that have been made, population increases in the less-developed nations continue at more than twice the rate in most industrialized countries, enlarging the youth population which drains from rather than contributes to development.

New efforts can be made with fortified and formulated foods—and with the distribution and educational activities necessary to guarantee that such foods are properly utilized.

The directions taken by the World Bank and U.S. Agency for International Development to improve the infrastructure of agriculture in LDC's should be supported and encouraged. The average farmer cannot benefit from the development of a new variety of wheat or rice if he is unable to obtain the seed, to gain the knowledge and technology to grow the crop, to have access to a road to get his product to market.

Finally, careful study should be given in the GATT negotiations to the needs of the LDC's. Without access to markets for products which they do grow and manufacture the LDC's cannot secure the foreign currency required to purchase foodstuffs and technology they need or to pay the growing debt service charges on loans which are essential to development.

INTERRELATIONSHIPS

As in the case of energy supplies, or security arrangements and of so many other areas, food and agricultural production at home and abroad are part of a complex—and often frustrating—web of interrelationships. Lacking—and badly needed—is a guide to that web so that we can know and pursue the correct direction.

The next year to 18 months are critical on many fronts. It is during that time that the impact of short-term versus long-term trends should become clearer. It is during this time that the policies to see us through the period which evolves must be determined. And, while we may not now be able to fill in all the detail and legislative footnotes, we must begin to monitor and analyze the trends and develop the policy outlines and objectives to guide us in the all-important area of securing man's food supply.

U.S. FERTILIZER NEEDS

Mr. HUMPHREY. Mr. President, in September and October of this year, I addressed this body with respect to a predicted fertilizer shortage which I felt and still feel could seriously threaten crop production for the coming year and possibly years to follow.

Government policy at that time imposed price ceilings on fertilizer sold for domestic use but not on fertilizer for export—resulting in higher exports of U.S. fertilizer and lower imports of foreign fertilizer.

The Cost of Living Council on October 25, 1973, dropped phase IV price controls on primary fertilizer materials, an action predicated on a series of steps taken by the fertilizer industry to increase fertilizer production. The CLC, in announcing this action, said that if the two-market pricing system were allowed to continue, net supplies of nitrogen for U.S. farm use could be expected to fall 10 percent short of requirements for 1974, or a shortage of approximately 1 million tons of nitrogen fertilizer and 700,000 tons of phosphate fertilizer.

Many experts felt that, with the lifting of these controls, domestic prices would rise and therefore be more in line with the world market price and the shortage could possibly be stemmed.

In 1972–73 total use of fertilizer was an estimated 42.5 million tons of which 85 percent—36 million tons gross weight—of this was used in commercial agriculture and some 70 percent of this is applied in the spring.

Have we seen the kind of results we were hoping for with the decontrol of prices? When prices were decontrolled, some 40 fertilizer producers indicated they would make an estimated 1.5 million tons more fertilizer available to U.S. farmers during the remaining months of 1973 and the first half of 1974. "Available" means that the fertilizer would be offered at market prices. And still, we cannot be certain this is being done.

At the wholesale level, some fertilizer prices were as much as 65 percent over the market price prior to decontrol. These price advances carried through the retail level as can be seen from the tables at the end of this statement.

The United States has historically operated with surpluses of its most valuable commodities. But in 1972, a lack of Peruvian fishmeal and other protein sources for feedstuffs, coupled with an unusually large foreign demand for our products, left the "Land of Plenty" with short supplies of food and fiber and skyrocketing prices.

So, the Department of Agriculture announced a policy to eliminate its set-aside program which in 1972 accounted for 60 million acres being taken out of production, and encouraged increased agricultural production. USDA has estimated that farmers will plant 246 million acres of wheat, soybeans, and feed grains in the 1974 crop year, an increase of 28.9 million acres, or 13.3 percent over 1972. This means increased needs in fuel and fertilizer to accommodate such increased production.

It is probable that the output of most fertilizers will be curtailed to some extent by the short supply of energy. Ammonia production may be cut 2 to 4 percent by curtailment of the use of natural gas. Phosphate rock mining may be slowed by a reduction in electric power in Florida. The phosphate mines account for about 10 percent of the electric power used in Florida and demand can exceed generating capacity in the summer months. Natural gas also is used in the potash production process. Although gas requirements are considerably below those in other segments of the fertilizer industry, its use is essential.

Again, North American potash supplies are more than adequate. New phosphate plants now being constructed will add some 1 million tons P_2O_5 by the end of 1974 to our present capacity, according to the Department of Agriculture. Another million tons is scheduled to come onstream in 1975. But this still does not give our farmers any reassurance about this coming year's crop.

Nitrogen output will be our biggest problem and the most difficult to solve on a strictly domestic basis. The major obstacle is the availability of a natural gas contract over a long term of 15–25 years. A ton of ammonia requires 35,000 cubic feet of gas. This means a 1,000-ton-a-day ammonia plant needs 35 million cubic feet of gas per day or 11.9 billion cubic feet per year for 340 operating days.

While we have organic fertilizers such as garbage, animal manure, human excretion—all of which are valuable sources of plant nutrients, unfortunately, the supply of nutrients per ton of manure is quite low so there is simply not enough to supply our plant nutrient needs.

Inasmuch as we have an existing shortage of fuel which will necessarily affect the production of fertilizer and inasmuch as we have asked farmers for all out production—an estimated 28.9 million more acres than last year—undoubtedly farmers will again be faced with a severe short supply of certain fertilizers next year.

It seems inconceivable that plants operating at over 90 percent capacity can increase further. It further seems inconceivable to me that the foreign demand will diminish materially. As a result, in the short run we have a choice that will be extremely difficult to make—but will have to be made.

One step already taken by the Department of Commerce has been to monitor exports of fertilizer, domestic supply and pricing of certain fertilizers. I think that this was a prudent step in view of the imponderables that face farmers in the coming year.

Mr. President, you will remember that some time ago I wrote the Secretary of Agriculture urging the creation immediately of an interagency task force on the fertilizer shortage. To date we are limited to the recently announced monitoring system of the Department of Commerce. I question the accuracy of this system in providing us hard figures on supply and demand. I repeat that unless we utilize the expertise of our vari-

ous Government agencies as well as the private sector in complete cooperation and on a continual basis, we will find ourselves in the case of fertilizer and its effect on crop production—without food for our tables.

Mr. President, I ask unanimous consent to have printed in the RECORD some recent figures showing increased fertilizer prices as a result of deregulation.

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

Some firms have now posted wholesale fertilizer prices after deregulation at 3:30 p.m., Thursday, October 25.

These are the official prices charged by one large firm for domestic sales. For comparison, the open market prices posted in New York City in the *Chemical Marketing Reporter* also are shown.

Dollars per short ton, f.o.b. Florida

Material	CMR	Producer	Percent increase
Diammonium phosphate	$75	$110	47
Concentrated superphosphate	55	91	65
Ammonia, delivered, east of Rocky Mountains except East coast	63	100	59
Urea, same basis	72	104	44

Percentage increases during the first week of decontrol ranged upward to as much as 56% at the U.S. level for specified fertilizers.

The ASCS survey of fertilizer prices at retail as of October 25, 1973, and a week later shows these increases in average prices for the United States.

Fertilizer	Dollars/ton		Percent increase
	Oct. 25	Nov. 2	
Ammonia	$102	$136	33
Ammonium nitrate	75	101	35
Urea	100	126	26
Concentrated superphosphate	73	114	56
Diammonium phosphate (18-46-0)	118	146	24
Potash	68	75	10

Source: USDA Nov. 20, 1973.

As a comparison, see retail price data for the States of Illinois and Minnesota below.

These are the results of the ASCS telegraphic survey of fertilizer prices on the day they were decontrolled and the following 2 weeks. These are retail price averages in the State of Illinois.

Fertilizer	Dollars per ton		
	Oct. 25, 1973	Nov. 2, 1973	Nov. 9, 1973
Ammonia	87	132	146
Ammonium nitrate	80	106	107
Urea	108	143	148
Concentrated Superphosphate	107	146	146
DAP—18-46-0	125	168	175
Potash	64	72	75

These are the results of the ASCS survey of fertilizer prices on October 25, 1973, and 2 weeks later. These are average retail prices for Minnesota.

Fertilizer	Dollars per ton		Percent increase
	Oct. 25	Nov. 19	
Ammonia	$111	$133	20
Ammonium nitrate	82	96	17
Urea	112	136	21
Concentrated superphosphate	99	122	23
Diammonium phosphate	128	150	17
Potash	65	70	8

IMPROVEMENTS IN BASIC EDUCATIONAL OPPORTUNITY GRANT PROGRAM

Mr. MONDALE. Mr. President, as you and many of my colleagues are aware, I and many other Senators have been struggling for some time to assure that the newest program of Federal scholarship aid to college students is administered in a fair and equitable way, generally, and in a way that does not discriminate against children of farm families and small business families in particular. In response to our concerns, the Commissioner of Education announced a significant improvement in the program this past Friday. While this change does not begin to solve all of the problems that exist, it is an important step in the right direction—one I want to bring to the attention of my colleagues and the public, and one for which I want to commend Commissioner Ottina.

As we are all aware, one of the most encouraging elements in the Education Amendments of 1972 was the creation of the basic educational opportunity grant program. This new student aid program represents a major and long overdue improvement in our national commitment to student aid. If the regulations governing this program are equitable, and if this program receives adequate funding, it could go a long way toward reducing financial barriers that currently keep hundreds of thousands of talented and scholastically able students from continuing their education after high school.

FAMILY CONTRIBUTION SCHEDULE

Perhaps the single most important feature of this program is the assumptions it makes about how much financial help families of different incomes and different sizes can reasonably be expected to contribute to the costs of higher education for their children. These assumptions, as much as any other factors in the program including its appropriations, determine whether or not adequate scholarship aid will be available to help young people attend college. Under a set of general guidelines the law authorizes the Commissioner of Education to make these determinations—in the form of family contribution schedules—and submit his recommendations to the Congress. The expected family contribution is then subtracted from $1,400 to determine the amount of financial aid a student is entitled to—provided this amount does not exceed one-half of the cost of attending college.

In short, if the family contribution schedules are realistic and equitable then the BEOG program will authorize the kind of adequate scholarship aid that the law intended and many families need. On the other hand, if the family contribution schedules include unreasonably high expectations about the capacity of low- and middle-income families to contribute to the costs of higher education for their children, the BEOG will not be able to provide the kind of help necessary and thousands of talented young people in this country will continue to be denied the opportunity to further their education after high school.

CONGRESSIONAL OVERSIGHT

Mr. President, I am proud to say that the appropriate committees in both the Senate and the House of Representatives have been following the administration's proposals for family contribution schedules very carefully. Both the Education Subcommittee in the Senate and the Special Education Subcommittee in the House of Representatives, under the able leadership of Senator PELL and Congressman O'HARA, respectively, have been providing the kind of active review and oversight that this issue requires.

These hearings have identified a number of serious problems in the administration's proposed family contribution schedule. At the Senate hearings last February 22, it became very clear that the originally proposed contribution schedule placed an unrealistically high expectation on the ability of families generally to contribute to the higher education of their children, and placed particularly unrealistic expectations in regard to the families of farmers or small businessmen. These proposed family contribution schedules for the BEOG program required many families to pay for their children's college costs than the schedules currently used by most colleges to determine student aid. For example, OE's original proposal would have denied aid entirely to the children of farmers or small businessmen with assets of $34,000 or more, even if they had received no income at all the previous year.

In addition, this initial proposal would have provided substantially less assistance to many children of large families than they would have received under either of the two independent scholarship services—the American college testing program and the college scholarship service.

As a result of these hearings, at which we received excellent testimony from Mr. Richard Hawk, the executive director of the Minnesota Higher Education Coordinating Commission, I initiated a letter to Commissioner-designate Ottina, signed by Senator PELL and 31 other Senators, expressing our concerns in these areas and recommending that the proposed contribution schedule be adjusted.

I ask unanimous consent that a copy of that letter and a copy of the testimony and other materials submitted by Mr. Hawk be printed in the RECORD at the end of my remarks.

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

(See exhibit 1.)

Mr. MONDALE. Mr. President, in reply to our concerns the Office of Education made some minor modifications in the middle of May. These modifications did not, however, even begin to adequately address the problems we had identified. But, because the 1973 fall term of college was rapidly approaching, I wrote to the Commissioner indicating that I believed these changes represented a small step in the right direction and urged him to implement the program immediately on an interim basis, so that grants would be available in the fall. In that same letter, however, I underscored my continuing concerns and recommended several more significant modifications to assure the necessary relief in time for the second year of the program.

Mr. President, the Education Subcommittee held further hearings on this problem on October 11. These hearings illustrated the problems we had identified last spring and the inadequacy of the modest modifications the Office of Education had made in the interim. For example, the Office of Education testimony revealed how children of farm families or families with small businesses were qualifying for aid under this program at a substantially lower rate than applicants as a whole. And it was revealed that similar problems existed for the children of widows and widowers, and young people receiving social security benefits.

At that hearing, I continued to urge Commissioner Ottina to make the major kinds of adjustments that are required. I ask unanimous consent that a copy of the Commission's testimony appear at the close of my remarks.

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

(See exhibit 2.)

RECENT ANNOUNCEMENTS

Mr. MONDALE. Mr. President, I am delighted to say that in response to our continuing concern the Office of Education has now made an important change in the family contribution schedule. This change will be particularly helpful to many children from farm families or families with small businesses; children of widows or widowers; and children from lower income families who have built up equity 'n their homes over a number of years. The Office of Education described this change in a statement by Commissioner of Education, John Ottina, before the Special Subcommittee on Education of the House of Representatives last Friday, November 30, 1973, and provided those of us on the Senate Education Subcommittee with a copy of the testimony at the same time.

I ask unanimous consent that a copy of that statement appear in the RECORD at the close of my remarks.

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

(See exhibit 3.)

Mr. MONDALE. Mr. President, this change provides a far more equitable treatment of assets for some of the applicants under the BEOG program. While the details of this change are too technical and complex to discuss, let me, by way of example, point out what these changes mean.

Under the previous regulations, a farm family of four with one son or daughter going to college and an annual income of $3,000 or less and farm assets of $34,000 would have qualified for no scholarship help at all. Under the recent change in the regulations, that same family can now qualify for up to $1,375 in scholarship aid for their son or daughter. In total, this change could make up to $100 million of additional funding available to help young people pay for the cost of attending college.

I commend Commissioner Ottina for proposing this much-needed and very important change. But while it represents a very important step toward resolving some of the problems in the earlier family contribution schedule, it is only a first step.

Serious problems remain in other areas and I intend to continue urging appropriate action—hopefully through the administrative modifications, but through legislation if necessary—to remove these remaining problems.

REMAINING PROBLEMS

First, the so-called family-size offset in the administration's proposal is simply too low. This is the amount of income a family is permitted to deduct before the regulations expect a family contribution toward the costs of higher education for its children. This family size offset figure is currently at a level almost equal to the poverty level. A family of four, for example, is expected under the current schedule to be able to provide for its subsistence needs with an income of $4,300. That family is then expected to contribute to the cost of college 20 percent of any income in excess of $4,300—with the exception of Federal taxes paid, unusually high medical expenses or employment-related expenses. This expectation is simply not realistic. The family offset—that is the point at which family contributions are required—should be adjusted upward at once. The Office of Education has indicated that it will adjust the existing family size offset to reflect inflation during the previous year, but this is simply not enough.

Mr. Richard Hawk proposed, for example, that family size offsets be derived from the low standard of living budget calculated by the Bureau of Labor Statistics—as they are in the American college testing program. Table 2 in the material from Mr. Hawk which will appear at the end of my remarks indicates what this kind of modification would mean. A change of this kind makes a great deal of sense to me. And if it were coupled with an increase in the asset exemption, either to a higher flat rate or, as Mr. Hawk suggested, in a manner to reflect family size, the BEOG program would be considerably fairer and more equitable for families across the board.

Indeed, the entire problem of assets is still a long way from being resolved. The recent change announced by Commissioner Ottina helps provide much-needed relief to some farm families, but many still face serious problems. The National Association of Student Financial Aid Administrators and 10 other organizations recently proposed exempting 50 percent of farm and small business assets and raising the asset exemption from $7,500 to $15,000, and I endorse that recommendation.

Second, it is very clear that a change has to be made in the treatment of social security benefits paid to a young person, because he or she is a student. Currently the regulations require that 100 percent of that social security income be used by students to pay for higher education expenses. No recognition is given to the fact that in many families part or all of these funds are relied upon for subsistence. I am pleased that Commissioner Ottina indicated in his testimony that while he did not have a specific change in mind, the Office of Education would definitely change and reform its treatment of this kind of social security benefits. It is clear that treatment of these benefits should be liberalized substantially.

Finally, Mr. President, I think it is becoming increasingly clear that some way must be found to simplify the application forms for the BEOG program. Applications for assistance under this program are simply not being submitted at anywhere near the anticipated rate and reports suggest that one of the problems is the difficulty and confusion generated by the application forms themselves. It is absolutely tragic that thousands of young people who need financial aid to attend college are not applying for it under the BEOG program. Part of the problem, in my judgment, is the unnecessarily restrictive regulations—such as the low family size offset—that make ineligible many of the young people I believe were originally intended to be served by this program. But another very important factor, it appears, is the application forms themselves. The Office of Education is redoubling its efforts to encourage all eligible students to apply and it is planning to extend the deadline for application forms from February 1 to April 1. While I commend both of these efforts, I also wonder whether serious thought should not be given to revising and simplifying this application—perhaps changing it from a self-computation method.

Mr. President, the change the Office of Education has announced with respect to the treatment of assets and the additional help it means to young people from farm families, from families with small businesses, and for other families is very significant. I commend Commissioner Ottina for making this modification and I am hopeful that it will lead to further changes in areas such as the ones I have listed above. The basic educational opportunity grant program is one of the most promising and important programs enacted in recent years. I hope very much that we can, through further modifications of some of its existing regulations, improve it to the point where it can truly provide the kind of assistance so des-

perately needed by many families and young people across the country.

EXHIBIT 1

U.S. SENATE,
Washington, D.C., March 28, 1973.

Hon. JOHN OTTINA,
U.S. Commissioner of Education Designate, Department of Health, Education, and Welfare, Washington, D.C.

DEAR COMMISSIONER: We would like to register our deep concern over the family contribution schedule recently proposed by the Office of Education for the Basic Educational Opportunity Grant Program.

During the Education Subcommittee hearing at which you testified on this proposal, it became apparent that your schedule would require many families to pay more of their children's college costs than the schedules currently used by most colleges to determine student aid.

There are two aspects of this proposal which present particular problems: First, the schedule would make it difficult, if not impossible, for many children of farmers or small businessmen to receive the scholarship aid they need to attend college or post-secondary vocational schools. As we know, the family farmer or the small businessman needs investments in buildings, land and equipment just to eke out a living. Yet, these proposals would deny aid to the children of small businessmen in Rhode Island or elsewhere in this country who have assets of $35,000 or more, even if their income was below the poverty line. And they would deny scholarship aid to children of a farmer in Minnesota whose income is $3500 a year or less, if his farm is worth $35,000.

Secondly, this proposal would make it difficult for many children in large families—both poor and middle-income families—to secure the assistance they need.

In both these areas your proposal would provide substantially less assistance to young people than they would receive under either of the two current independent scholarship services—the American College Testing and the College Scholarship Service.

We are very proud of this legislation and pleased that the Administration has asked for full funding of it next year. We believe there is no disagreement between those of us in the Congress and those in the Executive Branch about the need to remove financial barriers to post-secondary education and we hope to continue working with the Administration to achieve this goal.

We feel strongly, however, that at the very least, the schedule should be adjusted immediately in these two areas so that all deserving young people can attend college next fall.

With warmest personal regards.

Sincerely,

WALTER F. MONDALE,
Chairman, Subcommittee on Children and Youth.

CLAIBORNE PELL,
Chairman, Subcommittee on Education.

LIST OF COSPONSORS

Jacob K. Javits, Edward W. Brooke, Jennings Randolph, Edward M. Kennedy, Alan Bible, Philip A. Hart, Gale W. McGee, Adlai E. Stevenson III, Quentin N. Burdick, Alan Cranston, Harrison A. Williams, Jr., Birch Bayh, Thomas S. McIntyre, Thomas F. Eagleton, Hubert H. Humphrey, Abraham A. Ribicoff, Ernest F. Hollings, Dick Clark, Frank Church, George S. McGovern, John G. Tunney, James Abourezk, William D. Hathaway, John O. Pastore, Frank E. Moss, Harold E. Hughes, and Robert T. Stafford.

[From the CONGRESSIONAL RECORD, July 13, 1973]

STATEMENT BY RICHARD C. HAWK, EXECUTIVE DIRECTOR, MINNESOTA HIGHER EDUCATION COORDINATING COMMISSION

(Prepared for the U.S. Senate Education Subcommittee, Feb. 22, 1973)

Mr. Chairman, members of the Committee, thank you for this opportunity to comment on proposed regulations for the Basic Educational Opportunity Grant Program, which potentially can make post-secondary education available to many students previously excluded from education beyond high school.

Making post-secondary education realistically accessible to all citizens, regardless of family economic status, is an important national goal and a serious problem worthy of your continuing attention. The Basic Opportunity Grants Program can be a significant means to achieve this goal, if implemented properly. The Congress and the Education Subcommittee are to be commended for establishing such a well formulated program. Those of us who are striving to improve access to post-secondary education in Minnesota have been especially gratified by the persistent interest and effort of our own distinguished senator, Walter F. Mondale.

While some provisions of the proposed BEOG regulations are commendable, other provisions are so deficient as to impair the potential effectiveness of the program. Implementation of the program under the proposed regulations would effectively preclude grants to a significant portion of the most needy students in Minnesota and many other states—those whose families derive their income from farming or operation of small business establishments.

The BEOG Program is appropriately directed to the students who are least able to afford post-secondary education, because as we have found in Minnesota, it is the students from low income families to whom post-secondary education is least accessible.

Indeed, a major thrust of the efforts of the Minnesota Higher Education Coordinating Commission this year has been concerned with mechanisms to improve access to post-secondary education for low-income and disadvantaged students. The BEOG Program, based on an entitlement principle, can complement our efforts by providing a base upon which state efforts can build.

It is as an entitlement determination system that I have reviewed the proposed guidelines, and it is in this context that my comments are made. I note this context because when balanced against the existing procedures used to determine family ability to pay, the proposed procedures suffer from serious problems. Social security payments and state income tax payments, for example, vary directly with family income level (and coming from Minnesota with a rather hefty state income tax, I should note that income tax varies considerably by state also). The variation is not reflected in the stable allowance which, I assume, is included in the Family Size Offset. Similarly, a family's disposable income is directly affected by the amount of property tax it is required to pay. Although I presume that a housing allowance included in the Family Size Offset includes a standard property tax allowance, it is quite clear that the property tax paid (either directly or indirectly through rent payments) will vary from the standard allowance and will as a consequence, affect the individual family's disposable income and ability to pay in a manner not reflected in the procedure proposed in the guidelines.

I do not, however, consider these problems significant given the entitlement purpose incorporated in the BEOG Program. Given the entitlement concept, the system used to determine eligibility should be sufficiently simple and straight-forward for students to estimate the approximate size of the grant for which they might qualify. The proposed procedure would accomplish this.

The proposed guidelines makes another important contribution by establishing standards and definitions that have been problematic in student aid for many years. I refer here to the definition of procedures for Independent Student, for determining what year of income information to use, for identifying what should be counted as unusual expenses, and for defining what should be included as an asset. For years, these concepts have been debated and various procedures and definitions have been used by financial aid administrators. By establishing standard procedures, the guidelines will facilitate greater horizontal equity among students by treating similar students in a similar manner.

There are, however, four problems in the proposed guidelines which need attention. First, there appears to be no appeal procedure for those students whose family or financial situation changes dramatically between the base year (1972 for applicants for the 1973–74 year) and the year in which the students will be enrolled. Although the majority of students are not affected, the student whose family experiences a sudden loss of income (through the death of a father, loss of the father's job, or some other unpredictable event), could be excluded from eligibility to the BEOG Program and, as a consequence, could be deprived of post-secondary education. The system should provide a procedure to meet needs of students who experience sudden income losses.

Second, the proposed procedure for evaluating family assets would effectively exclude the majority of low income farm and small business families. This is a particularly serious problem for a state such as Minnesota where approximately 12 percent of our population is on the farm and roughly seven percent of the families are small business owners. Table I indicates that the median adjusted gross income for farmers in Minnesota is approximately $3,500 per year. This would clearly identify students from these families as a target for the BEOG Program because of the very limited disposable income of these families and their relative and absolute inability to bear the post secondary educational expenses of their children. We know also that farmers require significant investment in capital—both land and equipment—to earn an income. The typical farmer needs net capital assets (as opposed to liquid assets) in excess of $34,000 merely to earn a living. Yet, under the proposed guidelines, any family with net assets (regardless of their purpose or nature) in excess of $34,000 is automatically excluded from the BEOG Program. Thus, the effect of these guidelines would be to exclude from the BEOG Program the majority of farm families and a high proportion of small business families who would otherwise qualify because of their low incomes and their inability to pay for the post-secondary expenses of their children. More than 8,000 students from farm families are graduated from Minnesota high schools annually.

Third, the proposed guidelines suggest an ability to contribute from both income and assets that is not realistic when compared to the assessments made by the American College Testing Program and the College Scholarship Service. Table II contains a comparison of the contribution expected from parents with income of $7500 and assets of $15,000 under the system proposed in the guidelines and the ACT and CSS need analysis systems. It can be observed that for all family sizes the contribution expected by the

procedure outlined in the guidelines, from both income and assets, is considerably in excess of that expected by the two other systems. This suggests that the use of the proposed system will not provide the necessary assistance for the target population to pursue post-secondary education because of an unrealistic expectation of what the family can provide. The danger of this procedure is that it will undermine the significant potential of the BEOG Program by promising more than it will deliver.

My final point is also exemplified in Table II. As family size increases, the difference in the contribution expected by the proposed procedure increases when compared to the ACT and CSS systems. This is undoubtedly caused by inadequate Family Size Offsets in the procedure outlined in the guidelines. Indeed, this should not be surprising when one considers that the proposed allowance for the summer expenses of an Independent Student are set at $700 and the proposed allowance for the expenses of maintaining a two-person family are set at only $2800 for an entire year. It would appear that the Family Size Offsets are considerably below that which is required to maintain a family and that, as family size increases, the Family Size Offsets are increasingly inadequate. The negative potential created by this procedure is emphasized by the fact that large families tend to be concentrated among the lower income segments of the population.

Before concluding, I should like to call your attention to three additional potential problems. Realizing the potential of this program depends on a succesful beginning. I would hope, therefore, that the BEOG Program will be implemented by the middle of April at the latest. By this time, institutions have made their awards and are in the process of notifying students. If the program is implemented much later, both students and institutions are likely to be confused by the process.

Second, since the program is based on an entitlement concept, adequate funding is crucial. We cannot afford to raise false hopes. When low income students learn that they are entitled to a grant because they meet the criteria (presumably realistic criteria), the funds necessary to meet students' expectations must be available. Their confidence in this society's ability to deliver on promises is at stake; their confidence in governmental processes hangs in the balance. That is not, I would submit, an insignificant challenge.

Finally, I would appeal to you to provide funding for other student aid programs. The BEOG is appropriately targeted to those students most in need. But, college costs are increasing faster than family incomes, and meeting the rising costs is increasingly difficult for students from middle-income families. It is of interest that a survey of a sample of Minnesota banks revealed that 58 percent do not plan an increase in student loans and 62 percent do not plan to make loans in excess of the subsidized proportion available under the new FISL regulations. Proposed guidelines for the BEOG Program must be reviewed and funding for other student aid programs must be considered in the context of raising costs and inadequate aid for both low and middle income students.

Summarizing, Mr. Chairman, I would propose the following recommendations:

(1) An appeal procedure should be incorporated into the proposed BEOG process to accommodate sudden financial changes for individual students.

(2) The evaluation of family assets should be modified to prevent the systematic exclusion of low income farmers and small business owners from the BEOG Program.

(3) The Family Size Offsets should be adjusted upward to more realistically represent the living expenses of larger families and to provide a more accurate assessment of parents' ability to pay regardless of the family size.

In addition, I would urge this committee to encourage a timely implementation of the BEOG Program, to seek adequate funding of the program and to strive for adequate funding for the other Federal student aid programs.

Thank you, Mr. Chairman, for the opportunity to meet with you. I hope my comments will be helpful in your deliberations.

TABLE I.—DISTRIBUTION OF MINNESOTA FARMS BY AMOUNT OF SALES AND NET INCOME, 1970

Sales	Number	Percent	Net income
Under $2,500	21,722	19.6	$1,059
$2,500 to $4,999	14,144	12.8	2,049
$5,000 to $9,999	20,976	18.9	3,492
$10,000 to $19,999	27,081	24.5	6,208
$20,000 to $39,999	19,509	17.6	9,962
$40,000 and over	7,315	6.6	25,664
Total	110,747	100.0	

Note: Medians: Sales $9,950; net income $3,473. Farm population equal 455,000 or 11.9 percent of total population.

TABLE II.—COMPARISON OF EXPECTED FAMILY CONTRIBUTION FROM INCOME AND NET WORTH DERIVED FROM FEDERAL, CSS AND ACT COMPUTATION PROCEDURES

Computation procedure	Number of dependent children 1	3	5	7
Expected family contribution from income:				
Federal	$701	$412	$208	0
CSS	635	167	(30)	($133)
ACT	690	70	(100)	(340)
Expected family contribution from net worth:				
Federal	375	375	375	375
CSS	319	238	165	162
ACT [1]	0	0	0	0
Expected family contribution composite:				
Federal	1,076	787	583	375
CSS	954	405	135	29
ACT	690	70	(100)	(340)

[1] Excludes net assets in excess of $15,000 for retirement allowance.

Note: Case data: 2 parents, 1 parent employed; father age 43. Adjusted gross family income equal $7,500 Net worth equal $15,000. Only adjustment to family income is the amount of Federal income tax liability.

EXPECTED FAMILY CONTRIBUTION FOR DEPENDENT STUDENTS, ACADEMIC YEAR 1973–74

Wage earner, two dependent children, one in college with $200 savings.

Taxable income, $7,700.

Net assets, $14,600.

Summary of calculations—Proposed method

[In dollars]

1. Parent's adjusted gross income in 1972	7,670
2. Other parental income in 1972	30
3. Parent's adjusted annual income in 1972	7,700
4. Parent's Federal income tax paid in 1972	540
5. Effective family income in 1972	7,160
6. Family size offset	5,310
7. Unusual expenses	0
8. Employment expense offset	0
9. Total offsets against income (lines 6 plus 7 plus 8)	5,310
10. Discretionary income (line 5 minus line 9)	1,850
11. Multiply discretionary income by applicable rate to obtain standard contribution × .20	370
12. Determine net assets of parents	14,500
13. Subtract asset reserve	10,500
14. Available parental assets	4,100
15. Multiply available assets by 0.05	
16. Parental contribution from assets	205
17. Add lines 11 plus 16 to obtain standard contribution from income and assets. 370 plus 205	575
18. Multiply standard contribution by multiple student rate to determine expected family contribution for each family member in postsecondary education	575
19. Effective income of student	0
20. Determine net assets of students	200
21. Multiply student's net assets by 0.33	
22. Students contribution from assets	67
23. Total family contribution equals sum of lines 18 plus 19 plus 22	642

Maximum BEOG eligibility, $1,400 minus $642 equals $758.

Negative figures in parentheses.

Wage Earner, Two Dependent Children, One in College with $200 Savings.

Taxable Income, $7,700.

Net Assets, $14,600.

(BEOG guidelines from Federal Register)

Summary of calculations—Proposed method

[In dollars]

1. Parent's adjusted gross income in 1972	7,670
2. Other parental income in 1972	30
3. Parent's adjusted annual income in 1972	7,700
4. Parent's Federal income tax paid in 1972	540
5. Effective family income in 1972	7,160
6. Family size offset	4,300
7. Unusual expenses	0
8. Employment expense offset	0
9. Total offset against income (lines 6+7+8)	4,300
10. Discretionary income (line 5 minus line 9)	2,860
11. Multiply discretionary income by applicable rate to obtain standard contribution (×0.20)	572
12. Determine net assets of parents	14,600
13. Subtract asset reserve	7,500
14. Available parental assets	7,100
15. Multiply available assets by 0.05	0
16. Parental contribution from assets	355
17. Add lines 11 plus 16 to obtain standard contribution from income and assets 572+355)	927
18. Multiply standard contribution by multiple student rate to determine expected family contribution for each family member in postsecondary education (×1.00)	927
19. Effective income of student	0
20. Determine net assets of students	200
21. Multiply student's net assets by 0.33	0
22. Students contribution from assets	67
23. Total family contribution equals sum of lines 18 plus 19 plus 22	994

Maximum BEOG Eligibility=$1,400−944 =$406.

Negative figures in parentheses.

CASE NO. 1

Farm family, three dependent children, one in college with $200 savings.

Taxable income, $3,690.

Net assets, $34,900.

Summary of calculations—Proposed method

[In dollars]

1. Parent's adjusted gross income in 1972	3,690
2. Other parental income in 1972	0
3. Parent's adjusted annual income in 1972	3,690

Summary of calculations—Proposed method—Continued

[In dollars]

4. Parent's Federal income tax paid in 1972	0
5. Effective family income in 1972	3,690
6. Family size offset	6,420
7. Unusual expenses	0
8. Employment expense offset	0
9. Total offsets against income (lines 6+7+8)	6,420
10. Discretionary income (line 5 minus line 9)	2,730
11. Multiply discretionary income by applicable rate to obtain standard contribution (×0.20)	546
12. Determine net assets of parents	34,900
13. Subtract asset reserve	12,000
14. Available parental assets	22,900
15. Multiply available assets by 0.05	
16. Parental contribution from assets	1,145
17. Add lines 11 plus 16 to obtain standard contribution from income and assets $1,145–$546	599
18. Multiply standard contribution by multiple student rate to determine expected family contribution for each family member in postsecondary education (×$1)	599
19. Effective income of student	0
20. Determine net assets of students	200
21. Multiply student's net assets by 0.33	
22. Students contribution from assets	67
23. Total family contribution equals sum of lines 18 plus 19 plus 22	666

Maximum B.E.O.G. eligibility, $1,400 minus $666 equals $734.

Negative figures in parentheses.

Farm family, three dependent children, one in college with $200 savings.

Taxable income, $3,690.

Net assets, $34,900.

(BEOG guidelines from Federal Register)

Summary of calculations—Proposed method

[In dollars]

1. Parent's adjusted gross income in 1972	3,690
2. Other parental income in 1972	0
3. Parent's adjusted annual income in 1972	3,690
4. Parent's Federal income tax paid in 1972	0
5. Effective family income in 1972	3,690
6. Family size offset	5,050
7. Unusual expenses	0
8. Employment expense offset	0
9. Total offsets against income (Lines 6+7+8)	5,050
10. Discretionary income (line 5 minus line 9)	0
11. Multiply discretionary income by applicable rate to obtain standard contribution (0.20x0)	0
12. Determine net assets of parents	34,900
13. Subtract asset reserve	7,500
14. Available parental assets	27,400
15. Multiply available assets by 0.05	
16. Parental contribution from assets	1,370
17. Add lines 11 plus 16 to obtain standard contribution from income and assets	1,370
18. Multiply standard contribution by multiple student rate to determine expected family contribution for each family member in postsecondary education (x1.00)	1,370
19. Effective income of student	0
20. Determine net assets of students	200
21. Multiply student's net assets by 0.33	
22. Students contribution from assets	67
23. Total family contribution equals sum of lines 18 plus 19 plus 22	1,437

Maximum BEOG eligibility=$1,400—$1,437=0.

Negative figures in parentheses.

Gas station attendant, one child in college with $200 in savings.

Taxable income, $5,200.

Net assets, $8,400.

Summary of calculation—Proposed method

[In dollars]

1. Parent's adjusted gross income in 1972	5,200
2. Other parental income in 1972	0
3. Parent's adjusted annual income in 1972	5,200
4. Parent's Federal income tax paid in 1972	320
5. Effective family income in 1972	4,880
6. Family size offset	3,950
7. Unusual expenses	0
8. Employment expense offset	0
9. Total offsets against income (lines 6+7+8)	3,950
10. Discretionary income (line 5 minus line 9)	930
11. Multiply discretionary income by applicable rate to obtain standard contribution X. 20)	186
12. Determine net assets of parents	8,400
13. Subtract asset reserve	9,000
14. Available parental assets	0
15. Multiply available assets by 0.05.	
16. Parental contribution from assets	0
17. Add lines 11 plus 16 to obtain standard contribution from income and assets	186
18. Multiply standard contribution by multiple student rate to determine expected family contribution for each family member in postsecondary education (X 1.00)	186
19. Effective income of student	0
20. Determine net assets of students	200
21. Multiply student's net assets by 0.33.	
22. Students contribution from assets	67
23. Total family contribution equals sum of lines 18 plus 19 plus 22	253

Maximum B.E.O.G. Eligibility=$1400—$253=$1,147.

Negative figures in parentheses.

Gas Station Attendant, One Child in College, with $200 in Savings.

Taxable Income, $5,200.

Net Assets, $8,400.

(BEOG guidelines from Federal Register)

Summary of calculations—Proposed method

[In dollars]

1. Parent's adjusted gross income in 1972	5,200
2. Other parental income in 1972	0
3. Parent's adjusted annual income in 1972	5,200
4. Parent's Federal income tax paid in 1972	320
5. Effective family income in 1972	4,880
6. Family size offset	3,350
7. Unusual expenses	0
8. Employment Expense offset	0
9. Total offsets against income (lines 6 + 7 + 8)	3,350
10. Discretionary income (line 5 minus line 9)	1,530
11. Multiply discretionary income by applicable rate to obtain standard contributon (x 0.20)	306
12. Determine net assets of parents	8,400
13. Subtract asset reserve	7,500
14. Available parental assets	900
15. Multiply available assets by .05	
16. Parental contribution from assets	45
17. Add lines 11 plus 16 to obtain standard contribution from income and assets	351
18. Multiply standard contribution by multiple student rate to determine expected family member in postsecondary education (x 1.00)	351
19. Effective income of student	0
20. Determine net assets of students	0
21. Multiply student's net assets by .33.	
22. Students contribution from assets	67
23. Total family contribution equals sum of lines 18 plus 19 plus 22	418

Maximum BEOG Eligibility=$1,400—$418=$972.

Negative Figures in Parentheses.

SUPPLEMENT TO THE STATEMENT BY RICHARD C. HAWK, EXECUTIVE DIRECTOR, MINNESOTA HIGHER EDUCATION COORDINATING COMMISSION

Prepared for the United States Senate Education Subcommittee, February 22, 1973

My testimony recommends three modifications to the proposed BEOG guidelines:

(1) An appeal procedure should be incorporated into the proposed BEOG program to accommodate sudden financial changes for individual students.

(2) The evaluation of family assets should be modified to prevent the systematic exclusion of low income farmers and small business owners from the BEOG Program.

(3) The Family Size Offsets should be adjusted upward to more realistically represent the living expenses of larger families to provide a more accurate assessment of parents' ability to pay regardless of the family size.

Since the U.S. Office of Education is developing an appeal procedure for the BEOG Program, this statement will describe specific procedures for accomplishing the latter two recommendations.

Procedures proposed by the U.S. Office of Education for deriving a composite estimate of a family's ability to contribute toward educational costs treat income and net assets independently. Exclusive consideration of these two elements of a family's financial strength may, and often does, result in gross inequities in the computation of Expected Family Contributions. The financial strength of families varies by (1) the level of disposable income, (2) the amount and nature of net assets, and (3) family size. A change in any of these factors significantly affects a family's ability to meet basic maintenance and other costs.

A need assessment procedure, even in a simplistic form, should include and consider these related factors simultaneously. Computation procedures based on these principles have been validated by economists and demonstrate that when net assets are considered together with income level, the distribution of families by order of financial strength varies considerably from the distributions obtained when income and net assets are considered exclusively.*

When current income is less than that required to provide for basic maintenance of the family, net asset resources would be utilized and thereby reduced to enable the family to meet day to day expenses. Consequently, a family ability to contribute toward educational costs from its stock of net assets should be diminished in direct proportion to its income deficiency. Therefore, when family income is below the level of basic maintenance requirements, the negative expectation from income should be used to re-

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* Weisbrod, B. A. and Hanson, W. G., "An Income—Net Worth Approach to Measuring Economic Welfare." *The American Economic Review*. December, 1968 pp. 1315–1329.

duce the positive expectation from net asset resources. That proportion of net asset resources required to supplement income to provide for basic maintenance should not be "taxed" to obtain an index of the family's ability to contribute toward educational costs. The "Tax" on discretionary income must, therefore, take into consideration the element of income deficiency (negative discretionary income) as well as the positive. Each of the examples which follow illustrate the principle of offsetting negative expectations from income with expectations from net assets. The net effect of this procedure is to consider the income and assets of the family together and to minimize the extent to which low income farmers with large capital assets would be systematically excluded from the BEOG Program.

An additional adjustment to the treatment of assets should be made to more adequately reflect the potential drain on the Asset Reserve provided in the regulations. Both the income and net assets of a family are measures of its financial strength. Both the flow and the stock of economic goods can support current consumption. Assessment of a family's ability to pay for education must consider both of these resource elements. Given a level of income and a stock of economic goods, a family's ability to provide for education expenses will vary with the number in the family unit requiring support.

The function of an asset reserve is to provide for basic maintenance of the family unit in the event of unforeseen emergencies, e.g., temporal unemployment, unusual medical expenses during prolonged illness, losses from catastrophes or in the case of death of a member of the family, for burial expenses.

Just as a proportion of family income, varying by family size, must provide for current maintenance expenses at a minimal level, so must a proportion of net assets be reserved to provide a financial resource for emergencies. The need for such reserves is directly related to the number of members in the family. The larger the family, the greater the potential for disaster as a consequence of unusual events. Therefore, the amount of the Asset Reserve should relate to family size similarly to that proportion of family income required to provide for basic maintenance for each member of the family unit. On the average, to provide equitable consideration for family size, it is fair and reasonable that the Asset Reserve should provide a financial resource approximating two units of current income required to provide for basic maintenance as proposed in Table I.

TABLE I.—PROPOSED NET ASSET RESERVE BY FAMILY SIZE

Family size	Reserve	Differential
2 (1 p, 2 ch)	7,500	
3 (2 p, 1 ch)	9,000	1,500
4	10,500	1,500
5	12,000	1,500
6	13,500	1,500
7	15,000	1,500
8	16,500	1,500
9	18,000	1,500
10	19,500	1,500
11	21,000	1,500
12	22,500	1,500

The other problem in the proposed regulation relates to the unrealistic contribution expected from family income, particularly from the income of large families.

The Family Size Offsets are, as pointed out in my testimony, quite small and the increments for additional family members appear to have little relation to the increment in expenses that a family would actually experience from adding another member to the family.

Alternative Family Size Offsets are provided below in Table II. Even though they are derived from a low standard of living budget, the allowances for family living expenses are considerably above those contained in the proposed regulations, and they provide Family Size Offsets that more realistically represent the expenses families would encounter from an additional family member.

TABLE II.—A COMPARISON OF FAMILY SIZE OFFSETS FOR THE FAMILY CONTRIBUTION SCHEDULE FOR THE BEOG PROGRAM

Family members	Family size offsets contained in the guidelines	Differential	Alternative family size increments	Differential
2	$2,800		$2,800	
3	3,350	$550	3,950	$1,150
4	4,300	950	5,310	1,360
5	5,050	750	6,420	1,110
6	5,700	700	7,380	960
7	6,300	600	8,120	740
8	7,000	700	8,780	660
9	7,700	700	9,400	620
10	8,400	700	10,100	660
11	9,100	700	10,760	660
12	9,800	700	11,420	660

The Alternative Family Size Offsets are those used in the need analysis system of the American College Testing Program. (For a detailed explanation of the derivation of these Offsets see the American College Testing Program, *1972 Revisions in the ACT Student Need Analysis Service*, Iowa City, Iowa, 1972, pp. 10–16.)

It should be emphasized that these alternative Family Size Offsets are not derived from a budget that allows liberal living expenses for the family. Rather, they are derived from the consumption expenditures, adjusted to December 1971, that the Bureau of Labor Statistics identified as associated with a low standard of living in the United States. They represent an approximation of the basic expense required to maintain a family at a living standard that is above the poverty level but considerably below the living standard experienced by a family living at the median family income level. (By comparison, the consumption expenditures from the BLS moderate budget would be approximately 59 percent higher and for the BLS high standard of living budget they would be 105 percent higher.)

The three modifications proposed above are responsive to the recommendations made when I testified before your committee; their adoption would provide for more equitable treatment of students under the BEOG Program. By considering assets and income together, applying the concept of negative discretionary income, low income farmers will not automatically be excluded from the BEOG Program. Similarly, the graduation of the Asset Reserve by size of family would provide more equitable assessment of the contribution that can be provided from family assets by recognizing that the potential drain on assets and the ability of families to accumulate assets are both directly affected by the size of the family. Finally, the Alternative Family Size Offsets indicated in Table II would result in more realistic expectations from family income when actual expenditures required to maintain larger families are given proper consideration.

For your convenience and information, I have attached a comparison, for selected cases, of the expected contribution that would be produced by the procedure outlined in the regulations and by the procedures as they would be modified by proposals outlined in this statement. I should add that each of the modifications I have proposed could be easily accommodated in the procedure contained in the regulations without changing the data collection instrument or the calculation schedule.

EXHIBIT 2

STATEMENT BY HONORABLE JOHN OTTINA, U.S. COMMISSIONER OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Dr. Ottina is accompanied by:

Peter P. Muirhead, Deputy Commissioner for Higher Education, OE.

Peter K. U. Voigt, Acting Coordinator, Basic Educational Opportunity Grant Program, OE.

Charles M. Cooke, Deputy Assistant Secretary for Legislation (Education), DHEW.

Mr. Chairman and Members of the Subcommittee: I am pleased to be with you this morning to present the Family Contribution Schedule for use during Academic Year 1974–75 in the Basic Educational Opportunity Grant program and to share with the Subcommittee data which we have collected on the operation of the BEOG program thus far.

As you know, Mr. Chairman, Section 411 of the Higher Education Act of 1965, as amended, currently requires the U.S. Commissioner of Education to submit to the Congress a proposed schedule of expected family contributions not later than February 1 of each year. This schedule is then used to determine family contributions during the succeeding academic year, unless either body of Congress objects.

We have chosen to submit the schedule for the 74–75 academic year well in advance of the February 1, 1974, deadline in the hope that we could have some clear indication from the Congress of the acceptability of the schedule prior to the May 1 deadline which the Congress has allowed itself in the statute. Our experience earlier this year has convinced us that the May 1 date does not permit students, parents, and educational institutions sufficient time to make effective decisions concerning choice of institution and packaging of student financial aid resources.

Ideally, of course, we would hope that ment to Section 411 which would move the this Subcommittee would approve an amend-date for submission of the schedule to the Fall of the preceding year. One bill, H.R. 9193, has already been introduced on the House side. We believe that the dates for final Congressional action proposed in that measure—December 15 for 1973 and November 1 in succeeding years—are quite acceptable and would assure sufficient time for all concerned to make informed choices.

Since all the members of this Subcommittee were also members when I appeared in February of this year to explain how the Family Contribution Schedule for 1973–74 would work, I believe that your needs would best be met, Mr. Chairman, if I omitted a detailed explanation of that procedure. If it is agreeable to you and the other members of the Subcommittee, Mr. Chairman, I would propose to submit a copy of the proposed schedule for 1974–75 for the record and spend the remainder of my time this morning in an examination with you of the statistics which we have thus far collected on the operation of the BEOG program, including detailed information concerning the family financial situation of persons who have applied for aid from this program.

Before I do that, however, I should make one further comment about the proposed schedule for 1974–75.

As you have probably noticed, Mr. Chairman, the proposed schedule for 1974–75, as published, is exactly the same as the schedule we are using for 1973–74. This does not mean, however, that we currently intend to operate the analysis system next year without change.

We felt that it was extremely important to begin the public debate and comment period on the 1974–75 schedule as soon as possible. To accomplish that, we chose to publish the schedule in the form which I noted. In addition, we have provided for a sixty-day comment period, rather than the more typical thirty-day period. At the end of that period, we intend to take into account all comments received, both from the public and from the Congress, and to propose necessary modifications to the schedule as published.

I should note that we feel that certain modifications in the schedule are probably necessary and I will point these out as I discuss our data with you.

If there are no objections, Mr. Chairman, I will now turn to that task.

TABLE I.—*Summary statistics—Basic grant program*

1. Number of applications received as of 9/14/73, 243,889.

2. Number of Applications Returned (Insufficient Data), 33,076.

3. Error Rate, 13.6%.

4. Number of Valid Applications (Used in Analysis), 210,813.

5. Number of Applicants Qualified, 102,951.

6. Number of Applicants Not Qualified, 107,862.

7. Percentage of Valid Applications Qualifying, 48.8%.

Data Summary of the Valid Applications

1. Dependent students

Number of Valid Applications from Dependent Students, 198,840.

Percentage of Valid Applications from Dependent Students, 94.4%.

Number of Dependent Applicants who Qualify, 96,117.

Percentage of Dependent Applicants who Qualify, 48.3%.

2. Independent students

Number of Valid Applications from Independent Students, 11,973.

Percentage of Valid Applications from Independent Students, 5.6%.

Number of Independent Applicants who Qualify, 6,834.

Percentage of Independent Applicants who Qualify, 57.0%.

3. Applicants with farm assets

Number of Dependent Applicants with Farm Assets, 13,945.

Percentage of Dependent Applicants with Farm Assets, 7.0%.

Number of Dependent Applicants with Farm Assets who Qualify, 5,266.

Percentage of Dependent Applicants with Farm Assets who Qualify, 37.7%.

4. Applicants with business assets

Number of Dependent Applicants with Business Assets, 12,861.

Percentage of Dependent Applicants with Business Assets, 6.5%.

Number of Dependent Applicants with Business Assets who Qualify, 5,251.

Percentage of Dependent Applicants with Business Assets who Qualify, 40.8%.

5. Social security educational benefit recipients

Number of Applicants Receiving Social Security Educational Benefits, 23,176.

Percentage of Applicants Receiving Social Security Educational Benefits, 10.9%.

Number of Applicants Receiving Social Security Educational Benefits who Qualify, 5,988.

Percentage of Applicants Receiving Social Security Educational Benefits who Qualify, 25.3%.

6. Veterans educational benefit recipients

Number of Applicants Receiving Veterans Educational Benefits, 8,167.

Percentage of Applicants Receiving Veterans Educational Benefits, 10.9%.

Number of Applicants Receiving Veterans Educational Benefits who Qualify, 788.

Percentage of Applicants Receiving Veterans Educational Benefits who Qualify, 8.6%.

TABLE II.—DEPENDENT APPLICANTS BY ELIGIBILITY STATUS AND INCOME RANGE

Dependent applicants	Income range— $0 to $2,999	$3,000 to $4,499	$4,500 to $5,999	$6,000 to $8,999	$9,000 to $11,999	$12,000 plus	Total
Qualifying (percent)	80.5	79.3	77.2	72.8	55.0	13.7	48.3
Nonqualifying (percent)	19.5	20.7	22.8	27.2	45.0	86.3	51.7
Total percentage	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Total number of dependent applicants	18,728	13,173	15,113	35,695	41,239	74,892	198,840
Number of qualified dependent applicants	15,093	10,445	11,668	25,995	22,695	10,221	97,117
Percentage of qualified applicants within each income range	15.7	10.9	12.1	27.1	23.6	10.6	100

TABLE III.—FAMILY CONTRIBUTION BY LEVEL OF FAMILY INCOME FOR QUALIFIED DEPENDENT APPLICANTS

[Total number of persons and percent within each income range]

Expected family contribution	Income range— $0 to $2,999	$3,000 to $4,499	$4,500 to $5,999	$6,000 to $8,999	$9,000 to $11,999	$12,000 plus	Total qualified applicants by level of family contribution
0 to 199	11,270	7,326	6,761	6,282	988	314	32,941
Percent	(74.7)	(70.1)	(57.9)	(24.2)	(4.4)	(3.1)	(34.1)
200 to 399	1,018	1,024	1,865	5,506	1,896	295	11,604
Percent	(6.7)	(9.8)	(16.0)	(21.2)	(8.4)	(2.9)	(12.1)
400 to 599	773	709	1,175	5,190	3,701	758	12,306
Percent	(5.1)	(6.8)	(10.1)	(2.0)	(16.3)	(7.4)	(12.8)
600 to 799	712	522	755	4,200	5,314	1,733	13,236
Percent	(4.7)	(5.0)	(6.5)	(16.1)	(23.4)	(17.0)	(13.7)
800 to 999	689	434	609	2,899	5,912	3,102	13,645
Percent	(4.6)	(4.2)	(5.2)	(11.1)	(26.0)	(30.3)	(14.3)
1,000 to 1,150	631	430	503	1,918	4,884	4,019	12,385
Percent	(4.2)	(4.1)	(4.3)	(7.4)	(21.5)	(39.3)	(13.0)
Total	15,093	10,445	11,668	25,995	22,695	10,221	
Percent	(100)	(100)	(100)	(100)	(100)	(100)	
Percent of qualified applicants in each income range	(15.7)	(10.9)	(12.1)	(27.1)	(23.6)	(10.6)	(100)

TABLE IV.—NET ASSETS BY TOTAL INCOME, QUALIFIED DEPENDENT APPLICANTS FOR TOTAL POPULATION, BUSINESS OWNERS, AND FARM OWNERS

	Family income— $0 to $2,999	$3,000 to $4,499	$4,500 to $5,999	$6,000 to $8,999	$9,000 to $11,999	$12,000 plus
Total dependent applicants:						
Average	$2,783	$4,391	$5,787	$7,024	$7,670	$8,204
Median	0	305	1,176	3,735	5,320	6,830
Applicants with business assets:						
Average	11,280	12,673	14,034	14,272	12,559	12,902
Median	7,450	9,766	11,004	11,390	9,894	10,066
Applicants with farm assets:						
Average	11,202	13,832	15,524	15,169	13,662	13,437
Median	7,035	10,595	12,136	11,784	10,633	10,201
Other applicants						
Average	1,693	2,973	4,255	5,924	7,199	7,906
Median	0	0	781	2,720	4,923	6,623

TABLE V.—AVERAGE FAMILY CONTRIBUTION BY TOTAL INCOME, QUALIFIED DEPENDENT APPLICANTS FOR TOTAL POPULATION, BUSINESS OWNERS, AND FARM OWNERS

	Family Income					
	$0 to 2,999	$3,000 to $4,499	$4,500 to $5,999	$6,000 to $8,999	$9,000 to $11,999	$12,000 plus
Total dependent applicants	$186	$202	$261	$473	$744	$871
Applicants with business assets	315	373	424	600	772	837
Applicants with farm assets	349	428	490	614	793	900
Applicants without farm or business assets	167	170	228	454	741	872

TABLE VI.—NET ASSETS BY TOTAL INCOME, ALL DEPENDENT APPLICANTS FOR TOTAL POPULATION, APPLICANTS WITH BUSINESS ASSETS, AND APPLICANTS WITH FARM ASSETS

	Family Income					
	$0 to $2,999	$3,000 to $4,499	$4,500 to $5,999	$6,000 to $8,999	$9,000 to $11,999	$12,000 plus
Total dependent applicants:						
Average	$5,952	$8,280	$10,453	$12,761	$14,731	$18,756
Median	0	926	3,105	6,247	9,181	12,238
Applicants with business assets:						
Average	21,442	20,071	22,849	5,857	27,286	35,835
Median	11,498	12,580	14,880	17,945	19,775	26,260
Applicants with farm assets:						
Average	25,170	28,000	31,315	33,100	36,200	42,346
Median	15,000	19,245	22,060	25,245	26,115	31,450
Applicants with no farm or business assets:						
Average	3,142	5,068	6,679	9,088	12,022	16,572
Median	0	336	1,168	6,855	8,255	11,596

TABLE VII.—AVERAGE FAMILY CONTRIBUTION BY TOTAL INCOME

[All dependent applicants for total population, applicants with business assets, and applicants with farm assets]

	Family income—					
	$0 to $2,999	$3,000 to $4,499	$4,500 to $5,999	$6,000 to $8,999	$9,000 to $11,999	$12,000 plus
Total dependent applicants	$433	$480	$573	$783	$1,137	$1,662
Applicants with business assets	635	666	772	1,046	1,349	1,738
Applicants with farm assets	763	872	978	1,159	1,431	1,687
Applicants with no farm or business assets	388	420	503	714	1,098	1,656

TABLE VIII.—TOTAL DEPENDENT APPLICANTS WITH SOCIAL SECURITY EDUCATIONAL BENEFITS

Income range	Number of dependent applicants receiving Social Security benefits	Percent in income range	Average annual benefits	Number and percent of dependent applicants receiving Social Security benefits and qualifying for basic grants	
				Number	Percent
0 to $2,999	5,415	23.5	$1,163.43	2,559	47.25
$3,000 to $4,499	3,217	13.9	1,229.42	1,173	36.46
$4,500 to $5,999	3,165	13.7	1,271.73	894	28.24
$6,000 to $8,999	5,238	22.7	1,270.39	925	17.65
$9,000 to $11,999	3,153	13.7	1,237.10	217	6.88
$12,000 plus	2,885	12.5	1,244.67	97	1.62
Total	23,073	100.00	1,231.99	5,815	25.20

TABLE IX.—TOTAL DEPENDENT APPLICANTS WITH VETERANS EDUCATIONAL BENEFITS

Income range	Number of dependent applicants receiving veterans benefits	Percent in income range	Average annual benefit	Average annual benefits utilized in basic grant program	Number and percent of dependent applicants receiving veterans benefits and qualifying for basic grants	
					Number	Percent
0 to $2,999	1,202	19.2	$1,918	$959	202	16.80
$3,000 to $4,499	734	11.7	1,886	943	89	12.12
$4,500 to $5,999	817	13.1	1,907	953	56	6.85
$6,000 to $8,999	1,581	25.3	1,862	931	84	5.31
$9,000 to $11,999	945	15.1	1,879	939	17	1.79
$12,000 plus	974	15.6	1,925	562	5	.51
Total	6,253	100.0	1,894	947	453	7.24

TABLE X.—HOME EQUITY FOR ALL QUALIFIED DEPENDENT APPLICANTS BY TOTAL INCOME

Income range	Number and percent of applicants				Average equity	
	Homeowners		All applicants			
	Number	Percent	Number	Percent	Homeowners	All applicants
$0 to $2,999	6,282	10.9	15,093	15.7	$5,964	$2,487
$3,000 to $4,499	4,863	8.4	10,445	10.9	6,783	3,158
$4,500 to $5,999	6,104	10.5	11,668	12.1	7,148	3,716
$6,000 to $8,999	16,025	27.7	25,995	27.1	7,516	4,634
$9,000 to $11,999	16,492	28.5	22,695	23.6	7,564	5,497
$12,000 plus	8,088	14.0	10,221	10.6	7,852	6,214
Total	57,854	100.0	96,117	100.0	7,307	4,399

TABLE XI.—HOME EQUITY FOR ALL NONQUALIFIED DEPENDENT APPLICANTS BY TOTAL INCOME

Income range	Number and percent of applicants: Home owners Number	Home owners Percent	All applicants Number	All applicants Percent	Average equity: Home owners	Average equity: All applicants
$0 to $2,999	2,325	2.7	3,635	3.5	$17,221	$11,015
$3,000 to $4,499	1,897	2.2	2,728	2.7	15,712	10,925
$4,500 to $5,999	2,488	2.9	3,445	3.3	15,634	11,921
$6,000 to $8,999	7,434	8.6	9,700	9.4	16,894	12,947
$9,000 to $11,999	15,735	18.0	18,544	18.1	15,616	13,251
$12,000 plus	57,019	65.6	64,671	63.0	15,124	13,335
Total	86,898	100.0	102,723	100.0	15,448	13,067

TABLE XII.—HOME EQUITY FOR ALL DEPENDENT APPLICANTS BY TOTAL INCOME

Income range	Number and percent of applicants: Home owners Number	Home owners Percent	All applicants Number	All applicants Percent	Average equity: Home owners	Average equity: All applicants
0 to $2,999	8,607	5.9	18,728	9.4	$9,004	$4,138
$3,000 to $4,499	6,760	4.7	13,173	6.7	9,228	4,766
$4,500 to $5,999	8,592	5.9	15,113	7.6	9,605	5,460
$6,000 to $8,999	23,459	16.2	35,695	17.9	10,488	6,893
$9,000 to $11,999	32,227	22.3	41,239	20.7	11,496	8,984
$12,000 plus	65,107	45.0	74,892	37.7	14,219	12,362
Total	144,752	100	198,840	100	12,194	8,877

TABLE XIII.—AVERAGE OTHER ASSETS BY TOTAL INCOME FOR ALL DEPENDENT APPLICANTS

Income	Dependent total applicants	Dependent qualifying	Dependent nonqualifying	Percent of total applicants having other assets over $7,500
0 to $2,999	$431	$269	$1,105	1.2
$3,000 to $4,499	497	341	1,094	1.2
$4,500 to $5,999	674	448	1,443	1.7
$6,000 to $8,999	801	548	1,481	1.8
$9,000 to $11,999	984	630	1,418	2.2
$12,000 to $14,999	1,269	658	1,366	3.5
Total	951	500	1,372	2.4

EXHIBIT 3

STATEMENT BY HON. JOHN OTTINA, COMMISSIONER OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Dr. Ottina is accompanied by Peter K. U. Voigt, Acting Director, Basic Educational Opportunity Grant Program, OE; and Charles M. Cooke, Jr., Deputy Assistant Secretary for Legislation (Education), DHEW.

Mr. Chairman and Members of the Subcommittee: I am pleased to be with you this morning to discuss the operation of the Basic Educational Opportunity Grants program this year and to share with you our proposals for amending the Family Contribution Schedule for the academic year 1974–75.

As you know, Mr. Chairman, Section 411 of the Higher Education Act of 1965, as amended, currently requires the U.S. Commissioner of Education to submit to the Congress a proposed schedule of expected family contributions not later than February 1 of each year. This schedule is then used to determine family contributions during the succeeding academic year, unless either body of the Congress objects.

We have chosen to submit the schedule for the 1974–75 academic year well in advance of the February 1, 1974, deadline in the hope that we could have some clear indication from the Congress of the acceptability of the schedule prior to the May 1 deadline which the Congress has allowed itself in the statute. Our experience earlier this year has convinced us that the May 1 date does not permit students, parents, and educational institutions sufficient time to make effective decisions concerning choice of institutions and packaging of student financial aid resources.

Ideally, of course, we would hope that this Subcommittee would approve an amendment to Section 411 which would move the date for submission of the schedule to the Fall of the preceding year. H.R. 9196, which you have introduced, Mr. Chairman, would reach this end. We believe that the dates for final Congressional action proposed in that measure—December 15 for 1973 and November 1 in succeeding years—are quite acceptable and would assure sufficient time for all concerned to make informed choices. We hope that the Subcommittee will act affirmatively on H.R. 9196 at an early date.

Since all the members of this Subcommittee were also members when I appeared in February of this year to explain how the Family Contribution Schedule for 1973–74 would work, I believe that your needs would best be met, Mr. Chairman, if I omitted a detailed explanation of that procedure. If it is agreeable to you and the other members of the Subcommittee, I propose to spend the remainder of my time with you this morning in an explanation of the differences between the schedule for the current academic year and our recommendations for 1974–75.

As you probably realize, the schedule which we had printed in the *Federal Register* on September 24 of this year was exactly the same as that used for this year. As we explained at the time, however, that did not mean that we intended to operate the analysis system next year without change. Rather, we felt that it was extremely important to begin the public debate and comment period on the 1974–75 schedule as quickly as possible. To accomplish that, we chose to publish the schedule in the form which I noted. In addition, we provided for a sixty-day comment period, rather than the more typical thirty-day period. During that time, we hoped to receive comment from the Congress and from members of the public, and then to propose necessary modifications to the schedule as published.

We have already appeared before the Senate Subcommittee on Education and benefitted from their thoughts on this matter.

In addition, we have received some twenty-eight comments from the public. It might interest you to know that 18 of these comments dealt with the treatment of Social Security benefits, 23 mentioned the treatment of assets, and 6 proposed changes in the Family Size Offset.

Mr. Voigt recently conducted a day-long session with representatives of the National Association of Student Financial Aid Administrators and other interested parties and received several useful comments and suggestions from that meeting.

And finally, but certainly not least, we have had the benefit of the testimony elicited by this Subcommittee recently in its hearings dealing with the theory and practice of needs analysis.

Because the time remaining in the first session of this Congress is rapidly growing short, and since we still hope to be able to provide all concerned with definitive guidance concerning next year's schedule, rather soon, we have decided to present our proposed revisions this morning, rather than waiting until after our appearance here today. I might also add that I have had copies of this testimony delivered to the Senate Subcommittee on Education today.

After this somewhat lengthy introduction, I should now like to describe those changes and then to go briefly through some rather detailed statistics which we have gathered on the operation of the program thus far.

ASSET TREATMENT

I know that you, Mr. Chairman, and others on this Subcommittee have previously expressed publicly your concern for the treatment of home equity in the determination of BEOG eligibility—particularly in those cases where lower-middle income families who have built up rather large home equity over several years have been found to be ineligible.

Similarly, we have heard a certain amount of concern expressed in the other body by those Senators from farm States, since farm families with very low incomes have also been ineligible in a great many cases because they possess assets to a much greater extent than the population at large.

We too have received a large volume of mail from members of both these classes, as well as from a third group. These persons are the widows and widowers who may have an unusually large asset position—through inheritance of a house or insurance proceeds paid upon the death of their spouse—although annual income may be quite small.

A trait common to members of all three groups is the unique combination of rather low income and uncommonly high assets.

We are proposing to change our treatment of assets so that students from many of these families will become eligible to receive a Basic Grant.

Our proposed method for accomplishing

this is to provide for an offset against the contribution from assets in those cases where allowable deductions from income exceed the family's income. Thus, whenever the difference between the family's income and the allowances for family maintenance, employment expenses, Federal taxes and unusual expenses is a negative figure, this negative difference would be deducted from the amount we would expect as the contribution from assets.

I think you can readily see the effect of this proposal if you look at the sample at the end of this testimony. In this instance, we have a farm family of four with $3,000 in income and $34,000 in net assets. Our current system would expect no contribution from income, but would expect $1,260 from assets. Subtracting this amount from $1,400 leaves a need of $140, thus rendering a student from this family ineligible for a grant, since the law provides that no student may receive a grant of less than $200 at full funding.

Under our proposal, we would still expect no contribution from income, but the expectation from assets would be reduced to $25. Thus a student from the family would now be eligible.

Although our example shows a typical farm family, similar results would be achieved for low income widows and widowers and for low income persons who held large home equity positions.

Adoption of this proposal would increase the cost of fully funding the BEOG program by up to $100 million, according to our calculations.

TREATMENT OF SOCIAL SECURITY AND VETERANS' EDUCATION BENEFITS

The authorizing legislation for this program provides that the Commissioner of Education is to consider one-half of veterans' education benefits and all Social Security benefits paid to a person because he is a student as effective income of the student; however, the statute is silent as to how the Commissioner is to deal with this effective income of the student.

The schedule which we are currently using provides that 100 percent of this income is to be considered as a direct contribution from the student.

The application of this rule has meant that only 27.6% of the Social Security recipients and 15.7% of VA benefits recipients have been found eligible for Basic Grants. Although there has been almost no comment on the treatment of veterans' benefits, the treatment of Social Security benefits has raised considerable concern. In fact, almost one-third of the 1,500 or so letters received weekly by the Basic Grants staff have dealt with this rule.

The problem most often mentioned is that low income families think of Social Security benefits as the primary source of funds to be used for family maintenance.

In the very lowest income group, Social Security often is the only source of income. It becomes quite difficult to explain to a family wthich has relied on these benefits for subsistence that a significant portion of their income is to be used solely for the education of one family member. On the other hand, however, most families would not receive the SSA funds paid on behalf of a family member who is older than 18 if he were *not* still attending school.

In our search for an equitable solution to this problem, we have considered a couple of alternatives. One solution might be to combine effective income of the student with family income. This sum would then be subject to the 20 or 30 percent taxation now used for family income. Another possibility would be to permit any negative balance remaining after reducing family income by allowable deductions to be taken against effective income of the student.

There is a further complicating factor here, however, as we search for an equitable solution. That is that whatever we do for Social Security payments we must also do for VA payments.

Frankly, we have not yet reached a conclusion as to the best solution in this area, and we would welcome any advice the Subcommmittee might have to offer.

REMOVAL OF "OTHER" ASSETS

Primarily because of concern in the other body, we have included an expectation from "other" assets in the current schedule. These assets are defined as including consumer durables and personal assets such as automobiles, boats, art objects, electronic sound and visual equipment, jewelry, antiques, and cameras, to the extent that each has a value of $500 or more.

Our statistical data show that only 1% of the total dependent applicants has been affected by this provision. On the other hand, since all applicants must report current market value of and liabilities against these assets, the inclusion of these types of assets has resulted in a seemingly unnecessary complication to the system.

Accordingly, we would recommend that this provision be dropped from the schedule.

We estimate that the increased cost at full funding would be less than $750,000.

ADJUSTMENT TO FAMILY SIZE OFFSET

We believe that the family size offset currently in use, with an adjustment for 1973 inflation, should be maintained in the 1974–75 schedule, Mr. Chairman.

I realize that some have suggested to this Subcommittee that other amounts might be more desirable.

However, we believe that the changes which we have proposed to make in the treatment of assets and the increased family size offset and will solve the concerns of nearly all who have testified before you.

I would also point out that a change to a different base for the family size offset, if combined with our recommended changes, would greatly inflate the cost of these changes, since such an increase in offset would result in a dollar for dollar increase in negative income.

An amendment to the statute which we would strongly urge the Subcommittee to adopt relates to the authority of the Commissioner to carry over funds not expended in one fiscal year for BEOG payments to the succeeding fiscal year; or, conversely, to use funds appropriated for the BEOG program for the succeeding fiscal year to make payments in the current fiscal year.

Under current law, we are required to use funds not spent by the end of the fiscal year to make additional, or "bonus", payments to those BEOG recipients who did not receive full payment of their maximum awards.

We hope, of course, that all funds will be distributed to eligible students and, therefore, that no funds will remain unspent at the end of this fiscal year; and we are redoubling our efforts to inform eligible persons of their right to apply for benefits from the Basic Grants program. In the past few weeks we have corresponded with all financial aid officers and met with them in regional meetings to encourage them to seek out eligible students and to suggest to these students that they send in their applications. We recently held a conference call with all regional commissioners and higher education directors, during which they were urged to make personal contact with institutions to increase efforts to get students to apply.

The ACT and CSS have provided us with the names of students who have applied under their systems and who fall into the Basic Grant range of eligible family contributions. These students have all been sent a followup letter and institutional financial aid officers have been sent the names of these students.

In addition, we have sought the assistance of the various higher education associations in our efforts to insure that all institutions were aware of this program.

Finally, we are planning to extend the deadline for the submission of student applications from February 1 to April 1. This extension will permit additional students to participate in the Basic Grant program.

Despite our best efforts, however, it is unlikely that we will ever be sufficiently wise to produce a schedule of payments which will exactly equal the available appropriation. In the case of either an overrun or a shortfall, however, we would expect the sums involved to be a very small percentage of the total appropriation.

In those instances where we are left with excess funds in any fiscal year, we believe that the current requirement to make additional payments to BEOG recipients will pose most severe administrative problems, particularly for postsecondary institutions.

We have had strong indications that schools are very concerned about the possibility that an additional BEOG payment, together with awards made by the institutional aid officer under the college-based programs, will produce an amount which exceeds a student's demonstrated need. Thus, financial aid officers will be open to the charge that they have overawarded funds which they control in violation of OE regulations.

An additional factor which will further complicate this situation is the high percentage of students who drop out of school during their first year. Schools will face great difficulty in finding these individuals, and may well incur inordinate administrative expenses in an attempt to make what will likely be quite small payments to specific individuals.

The other side of this coin, of course, is that we may underestimate the number of eligible students, thereby producing a payments schedule which provides in total for awards to students which will exceed the available appropriation. If this were to happen, our normal course would be to return to the Congress and to ask for a supplemental appropriation. As you know, however, this process can be quite time consuming. An alternative approach is that suggested in our amendment.

If an appropriation for the Basic Grants program had already been enacted for the succeeding fiscal year, the Commissioner of Education would be authorized to transfer sufficient funds from that year to the current year. This would insure that students would not suffer while a supplemental appropriations bill was sought and enacted.

For the reasons I have just enumerated, Mr. Chairman, we would recommend that the Congress amend the law to permit this limited transfer of funds. As I indicated, we do have suggested language which I would be pleased to share with the Subcommittee.

These are the changes which we are recommending be made to the 1974–75 Family Contribution Schedule, Mr. Chairman. In sum, we believe that they will serve to strengthen the Basic Grants program and will further promote the quest for equality of educational opportunity which we all share.

In the time remaining Mr. Chairman, perhaps I might review briefly the statistical material which we have provided and then answer questions.

Illustration of proposed change in the treatment of assets

Family of 4—1 parent working: Family income—$3,000; Income tax paid—$0; Net Assets of Family—$34,000; One child in college.

	Present method	Proposed change
Family income	$3,000	$3,000
Less family size offset	4,300	4,300
Discretionary income	−1,300	−1,300
Times expectation rate	.20	.20
Expectation from income	0	0
Net assets	34,000	34,000
Offset from discretionary income	−1,300	
Less asset reserve	−7,500	7,500
Available assets	25,200	26,500
Times expectation rate	.05	.05
Expectation from assets	1,260	1,325
Offset from discretionary income		−1,300
Expectation from income plus assets equals family contribution	1,260	25

ARAB OIL EMBARGO: A CHALLENGE FOR AMERICA

Mr. HUMPHREY. Mr. President, the United States faces the greatest oil shortage, indeed the most serious energy crisis in its history. Even as I speak, the economic dislocation and human suffering are mounting, and each day of delay in taking strong measures deepens the problem.

A recent report by Mr. David M. Lindahl, an analyst in environmental policy for the Congressional Research Service of the Library of Congress, provides an excellent overview of the fuel shortage situation in this country.

It is my firm belief that the people of this Nation can meet this challenge, can rise to the occasion as they have during other crises throughout our history. But first, we must understand the problem—in this case the severity of our fuel shortages—before we can take intelligent long-range action. Mr. Lindahl's analysis takes a step in this direction.

For instance, he notes that for the past several years there have been fuel oil shortages in the winter. Last year the shortages would have been much worse if many parts of our country had not experienced a mild winter. And this was before the Arab oil cutoff we now face.

Here are some statistics noted in Mr. Lindahl's report, statistics which should serve notice on the administration and on the Congress that soft, temporary measures will not be enough.

The demand for distillate oil, used primarily for heating, will increase by more than 10 percent over last winter, equal to about 380,000 barrels a day more than last winter. If this winter turns out to be colder than last, we might need another 120,000 barrels a day on top of that.

But that is far from the whole picture on the heating oil situation. Because of a natural gas shortage, the demand for heating oil could increase an additional 130,000 barrels a day so that people who have run out of natural gas will not freeze.

So far, we have talked only about fuel oil. Mr. Lindahl notes that demand for other petroleum derivatives is expected to grow at comparable rates. Those products include gasoline, propane and a number of other derivatives.

The United States now produces less than 70 percent of the petroleum it needs for domestic use, and with the exception of the addition of the Alaskan North Slope fields, the capacity to produce has been dropping, as has actual production.

Residual fuel oil, used largely by electric companies and heavy industry for boiler fuel, is in a more acute shortage than heating oil. In short, Mr. Lindahl concludes that we have become ever more dependent on imported petroleum and that for the short range we are going to have to tighten our belts because of the Arab oil cutoff to this country.

If things continue in their present pattern of production and consumption in this country, Mr. Lindahl predicts the United States may have to import more than 50 percent of its oil. This winter, the United States may have to import 640 million barrels of crude oil to avert a serious shortage. Even if this is somehow available on the world market, this would represent an increase of 50 percent over 1972 imports. That is a staggering increase.

Distillate fuel oil was imported at the rate of 400,000 barrels a day during last winter's shortage, and it is estimated that during cold spells we may need as much as 800,000 barrels a day. Most of that came from Caribbean refineries, with the rest imported from Europe. Because the Arab oil embargoes and the rising worldwide demand, it is unlikely that as much will be available this winter from those sources.

Adding all the possible shortages in the face of the rising demands, Mr. Lindahl concludes that the total shortfall this winter could reach 35 percent. But that is only an average, and New England and the Upper Midwest—where the winters are most severe—could experience more drastic consequences than the rest of the country. In addition to heating oil shortages, New England could lose 35 percent of its electric generating capacity.

Again, I say that the time has come for strong leadership in the administration and in the Congress to relieve both our short-range and long-range energy problems.

Mr. Lindahl's analysis serves to make us aware of some of these problems, although there are many more.

Mr. President, I ask unanimous consent that his report be printed in the RECORD.

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

THE ARAB OIL EMBARGO AND ITS IMPACT ON WINTER FUEL SHORTAGES

(By David M. Lindahl)

I. INTRODUCTION

The United States has been concerned over the possibility of a winter fuel crisis for the past year. Rising demand and falling supply have created a situation in which a shortage was extremely likely. The Arab oil cutoff has made that shortage inevitable and threatens to produce economic dislocations as well as personal inconvenience and discomfort. The factors behind the shortage, its impact on the Nation, and possible corrective measures are complex and subject to extensive analysis. This report, however, is a brief overview which is intended to place these actions and reactions in perspective.

II. DOMESTIC DEMAND

For the past several years, shortages of fuel oil have occurred during the winter months. Part of the recent shortages can be attributed to the appearance of new users who were unable to obtain natural gas because of curtailments starting in 1971 and were not permitted to burn high-sulfur fuels because of air-quality regulations. The shortage was particularly acute during last winter (1972–1973) because demand rose much more rapidly than did supply. The shortage could have been much worse, however, had it not been for the unusually mild weather experienced by many parts of the country.

Fuel oil demand for the winter of 1973–1974 is expected to be higher than for last year. The Department of the Interior has estimated that distillate demand this winter will increase 10.4% over last year (4,048,000 b/d in 1973/1974 compared to 3,668,000 b/d in 1972/1973).[1] If temperatures are colder than normal and increase demand by 3.9%, an extra 120,000 b/d would be required to prevent a shortage.[2] The effect of cold weather on the demand for distillate fuel oil can be seen in Table 1.

TABLE 1.—MONTHLY CONSUMPTION OF DISTILLATE FUEL OIL UNDER DIFFERENT ASSUMPTIONS OF WEATHER

[Consumption in millions of barrels]

	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.
Case A. 6 percent increase over last winter	87.2	102.0	131.3	132.0	115.6	109.7
Case B. Warm winter	75.2	87.0	115.6	118.1	101.1	97.0
Case C. Cold winter	89.9	110.3	148.1	153.7	131.1	119.5
Case D. Warm early/cold late winter	79.6	93.9	126.8	144.4	121.7	113.0
Case E. Increase over last winter	90.5	105.9	136.3	137.0	120.0	113.8

Source: Winter Heating Outlook, P. K. Verleger, Jr., and S. Haltmaier, "DRI Review," Oct. 10, 1973, p. 3.

In addition to the normal growth rate in heating oil demand and the possible effects of unseasonably *cold* weather, an increase of 130,000 b/d may result from the curtailment of natural gas sales because of shortages.[3] The combined total of these demand factors indicates a distillate demand of 4,048,000 b/d over last year's figure of 3,668,000 b/d. This increase of 380,000 b/d, shown in Table 2, does not include crude oil or other refined products which would increase the total demand to over 17,000,000 b/d.

The U.S. demand for petroleum products of all types is estimated by the Bureau of Mines at 17,455,000 b/d.[4] Much of this in 1974 is predicted by the Independent Petroleum Association of America (IPAA) to rise to 18,525,000 b/d.[4] Much of this increase can be attributed to the greater use of fuel oil, but demand for other petroleum derivatives is also expected to grow at comparable rates. The requirements for gasoline, propane, and petrochemical feedstocks are unprecedented, and shortages are likely to recur for those products as well as for fuel oil.

Footnotes at end of article.

TABLE 2.—U.S. DISTILLATE DEMAND BY QUARTERS AND WINTER SEASON 1971 THROUGH 1974

[Millions of barrels daily]

	1971	1972	1973	1974
1st quarter	3.695	3.788	3.885	4.570
2d quarter	2.258	2.406	[1] 2.500	2.630
3d quarter	1.886	2.011	[2] 2.150	2.264
4th quarter	2.955	3.458	3.538	3.680

Winter season	Millions of barrels daily	Percent increase
1971 to 1972	3.369	3.7
1972 to 1973	3.668	8.9
1973 to 1974	4.048	10.4

[1] Estimated.
[2] Forecast thereafter.

Source: The distillate fuel oil situation winter 1973-74, Department of the Interior, Sept. 15, 1973.

III. DOMESTIC SUPPLY

The United States currently produces less than 70% of the petroleum it needs to meet domestic demands. With the exception of the addition of the Alaskan North Slope fields, productive capacity has been dropping as has actual production. During the shortage of last winter, it was apparent that the oil industry no longer had the capability of increasing production to match the peak demand.

This trend is likely to continue indefinitely. Domestic production of petroleum for 1973 has been estimated by the Bureau of Mines to be 10,961,000 b/d, compared to a demand of 17,455,000 b/d. Of the 6,494,000 b/d shortfall between domestic demand and supply, 6,251,000 b/d were expected to be made up by imports, leaving a shortage of 223,000 b/d. The IPAA predicted that domestic production would drop to 10,788,000 b/d, even though demand is likely to rise over 1,000,000 b/d compared to last year.[5] Of the 7,737,000 b/d deficit forecast between supply and demand, 7,435,000 b/d were expected, before the Arab oil cutoff, to be made up with imported oil, leaving a net shortage of 302,000 b/d.

The most immediate supply problem as for fuel oil because of the onset of the heating season. Stocks of distillate fuel in November (203,656,000 bbl) are only slightly higher than they were a year ago (197,750,000 bbl.).[6] The gain in supply (3%) has been more than offset by increased demand (10%) with the net effect being a shortage 7% worse than last year.

The shortage of residual fuel oil, which is used primarily by electric utilities and heavy industry as a boiler fuel, is even more acute. Stocks of residual fuel oil on Oct. 26, 1973 were only 56,891,000 bbl. In contrast with 63,990,000 bbl. a year ago.[7] With greatly increased demand pressures and lower stocks, a serious residual shortage appears inevitable. A further complication is that most of the residual fuel oil used in the U.S. is imported, and reductions in foreign production may worsen the supply situation here.

IV. IMPORTS

A. Requirements

As has already been indicated, imports figure prominently in the supply/demand situation for petroleum. U.S. dependence on foreign sources of oil has grown rapidly in recent years, and it would now be impossible to prevent severe shortages without substantial imports. In 1972 imports accounted for 18.8% of the U.S. crude oil supply (see Table 3).[8] Imports now constitute over one-third of our petroleum consumption, and the trend is toward even greater dependence on foreign producers. By 1980 the U.S. may be importing over 50% of its oil. Most of that increase was expected to come from the Middle East because of its extensive reserves. The supply of some products such as residual fuel oil is already dependent on foreign production. The demand for residual oil in 1972, for example, was 925,647,000 bbl. Of this, 637,401,000 bbl. was imported, amounting to over two-thirds of the total.[9]

TABLE 3.—CRUDE OIL IMPORTS INTO THE UNITED STATES

Country of origin	Annual total for 1972 (in 42-gallon barrels)	Posted price per barrel, Oct. 1, 1973	Posted price per barrel, Oct. 31, 1973	U.S. export embargo (by percent)	Middle East monthly production cut (by percent)
Canada	312,440,000				
Colombia	1,695,000				
Ecuador	5,331,000	3.600	5.250		
Venezuela	93,303,000	4.610			
Algeria	31,753,000	5.000	7.000	100	10
Egypt	3,091,000			100	5
Libya	40,069,000	4.604	8.925	100	5
Nigeria	88,887,000	5.000	5.000		
United Arab Emirates	26,873,000	3.110	5.538	100	5
Iran	49,700,000	2.995	5.091		
Iraq	1,315,000			100	10
Kuwait	13,205,000	2.884	4.903	100	10
Qatar	1,263,000	3.143	5.343	100	10
Saudi Arabia	63,626,000	2.884	4.903	100	10
Indonesia	59,633,000	5.000	5.000		
Others	18,954,000				
Combined total	811,135,000				

Note: Total does not include indirect imports of refined products made from Middle Eastern crude.

Source: API Annual Statistical Review, Apr. 1973, p. 9-10; Oil and Gas Journal, Oct. 29, 1973, p 50; Oil Daily, Oct. 26, 1973, p. 6.

Because of the drop in domestic production and the increase in demand for petroleum products, an estimated 640 million barrels of crude oil will have to be imported during the last quarter of 1973 and the first quarter of 1974 to avert a serious shortage.[10] If available on the world market, this much oil would represent an increase of 50% over 1972 U.S. imports. The Middle East is currently the only producing area in the world that has the proven reserves and productive capacity to meet those increasing requirements. The added cost of the incremental imports over last years' total would depend upon the price per barrel, which is rapidly escalating upward, but would probably be near $8 billion.[11]

The level of imports needed to meet the demand for distillate fuel oil also will be substantial. The Department of Interior has estimated that if domestic refinery capacity is to be used as expected and inventories are to be maintained at a level of 100,000,000 barrels or above, then imports of distillate must average more than 650,000 b/d.[12] If the weather is exceptionally cold, imports of 800,000 b/d may be needed during the could spells Even in normal circumstances such quantities may not be available for the United States on world markets. During the shortage last winter, for example, distillates were imported at an average rate of 400,000 b/d. Most of that distillate (80 to 85%) came from refineries in the Caribbean, with the remainder imported from Europe. Most of the Europeans distillate and a substantial amount of the Caribbean distillate was made from Middle Eastern crude oil.

It is unlikely that as much distillate fuel oil will be available fom Europe as that obtained last winter Europe imports more distillate than it exports, and was able to provide extra distillate last year only because of mild weather. The largest quantity of distillate that the U.S. could reasonably expect to obtain from Europe this season is 165,000 b/d.[13] A cold winter would reduce that amount considerably.

B. The oil producer's boycott

The availability of oil to import into the United States has been drastically reduced as a result of renewed hostilities in the Middle East. The Arab countries that export oil have agreed to boycott the U.S. market in an attempt to influence U.S. policy towards Israel and generally to modify its Middle-Eastern policy. The use of oil as an instrument of diplomacy is not new, but it has never been applied as effectively or as large a scale as at present. The U.S. has been wholly cutoff from Middle Eastern oil, as has the Netherlands, because of its pro-Israeli policies. Canada has also been denied Arab oil for fear that it would send part of it to the U.S. The Arab states have also reduced production 10% initially for European customers and plan to cut it 5-10% each month thereafter. Additional cuts have been threatened and may be implemented. These actions are of vital concern to Europe and Japan where imports from the Middle East comprise 85% of their petroleum supply (Fig. 1).

The Arab oil cutoff is certain to have a serious impact on the Nation's petroleum supply and upon the winter distillate inventories in particular. As Table 4 indicates, the 1972 shipments to the United States totaled 687,900 b/d, which amounted to 5% of the U.S. demand of 16,300,000 b/d. The level of imports in 1973, prior to the war, was much higher with Saudi Arabia exporting in July as much crude oil as all the Arab countries combined had exported in July of 1972. As table 4 shows, imports of Arab crude oil in July were 1½ times the rate a year earlier.

MAJOR IMPORTERS OF MIDDLE EAST OIL

Country	Oil imports from Middle East (1,000 b/d)	Percentage of total oil imports
Japan	3,800	85
Italy	2,000	85
United Kingdom	1,800	84
West Germany	1,500	75
France	1,200	62
Netherlands	1,200	88
Spain	600	81
United States	380	10

Footnotes at end of article.

TABLE 4.—U.S. IMPORTS OF ARAB CRUDE OIL, JULY 1973 VERSUS JUNE 1972

Producing country	Crude shipments to United States barrels per month	
	June 1972	July 1973
Algeria	2,380,000	4,595,000
Egypt		653,000
Iraq		
Kuwait	1,012,000	482,000
Libya	3,192,000	3,599,000
Qatar		185,000
Saudi Arabia	5,145,000	19,958,000
Tunisia		205,000
United Arab Emirates	1,452,000	3,169,000
Total	13,181,000	32,661,000

Source: Oil and Gas Journal, Oct. 15, 1973, p. 40.

C. Severity of the shortage

When the production cutbacks and cutoffs were announced by the Arab oil-producing states, the initial reaction in the U.S. was that the loss of Mid-East supply was a minor complication that could be easily accommodated. It was reasoned that since only 2½% of our oil consumption in 1972 was met with oil from the Middle East, the impact would not be very great. Those initial assessments, however, appear to be overly optimistic because they did not include several important considerations. First, the direct imports of Arab oil have averaged about 250% more for 1973 than for 1972, and were even higher in the period immediately preceding the cutoff. The direct imports of crude oil from the Middle East in 1973 amount to 1.1 million b/d compared to the estimated U.S. demand of 17.5 million b/d.[14] Second, the United States imports petroleum products, especially residual and distillate fuel oil, which are refined in Western Europe and the Caribbean from Middle Eastern crude oil. If both direct and indirect shipments of Arab oil are affected, the reduction in supply may amount to 3 million b/d or 18% of the U.S. daily demand. Third, Canada, which supplies the U.S. with more than any other country (1.1 million b/d in 1972), traditionally for geographical reasons has imported as much oil as it exported. Because Canada's producing areas are in Western Canada, it was expedient to sell the surplus oil there to the U.S. rather than to transport it to Eastern Canada. Now that Canada's imports are threatened, it has placed strict controls on oil exports and is planning to redistribute as much of its western production as is necessary to meet the requirements of its eastern provinces. The effect of this will reduce Canadian exports to the United States by a comparable amount (possibly 500,000 b/d), and probably would push the U.S. shortfall over 20%. Fourth, the general production cuts imposed by the Arabs have tightened world supply to the point where competition for the oil of Venezuela, Nigeria, Iran, Indonesia, and others may make it difficult for the U.S. oil industry to buy as much petroleum from those sources as it did last year. If the shortages resulting from normal demand growth, natural gas curtailments, low inventories, and an exceptionally cold winter are added the total shortfall could be as much as 35%. While that is the worst possible case, it is unlikely that even an end to the Arab oil embargo and a relatively mild winter could reduce the shortage to 20% or less. That case, if it occurred would minimize the gasoline problems that would otherwise develop next summer, but would come too late to prevent shortages this winter.

Worldwide, the cutoff of Middle East oil has reduced world oil supplies by 4.7 million b/d.[15] It is expected that the production loss in November will be about 6 million b/d.[16] The *Oil and Gas Journal* reports that there is no alternate supply readily available to offset a reduction of this magnitude. Most non-Arab producers are already operating near capacity and are not likely to increase exports to the U.S., except for Indonesia which has offered to increase production slightly.

The impact of these shortages is certain to be felt by all consuming nations, but the U.S. and the Netherlands will likely be affected to the greatest extent, assuming that the complete embargo is not extended to other countries. Europe will be adversely affected since it gets approximately 87.8% of its oil from Arab states. The cutoff for Europe is not total, however, and many countries there have strategic reserves of approximately 90 days. The U.S., on the other hand, is now subject to a 100% embargo, has no strategic oil shortage system, and expects domestic oil production to decline.

No one can say with certainty just how severe the shortage will be. It was widely predicted that there would be a fuel oil shortage this winter and that now appears to be inevitable. The foreign fuel oil that was imported last year will not be available this year because exporters face possible shortages in their own countries and could be cut off entirely from Middle East oil if they transship crude oil or petroleum products to the United States.

The real effects of the cutoff have not yet been felt in the United States because oil that was shipped before the embargo is still in transit and the peak demands of the heating season will not be reached until late December. The shortage will be the most severe since World War II and will affect every energy consuming phase of American life. At the worst, some factories, schools, and businesses may have to close or limit operations and many personal activities may have to be curtailed. Many homes may be cold and many electric utilities may have to limit output because of fuel restrictions. If the shortage is severe and protracted, serious strains could develop in the U.S. economy.

The region of the United States that will probably be affected the most will be New England, and to a lesser degree, the upper Midwest. Half of the residual fuel oil imported to the East Coast is made from Arab oil. That oil is used primarily to produce 70% of New England's electricity. If the oil supply is reduced by half, 35% of New England's generating capacity will be cut. Some power systems in New England are totally dependent on Mid-East oil and will have difficulty finding other sources, because residual fuel oil is not yet subject to mandatory allocation. The oil shortage problems of the Northeast and Midwest will be compounded by the fact that winters are usually colder there than in the rest of the country and consequently per-capita heating requirements are higher.

V. POLICY OPTIONS

The increasing U.S. dependence on foreign oil has greatly reduced the alternative courses of action available to the U.S. For the most part, it is unlikely that the two extreme options of total capitulation to Arab demands or of military intervention to restore supply lines would be used. The U.S. can respond in other ways that can be effective to varying degrees over both the short and long term.

A. Increased domestic production

An immediate increase in domestic production is, at best, only a partial solution. Certainly there is insufficient productive capacity, even including Naval Petroleum Reserves, to meet a shortfall of 4 to 4½ million b/d. To the extent that this oil is available, however, the shortage can be reduced accordingly. During the oil shortage last winter, production controls were lifted on many U.S. fields but with only marginal success.

It is doubtful that U.S. production for this winter will match last year's total, let alone meet the greater demand of this year. The *Oil and Gas Journal* reported that U.S. oil fields do not have sufficient productive capacity to compensate for an Arab oil cutoff.[17] The *Journal* estimated that only 100,000 b/d of extra domestic production could be made immediately available. After 90 days, the *Journal* predicted, 250,000 b/d could be produced if pipeline capacity were increased, gas and brine-handling facilities were expanded. A maximum of 445,000 b/d could be obtained at the risk of reservoir damage, wasted natural gas through flaring, and pollution. This increase falls far short of the 1,053,600 b/d of crude oil imported from the Middle East in July 1973. It should also be noted that the 445,000 b/d increase is considered optimistic by many. The Texas Railroad Commission which oversees the production of oil in Texas, has indicated that there is no excess capacity and that production could be increased only by damaging the reservoirs which would reduce even more the eventual production.[18] The major oil companies contend, on the other hand, that increased production is possible and have petitioned for increased allowables. Even the most optimistic estimates, however, predict that the cutoff will result in a substantial shortfall in supply at a time when inventories should be building up for the high demands of winter's heating season.

B. Strict conservation measures

Mandatory allocations of distillate fuel oil and propane were implemented earlier this year to deal with the predicted winter shortage. As the President indicated in his message of November 8, 1973, the Arab oil cutoff may require more extreme measures, and rationing may be necessary. Senator Henry M. Jackson has introduced a bill (S. 2176) which he claims could result in savings or additions to supplies of over 3 million b/d within 5 months.[19] The proposed legislation would require a declaration of national emergency when the shortage exceeds 5%, and would direct the President to issue requirements for rationing and conservation plans to be developed by state and local governments. The goal of the conservation plans would be to reduce energy consumption by 10% within 10 days and by 25% within 4 weeks after implementation.[20] Some of the measures may include maximum speed limits of 50 m.p.h. or less; mandatory tuneups of motor vehicles; a ban on advertising to promote the consumption of energy; mandatory inspection of commercial and industrial heating and air conditioning units; temperature limits of 65°F. in winter and 80°F. in summer for all buildings owned or leased by the Federal Government; and mandatory carpooling. Temporary relaxation of air quality standards might be allowed to permit utilities to burn high-sulfur coal instead of oil, which would then be available for transportation and space heating.

President Nixon, in his November 7th nationwide address on the energy situation, proposed a broad energy conservation plan that would give him the authority to ration gasoline and fuel oil, reduce speed limits, exempt industries from environmental controls, and to impose taxes on excessive energy use. The President asked the Congress to return the United States to permanent daylight saving time and ordered immediate cuts in the use of energy by the Federal Government in addition to the 7% cut ordered earlier. He ordered that Federal offices be heated to no more than 68° F. and that Federal vehicles not travel more than 50 m.p.h. In addition, the Atomic Energy Commission was asked to accelerate the rate at which nuclear power plants are being licensed and built. He directed that industries which presently use coal be prevented from switching to oil and encouraged utilities now using oil to convert to coal utilization. In-

Footnotes at end of article.

dividuals were asked to lower their thermostats, to form carpools, and generally reduce their consumption of energy. He urged that the following steps be taken at the state level: halt unnecessary lighting, stagger working hours, encourage greater use of mass transit, and adopt a 50 m.p.h. speed limit. In the legislation requested by the President was the authority to enable regulatory agencies to adjust the schedules of planes, ships, and other carriers in order to conserve energy.

C. Commitment to energy self-sufficiency

One consequence of the Arab oil cutoff is an intensified interest in developing energy self-sufficiency within the United States. While such a goal would take years to realize, the U.S. does have large quantities of coal, oil shale, and offshore and Alaskan oil that ultimately could reduce dependence on foreign sources of oil. To accomplish a task of such magnitude would require a major commitment by the United States to that goal. As seen by Members of Congress, particularly Senator Jackson, attaining this goal would require a coordinated national energy policy fortified with adequate funds and manpower. Such a program would be designed to reduce the economic and technological barriers that stand in the way of large scale use of coal gasification and liquefaction, solar energy, breeder reactors, and fusion reactors.

Even if such a national energy program were initiated and were ultimately successful, it would probably not have much effect on energy supply for at least a decade. In the meantime, the United States may find it expedient to launch large-scale exploration and development operations in promising but politically secure areas of the world. The Orinoco heavy oil reserves of Venezuela may hold close to one trillion barrels of oil. Canada's Athabascan tar sands 300 billion barrels, the Green River oil shale formation 600 billion barrels and the Naval Petroleum Reserve No. 4 in Alaska an undetermined amount.[21] The Atlantic Outer Continental Shelf which has not yet been explored may also contain large oil and gas reserves.

The lead time required to develop these reliable sources would be 8 to 15 years,[22] so they could not be immediately brought to bear on the present situation. A national commitment to these resources, however, would be useful in negotiations with Middle-Eastern producers. This combined with the creation of an organization of oil consuming nations could conceivably reduce the prospect of arbitrary supply interruptions in the future and could promote international cooperation in the search for new sources of energy.

FOOTNOTES

[1] The Distillate Fuel Oil Situation, Winter 1973–74, Dept. of the Interior, Sept. 15, 1973, p. 3.
[2] *Ibid.*, p. 4.
[3] The Distillate Fuel Oil Situation, p. 4.
[4] Report of the Supply and Demand Committee, IPAA Houston Meeting, Oct. 22–23, 1973, p. 7.
[5] Report of the Supply and Demand Committee, p. 7.
[6] API Weekly Statistical Bulletin, Oct. 26, 1973, p. 2.
[7] *Ibid.* p. 2.
[8] The Distillate Fuel Oil Situation, p. 4.
[9] API Annual Statistical Review, April 1973, p. 45.
[10] Winter Heating Outlook, P. K. Verleger, Jr., and S. Haltmaier, *DRI Review*, Oct. 10, 1973, p. 6.
[11] *Ibid.* p. 6.
[12] The Distillate Fuel Oil Situation, p. i.
[13] *Ibid.*, p. 12.
[14] "U.S. Moves to Offset Loss of Arab Oil," *Oil & Gas Journal*, Oct. 29, 1973, p. 53.
[15] "World Shaken by Arab Oil-Export Cuts, Price Hikes," *Oil and Gas Journal*, Oct. 29, 1973, p. 49.
[16] "An Arab Oil Squeeze that Works," *Wall Street Journal*, November 6, 1973.
[17] "U.S. Fields Unable to Fill Gap If Arab Oil Is Cutoff," *Oil and Gas Journal*, Oct. 15, 1973, p. 39.
[18] *Ibid.*, p. 40.
[19] *Oil and Gas Journal*, p. 53.
[20] *Ibid.*
[21] "The Oil Crisis: This Time the Wolf Is Here," James E. Akins, Foreign Affairs, April 1973, p. 489.
[22] *Ibid.*, p. 480.

TRIBUTE TO DAVID BEN-GURION

Mr. HOLLINGS. Mr. President, in this modern day, they are few indeed who are accorded the name "nation builder," the great leaders who took the hopes of a people and transformed them into the reality of nationhood seem to belong to the days of long ago. Their works are the works of history, and the stage today seems somehow peopled by men of lesser stature.

With the passing of David Ben-Gurion, the world has lost not only one of its preeminent contemporaries, but also one of its greatest nation builders. His is a name which will live in history for however long men still praise the achievements of their ancestors.

It takes no great imagination to see Ben-Gurion's monument. No rhetoric is needed to exaggerate the deeds of the man. His monument is Israel. His last will and testament is a thriving, dedicated land moving fast and fearlessly into the future.

David Ben-Gurion's life is clear testimony that man makes history and that the individual does make a difference. Those who would argue that we are all captive of the inscrutable and irreversible tides of history need only ponder the accomplishments of Ben-Gurion to see the folly of their thought. No man builds a nation alone, of course. But without the right men at the right place at the right time, no nation gets built. For Israel, the indispensable man was David Ben-Gurion. He led the cause. He showed the way. He took the spirit of his people and made of them a proud and determined nation.

If his life was motivated by an abiding idealism—and it was—Ben-Gurion was also an eminently practical man. He knew when to move and when not to move, when to advance and when to remain in place. He was a master of politics and diplomacy. He was a shrewd and sagacious leader.

His success resulted from this happy combination of idealism and pragmatism. The achievement of his dream was due in no small part to the practical side of his nature. And the vindication of his pragmatism is that it was always guided by a higher idealism.

Imbedded deep in David Ben-Gurion's personality, I found also a strong disposition toward reconciliation. He had built a nation, and he was interested in the survival of his nation. He knew that Israel could not endure in a sea of eternal hostility. And he knew that the best thing would be to talk with neighboring countries and attempt to work out an accommodation which could provide survival and security to all of the nations in that troubled part of the world. When I visited him in 1971, he seemed hopeful, and he believed that a just peace could one day soon be achieved.

Now he is gone. But his belief in the possibility of a just and lasting peace in the Middle East is more alive today than at an time in recent history. The opportunity for such a settlement may not come against for many years. Our hope today is that the leaders and people of each side realize the critical importance of the present hour, as their departed leader realized it.

Just as this wise and good man brought the dream of his people—a Jewish state—to reality, so now ought we all to strive so that his goal of peace may also become a reality.

Mr. President, the democracy of Israel has lost its greatest leader. Today the democracy of the United States pays tribute to that leader in recognition that we shall not soon again see his equal. I join my colleagues in extending heartfelt condolences to the people of Israel—and to freedom-loving people everywhere.

POISONING THE SEAS

Mr. HOLLINGS. Mr. President, the Senate Subcommittee on Oceans and Atmosphere recently conducted a symposium on ocean pollution. The findings of that symposium soon will be published by the Committee on Commerce and made available to the public and scientific community.

It is because of my interest in the matter of ocean pollution that I came across an article appearing in the November 20 issue of the Saturday Review entitled "Poisoning the Seas" by Richard Bernstein. This article is an excellent account of the problem facing policy makers in governments around the world in how to deal with pollution of the sea. It is especially timely since our own Government is looking toward the Atlantic Outer Continental Shelf for the protection of additional oil and gas to meet domestic needs.

I commend this article to the attention of my colleagues and ask unanimous consent that it be printed in its entirety in the RECORD.

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

POISONING THE SEAS: CHANCE OIL SPILLS AND THE "DEEP SIXING" OF SLUDGE, SEWAGE, AND ATOMIC WASTE MAY WELL CONVERT OUR LIFE-ABUNDANT SEAS INTO TRACKLESS GRAVEYARDS OF CIVILIZATION

(By Richard Bernstein)

Two years ago yacht basins on Oyster Creek, along the New Jersey coast, were unaccountably attacked by wood-destroying organisms. Pilings that supported the docks were weakening; yacht hulls were developing spots of rot. After several months it was apparent that the wharves might well eventually collapse into the creek. For generations nothing had ever happened to these facilities; so the discovery of the source of the trouble came as something of a surprise to the marinas' membership: Embedded in the hull of a boat, like Blake's invisible worm, were specimens of Teredinidae, otherwise known as shipworms or pileworms, a type of wood-boring clam. The area, it turned out, was infested with them.

Found often enough along the U.S. coast,

the various species of the teredo are common harbor pests known to have demolished entire piers. But they do not survive in upstream fresh-water areas like Oyster Creek. How they got there illustrates how subtle a matter the pollution of the coastal waters is. The fault, explains Dr. Ruth Turner of the Harvard Museum of Comparative Zoology, lies with the Oyster Creek Nuclear Power Plant. Built just the year before at the headwaters of Oyster Creek and Forked River, the plant had produced environmental changes that transformed the creek: Where it had been forbidding, it was now congenial to the wood-boring pests. The changes came about in this way: Needing vast amounts of water for its cooling system, the plant reversed the flow of the Forked River, drawing in through the river channel salt water from the nearby sea. Later the used water was discharged, warm and still salty, into Oyster Creek at the rate of about 400,000 gallons each minute. In this way three environmental changes were brought about, all of which were favorable to the teredo. First, the creek became salty. Second, the addition of large amounts of water to the creek reduced the concentration of humus (i.e., decomposed plant and animal matter), which is an important inhibitor to the spread of one type of larva. Third, the warm wastes flowing into the creek raised the water temperature, thus enabling the marine borers to grow more rapidly and to breed more frequently, while at the same time protecting them from the winter kill-off that normally would have kept the population under control. "The whole life cycle was accelerated," says Dr. Turner. "Birth, growth, reproduction, and death were all speeded up by the warm water." Before the plant was built, only an occasional teredo was found near the mouth of the creek. Now, inadvertently, almost ideal circumstances for the proliferation of the pest had been brought about.

We can expect similar occurrences elsewhere. By 1986 the utility companies of New Jersey and Pennsylvania plan to install forty-two power plants along the Delaware River and its tributaries alone. At current rates of growth there will be in the year 2000 one nuclear power plant for every ten miles of coastline. And wherever these plants or other warm-water sources are built, variations on the Oyster Creek theme can be expected. Each nuclear reactor will affect only a few square miles of coastline; it will not create a global problem. Ecologically, some say, this is a small price to pay to satisfy our energy requirements. But considering that there is only so much coastline, we cannot afford to turn our oceans into a huge warm-water sink without at the same time having to pay a gigantic ecological price.

Pollution of the sea is difficult to assess, precisely because of its frequently localized nature. A ruined dock here, a fish kill there—these are not pleasant to hear about, but they do not inspire worldwide alarm. Who, after all, can estimate the requirements of the human advance? If every death or environmental dislocation were allowed to stop progress, mankind never would have arisen from the Stone Age. Even now, marine biologists are reluctant to talk of anything except local effects. "The fact is that we don't understand what happens to the ocean when we pollute it with anything," says Dr. Guy McCloud of the New England Aquarium. Though there are some, like Jacques Cousteau, who warn that it is only a matter of decades before we ruin the oceans unalterably, most scientists remain unwilling to return any cosmic verdicts on the ultimate fate of life in the sea.

Still, the data coming in from various scientific sources during the past couple of years has begun to paint a more alarming picture. Investigations of the effects of various contaminants are beginning to reveal problems of a far wider scope than heretofore realized, regarding not only the sheer volume of marine contamination but its extremely poisonous effects on the environment as well.

Oil provides a graphic example. Ironically, though the most visible and highly publicized form of marine contamination, oil traditionally has been thought by the scientific community to have little harmful effect on the marine ecosystem. As late as their 1971 meeting in Rome, the Joint Group of Experts on the Scientific Aspects of Marine Pollution (GESAMP) concluded that "a single heavy contamination of the flora and fauna of the intertidal zone has a negligible effect [on marine life]." Most studies of oil spills rely on subjective visual measurements or else on statistical analyses of adult fish; this has led to the belief that spills do little biological damage to the seas. Indeed, since oil spills do seem to disappear after a couple of weeks, many scientists have concluded that a combination of evaporation and biological degradation of the oil rids the water of contamination after a very short period of time.

More recent, sophisticated studies have effectively challenged this view. At the Woods Hole Oceanographic Institution, for example, an interdisciplinary group of scientists has studied over a period of almost four years a small oil spill that took place in Buzzards Bay, Massachusetts. Studying not adult fish but the subtidal organisms that live in the marine sediments and cannot swim away from the contamination, the Woods Hole group established three important findings: The oil persisted in the environment far longer than had been thought possible, it continued to spread over the ocean floor months after the accident, and its toxic effects on wide varieties of marine life lasted not for days or weeks but for months or even years.

The immediate kill in the heavily affected area of Buzzards Bay was, as expected, virtually complete. Some 95 percent of the fish, crabs, lobsters, clams, and other invertebrates were dead within hours of the spill. What was unexpected was the spread of the oil in the sediments beneath the surface. Immediately after the accident, a control station was set up beyond the area of expected contamination. Within three weeks oil was found at this station, along with a lot of dead marine organisms. A second control station twice as far from the shore was then established, and it, too, was overtaken by oil spreading on the ocean floor with still another kill of bottom-living animals. Eight months after the spill, the polluted offshore area had grown to ten times the area initially affected, eventually covering twenty-two square kilometers of offshore water, tidal river, and marsh.

Thus, although shortly after the accident the area returned visually to its former state of natural beauty, chemically and biologically the ill effects of the spill still were present over a large area of the shore line. A year of evaporation and bacterial action on the oil did not remove many of its most highly toxic components. Young blue mussels that were affected by the spill in 1969 were sterile in 1970; oysters that had been contaminated by the oil were kept in clean, running sea water for six months; yet a substantial residual component of fuel oil remained in their tissues at the end of that time. In all, the evidence added up to a far more incriminating picture of the problems of oil than had been envisaged.

Still, the scientists at Woods Hole steer clear of anything resembling an apocalyptic judgment. "Our understanding of this problem is very meager," says Dr. Howard Sanders. "It's extremely dangerous to make these self-satisfied and assured statements that are way out. It may even be that the economic aspects of this are of overriding importance. But we still have to find out what the effect is. That's the important thing."

But one need be no prophet to see that the problem threatens to get worse, not better. Already signs are evident that certain types of contamination are becoming global in scope. Golf-ball-sized pieces of tar, formed from the heavier, more viscous components of oil, have been found in massive proportions throughout the Atlantic Ocean, affecting some 665,000 square miles of surface water. Last summer, widely scattered research vessels on duty between Cape Cod and the Caribbean repeatedly found their plankton-collecting nets fouled by thick clumps of oil. Half the plankton samples gathered from surface areas proved to be oil contaminated. Similarly, tiny plastic spherules, each half the diameter of a pinhead, have been found throughout the American continental shelf, in the Caribbean, and in the open Atlantic. These have been identified as polystyrene "suspension beads," the kind of material that goes into insulation and such common items as disposable coffee cups. In one study, conducted by Dr. Edward Carpenter along the coast of southern New England, they were found in the stomachs of eight of fourteen species of fish collected. While it is unclear whether tar balls or plastic spherules will have severe harmful effects on the environment, their presence in large concentrations throughout such vast tracts of oceans indicates, if nothing else, that some forms of contamination are far from local problems.

Also, the spread of certain heavy metals and potentially dangerous insecticides is now reaching alarming proportions. The Rome meeting of GESAMP reported that something in the range of 40 to 60 percent of all organochloride pesticides (like DDT) manufactured each year ends up in the sea, carried there primarily by air currents. Similarly, GESAMP has found that enormous quantities of lead are being introduced into the marine environment. Used as an anti-knock agent in motor fuel, lead is released into the atmosphere in exhaust fumes and then rained into the sea, as much as 2×10^5 tons annually. Though man will suffer no known ill effects if he eats fish whose tissue has absorbed lead from the water, "the rapid increase of the level of lead in the marine environment," the GESAMP report concludes, ". . . must be viewed with alarm."

The list of globally significant pollutants could go on indefinitely. PCBs (polychlorinated biphenyl compounds) are believed to be as widespread in the seas as DDT and other organochloride compounds. About 4000 to 5000 tons of mercury are dumped into the ocean each year in the form of industrial waste; an equal amount is released into the atmosphere by the burning of coal and oil and later washed into the oceans. Not all forms of mercury are harmful to man, but methyl mercury, which can be formed in the sea from the decomposition of other mercuric compounds, is the substance that killed forty-one people in Minamata, Japan.

Like other forms of pollution, that of the oceans is a by-product of economic growth and thus to an extent inevitable. Most of man's waste products directly or indirectly pollute the ocean. Sewage, automobile exhaust, industrial waste, warm water, the grease that mechanics wash from their hands at the end of a hard day—all of these contaminate the seas. And, as long as most nations continue to be committed to further growth, the danger increases that our oceans will be converted from inexhaustible treasure houses into trackless graveyards of civilization itself.

What then can be done? What is being done?

An ambitious and comprehensive under-

taking is being planned at the United Nations. A conference on the Law of the Sea, now in the planning stages in New York, will consider a wide-ranging marine pollution convention. This legislation envisages a combination of global, regional, and national controls that, it is hoped, will comprise a complete pollution-control package. Globally, minimum standards would be set for the preservation of the marine environment; regional and national provisions then would deal more specifically with special situations in the various parts of the globe.

But the number of conflicts that any effective legislation would create ensures that the process of coming to international agreement will be at best a slow one. There will be problems of jurisdiction and enforcement, themselves related to divergences in national interest. There will be innumerable local, practical problems. If discharges are to be regulated (they will not be prohibited), the question arises, Who is to discharge how much, when, and where? There will be problems relating to national strategic interests. Will one nation, for example, be able to restrict the passage of nuclear subs through its coastal waters because an accident would be disastrous to the environment? Might pollution controls be used as a pretext to cause inconvenience to the shipping, military or commercial, of rival states?

Perhaps the most serious problem concerns economic competition. Pollution control costs money, and spending money creates competitive disadvantages. Particularly to the less-developed world, already suffering from serious disadvantages in other spheres, the prospect of pollution control may prove less than agreeable. After all, the industrialized nations enjoyed the luxury of development without expensive environmental concerns. Now the majority of mankind that lives in the rest of the world is being asked to dispense with the same luxury. They may not be very willing.

This is the real crux of the issue. Like all environmental concerns, marine pollution boils down to a question of austerity—global austerity. It's a problem of willingness to make do with less. Two cars in every garage, even only one, means continued pollution of the seas. Or, as one marine biologist in Boston put it, "The solution is really very simple. You've just got to be prepared to walk to work."

NATIONAL FUELS POLICY

Mr. HARTKE. Mr. President, the energy crisis has taken much of this Nation by surprise. It has crept up and awakened us from what was a long period of overconfident unawareness. More than 13 years ago, on April 21, 1960, I spoke on this Senate floor of the need for a national fuels policy. The words I spoke then seem so appropriate today, that I would like to repeat them for the benefit of my colleagues:

Mr. President, fuel for energy is basic to the growth of our economy and to maintaining national security. It is obvious, therefore, that our continued well-being as a Nation depends on an assured supply of low-cost, high-yield fuels.

Conservative projections of America's growth set our 1980 population at roughly 250 million persons. If the standard of living enjoyed by this Nation is to keep pace with this skyrocketing growth, our industrial capacity must be expanded tremendously. An expanding industrial capacity means, in turn, that our consumption of energy fuels will grow, not only correspondingly, but at an even greater rate.

Resources for The Future, Inc., a non-profit research group concerned with the development, conservation, and use of our natural wealth, has estimated that in the 20 years from 1955 to 1975, our power needs will grow by 120 percent in the use of hydroelectric power, 107 percent in the use of oil and 75 percent in the use of bituminous coal. This seems fantastic for a scant 20 years, but I am assured it is realistic.

Where is this vast power to come from? We are today rich in power. I am not one to subscribe to the scare statistics that purport to show that we shall, in a few short years, waste away our inheritance of natural wealth. Yet our natural resources are not unlimited. Only a certain amount of oil, coal, gas, uranium, or any other source of energy is available anywhere.

It is possible to talk to 10 energy economists and come up with 10 different predictions of exactly when all of the fuel in the United States will be exhausted. Naturally, these predictions are always hedged with various qualifying phrases such as "at current levels of consumption." But we are not interested in current levels of consumption. We hope we are facing a growth rate unprecedented in history—a demanding growth rate; and we must have the raw materials with which to meet this challenge successfully.

Meeting this challenge requires planning. It is essential that we know what we have, how it is being used, and what we can expect to have in the future. We cannot proceed blithely down the path of carefree extravagance, allow our vital industrial machinery to grind to a rusty halt, and then wonder what we should have done to avoid our plight. And I may point out here that the wheels of industry will halt long before our fuel supplies are exhausted. All that is required to suspend or cripple industrial activity, thus causing nationwide unemployment, is for fuels to become so expensive, because of the short supply or high cost of production, that their use becomes prohibitive.

Consequently, we must plan for the future. That is the basic purpose of Senate Concurrent Resolution 73. It is a purpose which I endorse wholeheartedly.

I know that some Senators object to the word "plan." Many persons feel that we in the United States should enjoy a free, unplanned society. They believe that planning is the method of the Soviet Union—a method which is not free and with which our ideology conflicts.

But, merely because the Soviet Union states that it plans its affairs to insure the best use of its economic strength, it does not mean that we should be aimless, mindless, and wandering. Past administrations have brilliantly shown that planning our Nation's future need not necessarily lead to a regulated and regimented society. I am convinced that, if we drift, our destiny will be upon us much more rapidly than we think—and it will not be a happy arrival.

We are not concerned here with stringent Government regulation of the various energy industries. I do not think the Government should set up additional bureaucratic machinery to say "Thou shall" and "Thou shall not," to these important segments of our economy. What I am urging is the speedy approval of Senate Concurrent Resolution 73, a document that says nothing of Federal regulation or end-use control. The congressional committee envisioned under this resolution would be dedicated solely to determining exactly where the public interest lies in this vital matter of energy supplies. This, I think is a far different matter than establishing absolute Federal regulation, as some of the critics of this proposal have claimed it would do.

This entire subject of the public interest is one that concerns me greatly and which, I am sure, is of great concern to all my colleagues, as well. Ignorance of the public interest is one of the few certain ways in which a nation, if history is a reliable guide, can bring catastrophe upon itself. And on a smaller scale, we have many precedents in our own experience to indicate why concern for the public interest must be of overriding importance in the legislative activities of this body. As the late Henry L. Stimson stated, government is not "a mere organized police force, a sort of necessary evil, but rather an affirmative agency of national progress and social betterment."

Consider the simple matter of conservation. When the first westwardbound pioneers reached the summit of the Appalachians, they saw virgin forests stretched before them, with abounding game, swift streams, with easily harnessed power. They had found a land of infinite promise.

We all know what happened. As the pioneers moved west, the exploiters followed, filling the vacuum. Vast stands of timber that had taken hundreds of years to grow were mowed down in months. The herds of the Great Plains were slaughtered without reason. Streams were diverted for frivolous purposes and the power diminished.

Finally, of course, the public was aroused and the public interest was considered. A simple determination was made—that conservation of our natural resources was to be encouraged. This straightforward declaration of policy has had, as I am sure all Senators are aware, a profound effect. Take timber, for example. Where once logging companies stripped timberland and moved on without a backward glance, now grow tree farms dedicated to an assured supply of wood for future generations. This is the sort of policy declaration that must be made concerning our energy fuels.

Indeed, the situation in our energy industries is quite similar to the situation that gave rise to the earlier policy decision on the conservation of woodlands. At first discovery, our fuels resources—coal, oil, and natural gas—seemed inexhaustible. They were consequently used without question. There was always "plenty more where that came from." And there still is plenty more. But all three sources of energy are, at the present time, to varying extents, depleted. It has become obvious that these vital ingredients of national growth are, in fact, limited, although in many cases those limits are still a long while away. It has become just as obvious that it is time for a thorough, unbiased reappraisal of America's energy situation and its relation to the national interest—not only of today, but of the future.

This reappraisal is even more urgently indicated by the unhealthy economic conditions prevailing in our energy industries. The petroleum industry is facing a mammoth glut of oil, not only in this country, but on a worldwide scale. This oversupply naturally leads to depressed prices and basically uneconomic marketing practices. The gas industry, controlled as it is by Federal regulation, has been unable to make the proper adjustments to its role in the economy. Wellhead prices for this product have continued to be so low that sufficient incentive for exploration is lacking. The result is that the life index of natural gas has steadily decreased. And the coal industry is in the economic doldrums, causing widespread economic disaster to vast areas of this country.

Other countries of the world are not so naive as we. Many of them have already realized the importance of energy supplies to their economic progress and have consequently formulated fuels policies to guide them. Perhaps foremost in this movement is the European Coal and Steel Community—the group of six continental countries banded together for mutual economic growth. I have personally visited with their representatives in France, Luxembourg, and West Germany. Our good neighbor to the north, the Dominion of Canada, was also quick to realize the necessity of an energy policy. They have established a National Energy Board designated

to "study and keep under review all matters relating to energy within the jurisdiction of the Parliament of Canada, and shall recommend to the Minister of Trade and Commerce such measures as it considers necessary or advisable in the public interest." We cannot afford to lag behind the rest of the world in this field.

Because the economic ramifications of our fuels industries are so widespread on American life, the fuels study proposed here must be conducted on a very broad scale. It must delve into all aspects of energy supplies, energy needs, and the great mass of data that pertains to the economic future of the United States. As one leading fuels economist has pointed out:

"The development of an integrated national fuels policy calls for a consideration of all factors affecting the national supply of and requirements for all fuels and energy sources. The purpose of such a study is to determine what course of action is necessary to achieve the lowest overall cost of fuel and energy consistent with security of supply."

I, of course, cannot describe in detail what would be considered by the study group in their investigation. I cannot even tell Senators how long an effective study of this vital matter might take. But I can, in all conscience, assure Senators that such a study is an absolute necessity to the United States at this time.

Mr. President, I, of course, cannot describe in detail all of these things, but this is not simply a personal opinion. Over the years, many authoritative panels and commissions have had occasion to examine our energy situation. It has been a consistent recommendation of these groups that a study aimed at providing a national fuels policy was necessary. Let me cite just a few of these authorities.

A subgroup of the National Resources Committee recommended in 1939:

"The energy resource—coal, petroleum, natural gas, and waterpower—lies at the foundation of our industrial civilization. * * * From the evidence reviewed in this study, it appears beyond argument that the Nation's patrimony should be safeguarded, that a sound national policy must be concerned with the conservation and prudent utilization of these basic resources."

In 1951, an important committee of this body recommended in the words of its chairman, the senior Senator from Wyoming:

"We must still give consideration to the formulation of a broad 'national fuels policy to meet the needs of the United States in times of peace and war.' "

The President's Materials Policy Commission, commonly called the Paley Commission, reported in 1952:

"But on one point the Commission is very clear—the hydra heads of energy policy must be reined together. This can be accomplished only if all parties concerned—the President and Congress, the State and Federal agencies, and the energy industries—work from a common base of understanding of the total energy outlook, the interrelations within the energy field, and of the relations between energy and the rest of the economy."

And just a few short months ago Vice Chairman William R. Connole, of the Federal Power Commission, asserted:

"When we think that our energy resources are consumed at such an incredible rate that, for an example, all the fossil fuel consumed in the history of the world up to the year 1900 would last only 5 years at today's rate of consumption, we know how important this whole subject is to all the peoples of the world."

While these authorities are all concerned primarily with the needs of a peacetime economy, the realities of national security present a further demand for a national fuels policy. Our experiences in two world conflicts have shown us that the extravagances of war require a tremendous increase in our energy output. We have no source of energy which can be greatly developed or expanded overnight. It is estimated by spokesmen for the domestic oil industry, that it takes from 3 to 5 years to establish a new producing oil well. The gas industry, with its pipeline capacity already committed, would, of course, face delays because of the time necessary for additional construction. And the bituminous-coal industry reports that it takes up to 4 years to develop a modern coal mine and almost as long to train a miner in the use of the modern machinery of present-day mining.

With our retaliatory power strongly oriented to industrial capacity, our expanding need for energy fuels in the case of a national emergency is well documented. Overseas supply lines will be in jeopardy, domestic petroleum production will be consigned almost entirely to military uses, and our vital production might must be fueled by the remainder of our energy industries—primarily coal. Consequently, the maintenance of a strong, stable energy base becomes essential if this country is to be able to meet the exigencies of a future emergency. This resolution will insure that this is done.

Nor can we ignore the economic challenge which has been thrown down by the Soviet Union. The cold war, as we all know, is now being fought in economic terms as well as diplomatic ones and, of the two, the economic competition is the more crucial area. The Communists are well aware of the importance of fuels to this strife. An Izvestia article more than a year ago emphasized this. It said:

"In the 7-year plan for the development of our national economy, it is extremely important to find a practical solution to the problems connected with the integrated use of natural fuels resources."

And a second article asserted:

"Therefore, in our long-range plan for development of our natural fuel resources we are planning for the extensive but intelligent use of oil, natural gas, and coal for powerplants, for our industry and the everyday needs of community living."

Recent reports of economic planning in the Soviet Union indicate that these assertions may be rapidly realized. The most recent figures available reveal that the Soviets expect to increase their consumption of energy by approximately 70 percent by the year 1965, as compared with 1958. In this country, on the other hand, the best estimates of our energy use show an increase of only 25 percent from 1958 to 1965.

It is also worth noting that the Soviet Union, for the first time in history, surpassed the United States in coal production in 1958, producing 560 million tons to our 430 million tons. Soviet propagandists also claimed that the production of oil in their country in 1959 ousted Venezuela from its historical spot as the second largest petroleum producer in the world. These signs of growth, and their economic implications, cannot be ignored by the United States.

Since the introduction of Senate Concurrent Resolution 73 late in the last session of this Congress, a certain amount of controversy has arisen among the various fuels industries concerning it. From the start the resolution has had the enthusiastic support of the coal industry. Some segments of the petroleum industry and the producers of natural gas, however, were more reluctant to urge approval of this measure. Yet domestic oilmen have swung around to approving this important idea. The president of the Texas Independent Producers and Royalty Owners, Harry C. Jones, recently stated that his organization had little to gain by opposing a fuels policy study, and added, "Our most realistic and productive course might well be to participate in such studies and discussions."

The controversy has now boiled down to a simple one. The bulk of the opposition now comes from four or five international oil companies. These are the principal importers of the foreign residual oil which has flooded the eastern seaboard of the United States, tending to render us dependent on oversea sources of supply for such a vital domestic need.

There was at one time an objection raised that this resolution would lead to so-called end-use controls on America's energy fuels. The sponsors of the resolution never intended this, and they have eliminated the language that led to this interpretation. End-use controls are no longer an issue in this discussion.

Still, Standard Oil of New Jersey has published a lengthy treatise discussing this proposal in terms of a regulated economy versus the free choice of consumers. As might be expected when the issue is presented in these terms, the company stands firmly on the side of freedom. But this means little, since the issue is considered in basically unrealistic terms. The distinction between opponents and proponents of a national fuels policy study cannot be drawn along the line of Government controls as opposed to a free economy.

The distinction at issue is whether or not this country is to maintain the security of its fuel supplies. Those few great oil corporations who stand opposed to the resolution decry the security of energy supply as a tenet of national policy. Senators may wonder, as I do, if it is because Jersey Standard and other opponents use foreign oil for higher profits.

I cannot understand continuing objections after questionable provisions have been deleted from the resolution. I cannot understand the insisting on a policy of ignorance rather than enlightenment.

I suspect some oppose this important forward step in order to try to remain relatively unhindered in importing. Some apparently wish to be free to increase the flood of imported oil, particularly residual oil, which has been so detrimental to our domestic fuels industries and which can cause nothing but harm in the future.

Despite these objections, we must go forward with this fuels study. It is a vast problem that we are discussing. This area of energy supplies and needs is so broad and so crucial to our Nation that we must put our best brains to work assembling facts and extrapolating opinions to assure the country that its progress will not be impeded by a lack of energy.

Mr. President, we cannot long exist as a strong Nation without a fuels policy. We cannot afford to allow shortsighted or selfish individuals to stand in the way of our national growth. We cannot willingly permit a few companies to seek profits at the expense of America's national security. We must pursue our national destiny with all the logic and intelligence at our command, and this pursuit necessarily means the formulation and adoption of a national fuels policy without delay.

THE DISPUTE IN THE GRAPE INDUSTRY

Mr. KENNEDY. Mr. President, a week ago, I placed in the RECORD copies of two resolutions adopted by the National Conference of Catholic Bishops.

Prior to the adoption of these resolutions, Bishop Joseph F. Donnelly, chairman of the Bishops' Committee on Farm Labor issued a report on the table grape strike.

That report has now been made available to me. I ask unanimous consent that this summary, by an individual who has observed succeeding developments in this dispute at firsthand, be printed in the RECORD.

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

REPORT OF BISHOP JOSEPH F. DONNELLY, CHAIRMAN, BISHOPS' COMMITTEE ON FARM LABOR, NCCB MEETING, WASHINGTON, D.C., NOVEMBER 13, 1973

The Bishops' Committee on Farm Labor was established in November 1969 at the annual Fall meeting of the National Conference of Catholic Bishops. The NCCB authorized the Committeee to study the table grape strike and empowered the members of the Committee "to issue appropriate statements as in their estimation the facts warranted."

During the floor discussion of the Committee's purpose and role, it was made a matter of official record that if the Committee's efforts to persuade the parties to negotiate were unsuccessful, the NCCB was prepared to take further action. This meant, in context, that, if necessary, the NCCB might at the appropriate time come out in favor of the boycott.

Pursuant to this NCCB mandate, the Bishops' Committee held an extensive series of meetings in California with the top officers of the United Farm Workers and with a number of representative growers. As a result of these meetings, which extended over a period of several months, the parties eventually resolved their long-standing dispute in the table grape industry through the normal processes of collective baragaining. Representatives of the Bishops' Committee, by invitation of the parties, sat in as observers at most of the bargaining sessions and, in some cases, were called upon to mediate between the parties.

In summary, I think it can be said that the Committee played an indispensable role in settling the table grape dispute.

The table grape controversy was finally resolved in July 1970 when the so-called Delano growers signed collective bargaining contracts with UFW. Shortly thereafter a substantial number of lettuce growers in the Salinas Valley secretly signed agreements with the Teamsters who could not claim to represent the workers involved. (The California Supreme Court subsequently ruled that these Teamsters contracts were collusive.)

The United Farm Workers immediately called a massive strike in the Salinas Valley. Thereupon representatives of the Bishops' Committee were invited to mediate between the UFW and the Teamsters in an effort to resolve this unexpected crisis. With Committee representatives serving as mediators, the parties worked out an agreement which ceded jurisdiction over field workers to the UFW. Under the terms of this agreement, the Teamsters retained jurisdiction over the packing sheds and food processing plants which they had organized many years ago. The pact further stipulated that the Teamsters would use their best efforts to persuade the growers voluntarily to rescind their Teamster contracts and renegotiate them with the UFW. As it turned out, only a handful of lettuce growers took advantage of this offer within the period of time specified in the jurisdictional pact. The other growers refused to rescind their contracts and, to this day, they are still adamant in their refusal to deal with the UFW.

Faced with this dilemma, the UFW subsequently called a national lettuce boycott—and the battle was on again. Some months later, the Teamsters and the UFW sat down to work out a second jurisdictional pact—this time under the auspices of the national AFL-CIO and the Western Conference of Teamsters, with representatives of Bishops' Committee serving again as observers. This second pact also failed to achieve its stated purpose. In other words, the growers again refused to rescind their Teamsters contracts.

Even at that, the United Farm Workers continued to negotiate for several months with a number of interested growers. In the end, however, their negotiations broke down and, in due time, the lettuce boycott was renewed. Shortly thereafter, in an effort to mediate between the parties, the Bishops' Committee, on its own initiative, held a series of three meetings with the top officers of the Teamsters International and the Western Conference of Teamsters. Two of these meetings took place in Washington, D.C. and one at the headquarters of the Western Conference in Burlingame, California. At the conclusion of the third meeting, after representatives of the Committee had made their presentation and had been excused, the Teamsters went into executive session and, a few hours later, publicly announced that they had decided to take the UFW on and to organize the farm workers all over the State of California without regard to the two jurisdictional pacts referred to above.

In April of this year, upon the expiration of the UFW table grape contracts in the Coachella Valley, it was announced that the Teamsters had secretly signed up all but two of the growers in Coachella. This was a clear signal that the Teamsters—who did not represent the workers in the Coachella Valley—were determined, in collusion with the growers, to destroy the UFW.

The UFW, understandably, was appalled by this development and immediately called a strike in Coachella and also called for another table grape boycott. Subsequently, the Executive Council of the AFL–CIO voted to supply the UFW with a strike fund of $1.6 million. The Federation also sent experienced organizers to Coachella and invited all of its affiliated unions to send organizers from their own staffs.

On September 28 the Teamsters, at the prodding of the national AFL–CIO, tentatively agreed to a third jurisdictional pact with the United Farm Workers Union. It was generally thought that this pact, unlike the earlier Teamster-UFW agreements, would stick and that it would prepare the way for an orderly and peaceful settlement of the farm labor dispute. Unfortunately, however, the Teamsters announced a week or two ago that they could not and would not abide by the terms of the proposed agreement.

In the face of this development, the United Farm Workers Union had no recourse but to accelerate its national consumer boycott of head lettuce and table grapes as the only non-violent instrument of power left to it. We must be clear about the fact that the very existence of the UFW is at stake in this struggle.

The Bishop's Committee on Farm Labor has met to reconsider its own role in the light of this urgent crisis. The Committee is convinced that the cause represented by Cesar Chavez and the United Farm Workers Union is a just cause. We are persuaded that the UFW represents the best interests of the nation's agricultural workers and that it deserves our wholehearted support in its struggle to protect the legitimate economic rights of one of the most disadvantaged groups of workers in the American economy.

Accordingly, the Committee makes the following recommendations:

(1) The Committee *unanimously* recommends that the NCCB go on record in support of the UFW's demand for free elections to determine which union should represent the field workers in the agricultural industry and further recommends that the NCCB call upon the growers and the Teamsters to accede to this demand without further delay.

(2) *By majority vote,* the Committee recommends that the NCCB endorse and support the UFW's consumer boycott of table grapes and head lettuce until such time as the Teamsters and the growers agree to secret ballot elections.

Mr. Chairman, I move the adoption of these two resolutions.

Following the presentation of Bishop Donnelly's report and a one-hour discussion of his report on the floor of the National Conference of Catholic Bishops' meeting, the NCCB unanimously adopted the following resolutions:

(1) It was moved that the National Conference of Catholic Bishops go on record in support of the right of the field workers in the agricultural industry to free secret ballot elections which will determine whether or not they want union representation and which union they want to represent them. The NCCB calls upon the growers and the Teamsters to accede to this demand of the United Farm Workers without further delay. The motion was carried unanimously.

(2) The National Conference of Catholic Bishops endorses and supports the United Farm Workers' consumer boycott of the table grapes and head lettuce until such time as free secret ballot elections are held. The motion was carried unanimously.

[From the Washington Post, Nov. 17, 1973]

PRIESTS SUPPORT UFW

The nation's Roman Catholic bishops yesterday threw their support behind the organizing efforts of the United Farm Workers union and called on Catholics to shun non-UFW lettuce and table grapes.

Meanwhile, AFL–CIO President George Meany issued a statement accusing Teamsters President Frank E. Fitzsimmons of reneging on an agreement to cede the right to organize field workers to Cesar Chavez's UFW.

Fitzsimmons said in San Diego Thursday that no such agreement ever existed, but Meany's statement included what he said was the text of the agreement.

Referring to fieldworkers contracts the Teamsters have signed with a variety of California growers. Meany said, "It appears the Teamsters have decided that their interests lie in maintaining the alliance they have created with these employers, rather than in maintaining their integrity as trade unionists."

The bishops' decision, made by voice vote here as they concluded their five-day annual meeting, for the first time put the Catholic hierarchy in official support of one of the parties to the lingering dispute involving the UFW, the Teamsters and California growers.

CHAOS IN CAPITAL PUNISHMENT

Mr. HARTKE. Mr. President, in 1962, the Congress took what it thought was an initial step in bringing to a halt the taking of life by the command of law. It passed a law applicable to the District of Columbia and gave to the jury and judge the discretion to weigh all the factors in each case prior to execution of the death sentence. I sponsored that bill, along with Senator Wayne Morse, and humanized the imposition of the death penalty. As we all know, the Supreme Court in Furman against Georgia, held the discretionary imposition of the death penalty unconstitutional.

Mr. President, Clayton Fritchey had a very informative column in the Wash-

ington Post, November 24, 1973. I ask unanimous consent that Mr. Fritchey's article be printed in the RECORD following my remarks, as he very capably sums up the present status of capital punishment in the United States.

The Subcommittee on Criminal Laws and Procedure has held hearings, during the past 2 years, into the Federal application of the death penalty. I could not help but note the expert testimony of my friend, the former Governor of Ohio, the Honorable Michael V. DiSalle, where he stated:

It is not our privilege to play God; because death is no deterrent; because death makes an error horribly irrevocable; because vengeance is no substitute for justice; because man is not merely an entity that is three-fourths water and the rest mineral and organic products.

For those who advocate the death penalty as a deterrent for violent crime, let them view other societies which have abolished the death penalty. I am here cognizant of the American frontier traditions of our country, but we must lead, and in leading, the first order of business should be the direction of our society in this civilization. History has taught us that violence begets violence, and peace and compassion beget each other. It is not until we begin to believe in the towns and villages of America, that the problems of one are the problems of another that we will begin to believe that such remedies as the death penalty actually lead to violent crime instead of peace and security in our homes.

Mr. President, we must strictly interpret the commandment "Thou shalt not kill," and do away with the exceptions thereto. The deterrent to violent crime is not in the penalty but in the direction our society is led by its leaders.

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

[From the Washington Post, Nov. 24, 1973]

CHAOS IN CAPITAL PUNISHMENT

(By Clayton Fritchey)

Although capital punishment has been hotly debated in America since the founding of the republic, its legal status is now more confused and uncertain than ever before. No one can foresee what the outcome is going to be.

When the first Congress of the United States was considering the Bill of Rights, it was warned that the prohibition against "cruel and unusual punishment" in the Eighth Amendment might someday rule out capital punishment. Last year, more than 182 years later, it looked as if that day had come when the Supreme Court appeared to have outlawed legal execution as a violation of the Eighth Amendment. That decision emptied "death row" of some 600 prisoners awaiting execution.

But today another death row is already growing in various penitentiaries as a score of states have rushed through new capital punishment laws designed to take advantage of real or imaginary loopholes in the Supreme Court's 5-4 decision.

The court was split so badly that all nine judges wrote separate opinions. The net effect was not to bar capital punishment per se, but to bar the haphazard manner in which it was imposed. The majority agreed that the penalty had been erratically and unfairly applied, especially against the black and the poor.

The minority opinion of Chief Justice Warren Burger, one of the principal dissenters, seemed to suggest that the court's objections could be overcome by the states if they rewrote their laws. "Legislative bodies," he said, "may seek to bring their laws into compliance with the court's ruling by providing standards for juries and judges to follow in determining the sentence in capital cases or by more narrowly defining the crimes for which the penalty is to be imposed."

That was enough to encourage campaigns in various states to enact new laws. The National Association of Attorneys General voted 32-1 for such legislation. In the last year, 20 states have reinstated the death penalty, with the result that a whole new crop of condemned men are now in death row awaiting they know not what, for the new bills will have to be reviewed by the Supreme Court before anybody can be executed under them.

When the first of these rewritten laws—New York's—reached the Supreme Court last week, it failed to pass muster. But this won't deter other states from trying to find a formula that the high court will ultimately accept. Meanwhile, all is chaos.

The strangest thing about the court's landmark decision is that it appears to have ignited, rather than dampened, public support for capital punishment. For years prior to the ruling, the issue was more or less dormant. Even though a majority of states had capital punishment, almost no one was executed. Now, of a sudden, the public is clamoring for the death penalty. The latest Harris poll shows a 59-31 majority for it. Three years ago the majority was only 47-42. The Gallup poll is similar, except that a few years ago it showed a majority against capital punishment. Much of the present trend can doubtless be traced to political agitation. President Nixon, for instance, has been calling on Congress to restore the death penalty for certain federal crimes.

Is death a deterrent? Now, as always, that is the key question. While the Harris poll showed almost a 2-1 majority for capital punishment, it simultaneously found that a large majority (48-35) would oppose it if it could be shown that life imprisonment was an equal deterrent.

The criminologists, penologists and even presidential crime commissions have for years produced volumes of testimony to prove that capital punishment is not a superior deterrent. But they don't get the kind of attention enjoyed by the President when he says, "Contrary to the social theorists, I am convinced the death penalty can be an effective deterrent." He offered no supporting evidence—maybe because there isn't any.

A new Canadian crime commission study reports that when picking pockets was a capital offense in England, "pickpockets made their biggest hauls during public executions when all eyes were riveted on the gallows." (Note: The Oklahoma Senate, in reviving capital punishment, almost approved the televising of executions.)

Richard McGee, while California's director of corrections under four governors, presided over the execution of 170 men and women. His conclusion, upon retiring, was: "As a practical man, I have been convinced on purely rational grounds that the death penalty is futile and inappropriate in a modern society." Is Mr. Nixon sure he knows better?

THE CONTINUING STRUGGLE OF THE TEXTILE WORKERS UNION

Mr. KENNEDY. Mr. President, one of the bleakest chapters in recent labor relations history is the 10-year struggle of the Textile Workers Union of America to obtain collective-bargaining agreements covering workers at various plants of J. P. Stevens & Co.

Despite an endless series of NLRB and court decisions based on company violations of the rights guaranteed to American workers under law—including a contempt decree for violations of previous court orders—the company has continued to impede union organizations' efforts.

The latest episode in this unfortunate history has been described in an article by James G. Driscoll appearing in the October 6, 1973, issue of the National Observer. 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:

[From the National Observer, Oct. 6, 1973]

LABOR ASSAULTS A SOUTHERN FORTRESS

(By James G. Driscoll)

Last Oct. 31 Al Motley, a union organizer, drove 80 miles from his Charlotte, N.C., home to this cotton and soybean region of South Carolina. He crossed the Great Pee Dee River, entered Marlboro County, and checked in at a motel across the road from two textile plants of the J. P. Stevens Co.

He was there to persuade Stevens employes to join the Textile Workers Union. To that end Motley held many meetings in his room with Stevens employes and other organizers. Through November, December, and most of January they discussed over-all strategy and specific tactics.

Until, on Jan. 24, they found out that the room was bugged.

The union contended that Stevens was behind the bugging and filed a $64 million damage suit against the company, alleging violation of Federal and state laws on individual privacy and freedom from trespass. The company denied prior knowledge of the bugging, condemned it, suspended three Stevens employes who "appear to be involved in the investigation," and filed an $80 million countersuit alleging libel and slander on the union's part.

ROMAN NUMBERING

This was another in a long series of tenacious battles between a big, tough union and a big—and, so far, tough—company. For 10 years Stevens and the Textile Workers have wrestled like two giant beasts, neither giving quarter, neither giving up. Their lawyers are busy fighting through the courts and the National Labor Relations Board (NLRB). The union now labels the court cases with Roman numerals to keep them straight; "Stevens XII" is the latest.

Consider the J. P. Stevens Co. The world's second-largest textile company—next to Burlington Industries—Stevens employs 40,000 people in 80 plants, mostly in the South, and last year's sales totaled $947 million. The Stevens stance is unequivocally antiunion. The company has stuck to that position, although it was forced to pay $1.3 million in back wages to employes who the NLRB determined were illegally fired during organizing campaigns.

Consider the Textile Workers Union of America, AFL-CIO. The union represents 200,000 workers in the United States and Canada and has net assets of $14.2 million. The union has organized about 10 per cent of the South's 700,000 textile workers, mostly in smaller plants, but hasn't dented Stevens, its principal target, except for a plant in Statesboro, Ga.

RELUCTANT TALKS

Stevens employes at Statesboro voted against the union, but the NLRB set aside the election on grounds that the company was involved in unfair labor practices. The

NLRB ruled—and the courts agreed—that the union had won bargaining rights on the basis of union-membership cards signed by more than half the employes. So Stevens reluctantly entered contract negotiations with the union more than a year ago, but there's been no agreement.

Here at Wallace the year-long effort to organize 1,000 workers is typical of the stubborn struggles between company and union. Idealistic labor organizers have come up against strong-minded company officials in a manner reminiscent of the 1930s. It's almost as if Wallace is encased in a time capsule, and Walter Reuther and Henry Ford will appear at any moment to do battle.

After the bugging incident, organizers Motley and Mike Krivosh moved to a motel in nearby Cheraw to continue their work. Joined later by Louis Washington and other organizers—from the Textile Workers and AFL-CIO's Industrial Union Department—they concentrated first on the grueling job of visiting workers' homes in hopes of persuading them to support the union.

Says Krivosh: "You run into two kinds of opponents. One is the guy who says he's with you, but he can't say anything in public. The other kind is the guy who won't listen to you at all. We don't count on either kind."

"WE HAD A WINNER"

This is the first organizing campaign for Krivosh, who is 26, idealistic, and from a Steelworkers Union family in Pennsylvania. "We always talked union at home," he recalls. "I figure my father's union wages put me through college."

Krivosh is convinced that the representation election, scheduled for Sept. 19, would have gone the union's way. "We had a winner here," he asserts. "The company *knew* we had a winner here. We were going in with 65 per cent of the employes on our side."

But the election wasn't held. Two days before it was scheduled, the company conducted employe meetings in the plants to present Stevens' view on the election. At each meeting, two or three prounion employees stood up and asked questions; 22 of them were fired. The union filed charges of unfair labor practices with the NLRB, which postponed the election until the charges can be investigated and a decision on them reached.

The workers say they were fired just for asking questions. The company contends they were fired for "deliberately disrupting" the meetings. The disruptions "were obviously prearranged," the company asserts.

Moses Dixon, one of those fired, had worked nine years at the plan and was making $3.48 an hour as an electrician. He's 27, married, with a 4-year-old son. At the meeting he asked why the company wouldn't debate the union on what union membership would mean to an employe. The meeting was adjourned immediately, and he was told to pick up his check and "clock out." Thirteen others were fired that day.

Tommy Cassidy, 20, was making $2.47 an hour for inspecting cloth for water spots or other flaws. At the meeting "I asked how much they paid their lawyers to write that speech," says firebrand Cassidy, "and then we had kind of a little debate, and they told me to sit down." He and seven others were suspended until the day after the scheduled election; then they were fired.

The 22 who were fired made up the backbone of the union effort here. All were either on the organizing committee or closely associated with it.

More than three-fourths of the committee members were black, which reflects a delicate racial problem. Though about 60 per cent of the Stevens employes here are white, the majority of those who signed union cards are black. Blacks generally have less seniority and poorer-paid jobs than whites and are more receptive to unionization. Some union men, however, believe it's a mistake to sign up blacks first; they say blacks tend to dominate the local union movement and scare off whites, who hold the balance in the election.

NO INTERVIEWS

Stevens officials are reluctant to talk to the press, and spokesman Paul Barrett turned down a reporter's request to interview either of the plant managers here. Instead, Barrett stuck largely to a prepared statement on the firings, in which the company said:

"It appears that there has been a strong trend developing among the employes against the union. It seems very likely that these incidents [at the meetings] were planned in order that the resulting terminations would give the union an excuse to file charges with the labor board . . . thereby blocking the holding of the election."

Sometimes Stevens has had to back down. In battling some of the back-pay cases the company fought a contempt-of-court citation by the U.S. Court of Appeals in New York and finally was turned down for review by the U.S. Supreme Court. At one point the appeals court said: "In a continuing attempt to dissuade employes from joining the Textile Workers Union . . . the company and its management personnel in various plants, despite our prior orders, have continued to resort to such unlawful tactics as engaging in surveillance of organizing activities, interrogating employes about their union inclinations, threatening prounion employes with discharge and other reprisals, discriminatorily altering their working conditions, and discharging them because of their union activites."

FIRST THINGS

The NLRB plans to file further contempt actions against Stevens for alleged failure to carry out NLRB orders. Union-representation elections will be scheduled this fall at Stevens plants at Aberdeen, N.C., and Walterboro, S.C. And a Federal grand jury in Columbia, S.C., is said to be looking into the motel bugging incident.

As for the union effort here, it's back to first things. The union's organizing committee is broken, so Mike Krivosh will be back in the neighborhoods, door to door, visiting workers at their homes.

THE DEATH OF JOSEPH MURTAUGH OF THE ASSOCIATION OF AMERICAN MEDICAL COLLEGES

Mr. KENNEDY. Mr. President, it is with a deep sense of loss that I bring to the attention of my colleagues the passing of Mr. Joseph Murtaugh of the Association of American Medical Colleges.

Joe Murtaugh was a truly remarkable man. From the time of his graduation from the College of St. Thomas in St. Paul, Minn., in 1933, he dedicated his life to human service. His professional career spanned the Works Progress Administration, the National Youth Administration, the United Nations Relief and Rehabilitation Administration, the Public Health Service and the National Institutes of Health, where he served as director of program planning until his retirement from Federal service in 1968.

His contributions as a civil servant for more than three decades epitomized the very best that one can expect in the formulation and implementation of public policy. Mr. Murtaugh was one of the key members of a small group of creative individuals who, under the leadership of the former director of the National Institutes of Health, Dr. James Shannon, was directly responsible for the growth and development of the National Institutes of Health. This remarkable and successful effort has made the United States preeminent in biomedical research.

As chairman of the Senate Health Subcommittee, I have had the opportunity of having Mr. Murtaugh appear before the subcommittee on several occasions. His testimony was invariably broad-gaged, lucid, and honest.

At this time, I want to convey my sympathies to his wife, Dorothy, and their four children.

THE FOREIGN AID PROGRAM

Mr. ABOUREZK. Mr. President, this year two experts on foreign aid development, William and Elizabeth Paddock, completed an independent study on a number of American aid programs which have been touted as having been highly successful. The results of that study have been published in a book entitled, "We Don't Know How," which has just come out. According to the Paddocks, the goal of the study was to view the foreign aid program in light of the very best that we could expect it to accomplish. In light of this approach, the results of the inquiry were most disturbing. Even among the programs which have been considered the most successful, the Paddocks could find little in which we can consider a lasting contribution. Furthermore, many of the programs studied actually showed a negative effect and should not have even been started.

The Paddock's study is especially timely since the Senate will soon take up consideration of the Foreign Assistance Conference Report. Although much of what is discussed in the book deserves to be mentioned, I found the comments expressed in the epilog of particular interest. I ask unanimous consent that this excerpt from the book be printed in the RECORD.

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

[Epilog]

LET US FIRST LEARN HOW

"The admission of ignorance is the beginning of knowledge."—ANON.

Astounding surges forward have been made in the economic well-being of some of the areas I studied, such as Monterrey, San Pedro Sula, and Ciudad Obregon. In addition, I found the capital cities of the area bristling with new buildings and in most cases one can now safely drink the water and find an acceptable hotel room. The suburbs have inflated. The roads are better. The universities are bigger. Television aerials are most everywhere. Cars and their fumes bedevil the cities.

But these changes were due to the natural continuation of previous historical development, to the modern centralization of the region's economy into a few major cities, and to the countries' own normal growth under the influence of the post-World War II boom—growth accelerated by bigger populations and huge debts. The changes are not, so far as I can see, the result of any catalytic stimulus brought about by external foreign assistance.

In my research I learned two things:

First, development professionals do not know how to carry out an effective economic development program, either a big one or a small one. *No one knows how*—not the U.S. government, not the Rockefeller Foundation,

not the international banks and agencies, not the missionaries. I don't know how. You don't know how. No one knows how.

Second, we don't know that we don't know how. Those who give the money are thousands of miles removed from where it is spent. No channel is provided whereby they can get unbiased opinions about their projects in the field in place of the usual fulsome reports of "great success." One barrier to this is that those who exercise their profession in the field, who "work among the natives," soon acquire a Messiah complex. To wit: a corn breeder in Iowa does not talk about his program SAVING Iowa. But a corn breeder from Iowa who goes to Guatemala does talk of his program as saving not only Guatemala but all Central America and maybe even all the tropics. Such men are biased sources of information about how well they are spending the money given them. Yet they are the only usual sources of information available to the journalist, the congressman, or their own officials back home. Add to this the fact that our aid programs maintain no memory banks. Both the files and the personnel are ignorant of previous programs, ignorant as to the reasons why they were started, ignorant as to what the prevailing conditions were then, ignorant as to why they failed and were abandoned.

The result: We do not know that we do not know how. We have no knowledge of our own ignorance.

I write this on the 26th anniversary of Nazi Germany's surrender to American forces under Eisenhower and remember my own confidence in the future, even though I cheered the victory from a bed in a Marine field hospital in the Pacific. Eisenhower's "Crusade in Europe" had indeed been a crusade. We had fought for a good cause and we had won. Soon Japan would also surrender. We had saved the world through dint of our arms. Perforce, we had also become a supremely confident nation. Part of this confidence was later transplanted into massive foreign aid efforts to "develop" the world we had saved.

I was as certain as anyone in the postwar days that we could do the job. In making a plea that the American agricultural scientist should turn his talents to increasing the crop yields in the hungry nations, I wrote: "For, like the Triton among the minnows, the [scientist's] power to increase agricultural production in an underdeveloped area might dwarf the increases he could perform in our own highly technological agriculture . . . One cannot minimize the importance of a science which seeks to destroy that on which communism feeds—hunger."

We all thought then that science and technology, combined with our national energy and ability, had the answer for everything. All of us—certainly all of us in the development profession—passionately justified and tried to implement throughout the developing world great new programs which had barely been tested elsewhere, if at all. To us in the various branches of foreign aid, the glamour of a problem 10,000 miles across an ocean and down a winding jungle trail proved more compelling and exciting than the mundane problems at home. We were so sure of ourselves we did not even bother to set development priorities. To have done so would have been to acknowledge we had limitations.

When in 1949 President Truman asked that we share our technical skills (which he called "inexhaustible") with the developing world we had only 660,000 men under arms (today we have 1.3 million), our population was 25 percent smaller, we had $25 billion in gold and owed less than $1 billion (today we have $11 billion and owe more than $15 billion), our campuses were tranquil ("Black Power" was unborn). In 1949 only a few knew the word "ecology" and still fewer were aware of our accelerating environmental degradation.

Nevertheless today we continue our foreign aid as though it should have the same priority, the same urgency, and the same goals it had in 1949. Those who today are dedicating their lives to helping the hungry world still speak with the same passion and with the same phrases they used in the 1950s. Note that the following statements were all made in 1970:

"We must continue our assistance to the developing nations because the very survival of our civilization is at stake." (Averell Harriman)

Foreign aid is man's "rendezvous with destiny"; if he cannot continue it "then possibly we are destined not to see but to foresee a planet empty—still spinning but no longer carrying the human race." (Barbara Ward)

"A planet cannot survive half slave, half free, half engulfed in misery, half careening along toward the supposed joys of almost unlimited consumption." (Lester Pearson)

Reduction in aid will mean world "disaster." (Jan Tinbergen, Nobel Laureate)

Now, looking back from the vantage point of the early 1970s, we realize that appalling changes have been rising to the fore at home, although few saw the handwriting on the wall. Even now much of the development profession has yet to recognize the effect these changes must inevitably have on the future course of foreign aid. They do not recognize that crusades which once were given such high priority must now be superseded.

A bipartisan group of U.S. senators can accurately say, "Today . . . citizens bludgeon each other in the streets of New York, students die in a campus eruption. Buildings explode. Banks burn. The nation's colleges are shut down. The population is polarized, and there are parades of protest everywhere. Not since the days of the Civil War have Americans treated each other like this."

Those who have so long advocated the need for America to use its energies and talents in helping the hungry nations can no longer ignore these frightening changes at home. To paraphrase Senator Philip A. Hart, "It's exciting to build a power plant in Brazil, but it's important, also, to go shopping around the corner without a police escort."

No one, including myself, would question the wisdom of the U.S. government having spent, since 1946, $100 billion (plus the monies of foundations, missions, individuals, etc.) in foreign assistance if its primary objective had been achieved, namely, world stability (or a semblance of it) through a greater well-being for mankind. Indeed, no one would object to committing another $100 billion—and another and another—if it would buy us that dream.

The advocates of foreign aid condemn those who would now curtail it by labeling them "isolationists." But he who is against foreign aid is not automatically an isolationist, just as an internationalist is not automatically in favor of foreign aid. As for myself, I do not say to withdraw from the United Nations, or to stop paying our political assessments due the United Nations development agencies, or to alter our military posture throughout the world, or to modify our 4,500 "treaties and agreements" which bind us to the community of nations.

Yet I can no longer advocate foreign aid until we first learn how to make it achieve its goals. Hence I urge that we first use our own country as a laboratory:

To make hillside farming in Honduras profitable, let us first learn how to solve the problems of subsistence farming in Appalachia.

To motivate Catholic Colombians to limit their family size, let us first learn how to motivate Puerto Ricans to cut their population growth.

To provide housing in restless Bombay, let us first learn how to rebuild our own ghettos.

To serve the medical needs of Ecuadorian Indians, let us first learn how to provide medical care to the Indians in Arizona.

To advise how to improve governmental procedures in Nicaragua, let us first learn how to modernize our own government, ranging from the problem of eliminating the stultifying seniority system in Congress to the problem of bringing the parasite suburbs into their proper municipal system.

To eradicate malaria in Ceylon let us first learn how to eliminate gonorrhea in Los Angeles.

To advise how to prevent Uruguay's socialism from destroying the nation's stability, let us first learn how to make Medicare pay as it goes.

To make the wheat farmers of India competitive with the world, let our cotton growers first learn how to farm without subsidies.

To eliminate the electrical power shortage in Rio de Janeiro, let us first learn how to do this in northeast United States.

To induce Pakistan to cut spending on armaments, let us first learn how to curtail our own $80 billion military budget.

To advise how to prevent political activists from disrupting the University of Caracas, let us first learn how to do this at the University of Wisconsin.

To help control the inflation which hobbles development in Indonesia, let us first learn how to control it at home.

To stop the disruptive migration to the cities in Peru, let us first learn how to slow the migration to our own suburbs.

To lower the sewage content of the Ganges, let us first learn how to clean up the Hudson and the Missouri.

To make literacy a development resource in Costa Rica, let us first learn how to profitably employ the unskilled among our own population.

To eliminate hunger in the world, let us first learn how to improve the diets of the 5 million malnourished Americans who cannot afford the food they need.

To advise how to stop kidnappings and terrorist bombings in Guatemala, let us first learn how to do this in New York City and San Francisco.

The list can be as long as the problems found throughout the hungry nations.

DESIGN FOR DISASTER—THE PROPOSED NEW REGULATIONS ON ALLOCATION OF NO. 2 FUEL OIL

Mr. RIBICOFF. Mr. President, on Tuesday, November 27, the Energy Policy Office proposed new regulations to govern the allocation of No. 2 fuel oil. They would repeal the current smooth working distribution system founded on a base period, closely tied to the market mechanism, with an unworkable, bureaucratic nightmare based on individual guesses of future needs by thousands of retail and wholesale dealers.

The present regulations require refiners and wholesalers to deliver the same quantity of fuel oil in the first quarter of 1974, as they did in the first quarter of 1972. This assures that substantial supplies will be available in Connecticut during the peak of the winter season.

In place of this efficient system, the proposed regulations would substitute a chaotic, three-tier series of estimates of future demand by retailers, wholesalers, and refiners. Under it, retailers must in-

form wholesalers of anticipated demand by the 15th of the month for the coming month. On that day, the wholesaler totals the retailers requests, and advises the refiner of the amount he will require. The refiner then allocates his production according to a complex formula.

Since no one can accurately forecast the weather 6 weeks in advance, and hence demand for fuel oil, the proposed scheme will encourage overestimation by dealers. It will also open the doors to bribery and blackmarketeering in the distribution of fuel oil. In place of the current, effective reliable system, we will have an uncertain allocation based on individual guesses and prone to abuse.

This is the formula for disaster. It virtually guarantees shortages in Connecticut in the coming months for there will be no guaranteed supply. I strongly urge the Nixon administration to abandon this ill-advised scheme and retain the present system, which has operated efficiently since it began only 4 weeks ago, on November 1.

FURTHER SUPPORT RECEIVED FOR THE ESTABLISHMENT OF AN INDEPENDENT, COURT-APPOINTED SPECIAL PROSECUTOR

Mr. KENNEDY. Mr. President, last week the Judiciary Committee reported out two Special Prosecutor bills—one which keeps the office within the executive branch of Government, and the other, cosponsored by 55 Senators, which establishes the office as an independent operation appointed and removable by the Federal district court.

The history of the Special Prosecutor's office thus far has been one of sincere and dedicated attempts to follow the Watergate investigation wherever it leads in the face of repeated efforts by the White House to restrict the scope of that investigation. It was at the insistence of the White House that Archibald Cox was ordered to cease and desist from his attempt to secure Presidential papers which led to the resignations of Elliot Richardson and William Ruckelshaus, although it is becoming more and more apparent that the dismissal of Mr. Cox had little to do with this controversy, but rather reflected his persistence over the entire course of the investigation in following up on all meaningful leads.

It is imperative that we avoid repetitions of this interference with the Watergate investigation. It is certainly no reflection on Mr. Jaworski or any other subsequently named Special Prosecutor that we should properly insist that their appointment and functioning be fully independent of interference from the very officials they are investigating. In this connection, I want to apprise the Senate of three additional sources of support for the court-appointed Special Prosecutor legislation. The first is a resolution of the distinguished Massachusetts House of Representatives, urging the Congress to establish the Special Prosecutor's office outside of the executive branch. The second is a resolution from the prestigious New York City Bar Association urging the same course of action on this body. The third is a November 9 Washington Post article written by a respected Washington attorney, Leon E. Irish, which succinctly and persuasively establishes the constitutionality of the court-appointed Special Prosecutor.

I am most grateful to Mr. Irish, the New York City Bar Association, and its president, Orville H. Schell, Jr., and chairman of its executive committee, Leslie H. Arps, and to the Massachusetts House of Representatives for their affirmation of support for this desperately needed legislation, and I ask unanimous consent that the text of this material be printed in the RECORD.

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

RESOLUTIONS MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO REESTABLISH THE INDEPENDENT OFFICE OF SPECIAL WATERGATE PROSECUTOR AND TO CONTINUE ITS INQUIRY INTO ALLEGATIONS OF MISCONDUCT ARISING OUT OF THE WATERGATE CASE AND RELATED MATTERS

Whereas, The Office of Special Watergate Prosecutor was authorized by the President of the United States and created by the Department of Justice at the urging of the United States Congress to independently pursue the resolution of issues related to the Watergate Case and related matters; and

Whereas, The person appointed to the Office of Special Watergate Prosecutor has been discharged; and

Whereas, The United States Congress has been conducting its inquiry into allegations of misconduct arising out of the Watergate Case and related matters; and

Whereas, Methods available to the United States Congress to help maintain the rule of law include the reestablishment of the Office of Special Watergate Prosecutor independent of the executive branch of government and the continuance of its inquiry into allegations of misconduct arising out of the Watergate Case and related matters; therefore be it

Resolved, That the Massachusetts House of Representatives urges the United States Congress to reestablish the Office of Special Watergate Prosecutor independent of the executive branch of government; and be it further

Resolved, That the Massachusetts House of Representatives urges the United States Congress to continue to conduct a thorough inquiry into allegations of misconduct arising out of the Watergate Case and related matters; and be it further

Resolved, That copies of this resolution be forwarded by the Secretary of State to the presiding officer of each branch of Congress and to members thereof from this Commonwealth.

RESOLUTIONS

To Members of the Congress:

On November 7, 1973, the Executive Committee adopted the following resolutions which state the position of the Association on two significant so-called "Watergate" questions:

Resolved that The Association of the Bar of the City of New York approves and supports the action taken by the Judiciary Committee of the House of Representatives to investigate whether or not impeachment proceedings should be instituted against the President of the United States. Because of the public importance of this issue, we urge that the Committee report its conclusions at the earliest practicable time.

* * * * *

Resolved that The Association of the Bar of the City of New York supports action by the Congress to enact legislation which will provide for a Special Prosecutor who will be independent of the White House and of the Department of Justice, who will be appointed by the Courts and who will investigate and prosecute possible violations of law and official misconduct in connection with all aspects of the 1972 Presidential election and other possible illegal or official misconduct on the part of the President, the White House Staff or Presidential appointees.

Further resolved that the foregoing resolution is not intended to reflect upon the personal integrity and competence of Mr. Jaworski, appointed on November 5, 1973 as Special Prosecutor in the Department of Justice, but solely to reflect the views of the Association that independence of the Office of the Special Prosecutor from the Executive branch is essential.

The Executive Committee believes that it is in the best interest of the country that the actions called for by these resolutions be carried out without delay.

ORVILLE H. SCHELL, Jr.,
President.

LESLIE H. ARPS,
Chairman of the Executive Committee.

[From the Washington Post, Nov. 9, 1973]

INDEPENDENT PROSECUTOR

(By Leon E. Irish)

Acting under powers delegated to him by Congress, Atty. Gen. Elliot Richardson last May created the Office of Watergate Special Prosecution Force. Archibald Cox was appointed Special Prosecutor, and detailed regulations were published authorizing Cox to investigate all offenses arising out of the 1972 presidential election and all allegations involving the President, members of the White House staff or presidential appointees. These regulations gave Cox plenary investigative and prosecutorial powers and bore the promise that "the Special Prosecutor will not be removed from his duties except for extraordinary improprieties on his part."

On Oct. 20, on orders from President Nixon and after Richardson and William Ruckelshaus had resigned, acting Atty. Gen. Bork revoked the regulations, abolished the Special Prosecutor's office and fired Cox. On Nov. 1 Bork reestablished the Office of Special Prosecutor, reissued the original regulations, and appointed Leon Jaworski as the new Special Prosecutor.

The principal change in the regulations under which Mr. Jaworski will operate is that they state that he will not be relieved of his responsibilities without consultation with the majority and minority leaders of both houses and the senior majority and minority members of the Senate and House Judiciary Committees. This promise is presumably as revocable as the promise that Cox would not be removed except for extraordinary improprieties.

One of the responsibilities of the Special Prosecutor is to investigate allegations concerning the President. Congress must now decide whether a man selected by the President—even one as eminent as Leon Jaworski—can satisfy the demands of truth and justice. In the deliberations on this important question, there should be no doubt that Congress may by statute make the Watergate Special Prosecutor independent of the President and may withdraw from the President and the Attorney General any power to appoint or remove the Special Prosecutor.

The critical provision of the Constitution (Art. II, sec. 2, cl. 2) states that the advice and consent of the Senate is required for appointment by the President of "Officers of the United States," and 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."

Several things are made clear by this provision: First, the President has no inherent,

constitutional authority to create offices of the United States, including an Office of Special Prosecutor. It lies with Congress to create by statute such offices as it deems proper for exercising the powers of the United States government, and to decide which shall be "inferior offices." The President has his usual veto powers over such legislation, but he has no independent power to create offices.

Second, the President has no independent, constitutional power to appoint the persons who will fill the offices created by Congress. The President's power to appoint "Officers of the United States," such as the Attorney General, is subject to the advice and consent of the Senate. As to the appointment of lesser officers, the Constitution says merely that Congress may give appointment powers to the President, the courts or department heads. Thus, whatever power he may have to choose personal advisers the President cannot appoint officers to act for the United States without a delegation of authority from Congress to do so. Furthermore, whether any such appointment will require the advice and consent of the Senate is basically for Congress to decide.

Finally, it is implicit in the constitutional provision just quoted that Congress may itself retain and exercise the power to appoint lesser officers, such as a Special Prosecutor, which it might otherwise delegate to the President, department heads or the courts.

In short, it is clear from the Constitition that Congress has the power to create an Office of Special Prosecutor. It is equally clear that Congress may withdraw from the President or the Attorney General any previously delegated power to create a Special Prosecutor and, by doing so, terminate the powers of any incumbent prosecutor. Congress may determine the jurisdiction and the powers of the Special Prosecutor it creates and either choose the individual who will hold that office or delegate that function to the courts.

The fact that a Special Prosecutor had been appointed by a court or directly by Congress would not make him a judicial officer incapable of acting as a criminal prosecutor, or a mere arm of the legislature. The Special Prosecutor would have whatever powers and independence Congress conferred upon him by statute, and he could unquestionably be placed beyond the control or removal of the appointing body other than for gross improprieties or malfeasance.

The belief that there is a constitutional impediment to creating a Special Prosecutor independent of the President derives partly from the fact that we have not previously in our history faced the necessity to do so, and partly from the myth that our Constitution divided government into three watertight compartments.

The necessity for an independent Special Prosecutor arises from the uniqueness of our present crisis. The Constitution enjoins the President "to take Care that the Laws be faithfully executed." When a criminal investigation requires examination of allegations involving the President and his closest personal advisers, however, the appearance and perhaps the actuality of faithful execution of the laws is possible only through a Special Prosecutor with sufficient independence and power to follow wherever the trail of evidence may lead.

As to separation of powers, the realities of government do not present themselves neatly creased in three labeled piles, nor does the Constitution require that we force all governmental functions into three preconceived molds. By virtue of congressional enactment, there already exists a "headless fourth branch" (*e.g.*, the independent regulatory agencies) which for all practical purposes operate independently of Congress, the President or the courts.

Strong arguments can be made that Congress could not force the courts to act in a way which would impair their independence and integrity, nor remove from the President's realm certain irreducibly "Executive" functions, such as the conduct of foreign affairs. These inhibitions are not involved in the present dispute, however, and there is simply no significant constitutional impediment to making the Special Prosecutor independent of the President by statute.

The Watergate crisis has gone too far for any turning back. No scaling down of the investigation or withholding of evidence can be tolerated. Faith in our government and its leaders will not be restored unless and until the truth has been pursued to the limit, relentlessly and fearlessly. Congress manifestly has power to create a Special Prosecutor independent of the President. The only danger to our country and our Constitution lies in the possibility that Congress may fail to do so.

ESTABLISHING AN INDEPENDENT SPECIAL PROSECUTOR

Mr. HART. Mr. President, on October 26, 54 Senators joined me in sponsoring S. 2611, a bill to establish an independent Watergate Special Prosecutor outside the executive branch, appointed and removable only by the courts.

This effort was in response to the drastic loss of public trust in the integrity of government and criminal justice. For more than a year, an endless series of deceptions, disclosures, and admissions have marched across the headlines, culminating in the "Saturday Night Massacre" on October 20, when Archibald Cox was fired by the President.

It was clear to all of us that the first step in restoring people's trust was the necessity of complete public confidence in the Watergate investigation conducted by the Special Prosecutor.

The Senate will consider this matter next week. In addition to my bill, there are two other principal proposals for establishing a Special Prosecutor by statute: the Taft-Hruska bill (S. 2642) provides for appointment by the Attorney General, who could remove the Special Prosecutor for cause after advance notice to Congress and the Percy-Baker bill (S. 2734) calls for appointment by the President, Senate confirmation, and statutory restrictions on the President's removal of the Prosecutor, including congressional veto.

I urge continued support for S. 2611. I remain convinced that its enactment is necessary to fulfill our responsibility.

The Senate Judiciary Committee has recently completed 11 days of hearings on the Cox firing and on proposed Special Prosecutor legislation. Both Archibald Cox and Elliot Richardson testified to frequent White House inquiries into matters under investigation by Cox, constant efforts to limit his jurisdiction, and chronic refusals to supply documentary evidence. It also became clear that the White House had contemplated getting rid of Cox long before the so-called "tapes compromise" became an issue.

Against this background, the report of the Judiciary Committee on S. 2611 states the crux of the issue now before us:

We are convinced that the central point emphasized by numerous Congressional leaders, the American Bar Association, 49 law school deans, the nation's leading legal scholars, and many media and public interest spokesman is a point intuitively clear to every American: If the President or his subordinates select the Special Prosecutor, or have any opportunity to restrict or influence him, it will cast a cloud over the credibility of the investigation—no matter what the Prosecutor's personal reputation and no matter what the purported safeguards.

* * * * *

'We must remove the Special Prosecutor, in appearance and fact, as far as is constitutionally permissible, from the possibility of White House influence. We are convinced Congress can constitutionally establish a Special Prosecutor wholely outside the Executive Branch and completely removed from the shadow of the Oval Office.

The committee report on S. 2611 details the case for S. 2611. Since the committee was evenly divided between S. 2611 and the Taft-Hruska bill, S. 2641, both were reported without recommendation. The separate report on each bill represents only the views of its proponents and not a majority of the committee.

Despite Cox's dismissal, it would be shortsighted to focus only on the danger of a new Special Prosecutor being fired. As the committee report notes, it is equally important to insure that the public will have confidence in the ultimate results of the investigation:

If the investigation produces charges against the President, many will suspect the Special Prosecutor was forced to be excessively zealous or unfair in order to demonstrate his independence.

But most dangerous is the third possible outcome of such an investigation. If a presidentially appointed Prosecutor *is not dismissed*, if he *is able to "work out" disputes with the White House*, and if after another year or more *the Prosecutor presents no charges against the President*, there will be far too little public confidence in the result . . .

The proceedings in the months ahead will, inevitably, be too trying—and the final stakes too great—for us to risk inconclusive results under a cloud of public suspicion.

The arguments raised by the opponents of S. 2611 boil down to two claims:

That S. 2611 might be an unconstitutional violation of the Separation of Powers doctrine; and

That if it ultimately were found unconstitutional by the courts, hard-won convictions of Watergate defendants might be lost.

Neither will withstand close scrutiny.

S. 2611 rests squarely on the express congressional power under article II, section 2 of the Constitution, to vest the appointment of officers it deems appropriate in the courts. The bill does not require any loose constitutional construction.

Whether prosecution is "inherently" or "exclusively" a function of the executive branch as a matter of constitutional law, or merely has become centered in our executive branch by tradition, is a nice question for historians and scholars to debate. But it is irrelevant, because the Supreme Court has flatly said that article II, section 2 of the Constitution permits Congress to vest the appointment power in the court, even of officers whose duties are "entirely executive" in nature. That is the holding in Ex Parte

Siebold, acknowledged to be the controlling case.

The Supreme Court has set outer limits on the use of this provision in article II. The appointing power cannot be "incongruous" or inappropriate for judges to make, given the nature of the office. Thus, the specter which has been raised of Congress setting a precedent for the courts to appoint the NATO commander in chief, or the like, is simply a red herring.

Obviously, the courts which participate in the criminal justice process have a clearer relationship to prosecutors than they do to school board members, election supervisors, or steamboat inspectors, all of whom have been appointed by the courts at the direction of Congress. And it is hardly "incongruous" for Congress to place the appointment of the Watergate Special Prosecutor outside the executive branch if he must investigate the White House.

Finally, under these extraordinary circumstances, the Separation of Powers doctrine will be far better served by a court appointment. In our Constitution, power is dispersed among the three separate branches so that each might check and balance the others—not to insulate any one of them from effective control. To argue that the Separation of Powers doctrine prevents independent investigation of criminal conduct in the executive branch is to stand the doctrine on its head.

As to limiting the President's power of removal, strange as it may seem to those who have not studied the constitutional principles involved, if any bill presents constitutional problems, it is S. 2734, the Percy-Baker bill, rather than S. 2611, the bill I introduced. Why is this so?

An early leading case, Myers against United States, indicated that where the President appointed an executive officer, his power to remove that officer could not be restricted. Subsequent cases—notably Humphrey's Executive and United States against Weiner—said Myers did not apply where offices, such as the independent regulatory commissions, by their nature, required independence from the White House.

Senator PERCY contends that the office of Special Prosecutor clearly fits this exception to the Myers rule and that the President's appointment power may be curtailed. I agree with his analysis. But the Acting Attorney General, Mr. Bork, testified on behalf of the administration that the President's removal power could not constitutionally be limited.

The situation facing us, then, is this: If Senator PERCY and I are correct that the Special Prosecutor's office falls within the exception to Myers set forth by the Supreme Court in subsequent cases, then the removal provisions of both his bill and mine are constitutional.

But suppose a court should agree with the administration and find that the Special Prosecutor's office is covered by the Myers decision. Senator PERCY's bill would be unconstitutional, because it tries to do precisely what Myers forbids: Limit the President's power to remove an executive branch office whom he has appointed. However, in Myers, the Supreme Court also reaffirmed the general rule that the power to remove follows the power to appoint. Since my bill, S. 2611, transfers both the appointment power and removal power from the President to the Court, it would still be constitutional.

But what if S. 2611 should be found unconstitutional? Although four of the Nation's most eminent constitutional scholars testified they saw no substantial doubt of its unconstitutionality, we cannot predict with absolute confidence that the Supreme Court would agree. Of course, one can never make that guarantee for a bill we enact, but I appreciate the particular concern in this situation that after lengthy trials and appeals, a conviction ultimately might be overturned by successful constitutional challenge to the Special Prosecutor's authority. As the committee report explains, this danger has been eliminated by the provisions for an early, expedited court test of the bill:

> While we are convinced the entire bill would be upheld, S. 2611 provides several channels for a rapid test of its constitutionality. In particular, the risk of any convictions being voided has been eliminated. Defendants would have to challenge the act promptly upon their indictment with an expedited appeal to the Supreme Court. . . .
>
> Thus, one way or the other, there would be an early, definitive court test of the constitutionality. The expert witnesses agreed this procedure itself is constitutional. It parallels present rules of criminal procedure in federal court which require raising a challenge to the constitutional authority of the prosecutor at a very early state . . .
>
> Even if an indictment were voided by a decision that part of the bill was unconstitutional, a superseding indictment could issue. The bill provides that if the authority of the prosecutor to sign indictments or prosecute is not upheld, he will still be deemed to have been a person lawfully in the grand jury room. Therefore, such a decision will not undo or invalidate the work of the grand jury.
>
> Nor is there any danger that a claim of double jeopardy would arise. "Jeopardy" in the constitutional sense does not attach until the jury is empaneled for the actual trial itself, and the challenge would have been disposed of before that point.

In addition to being constitutional, S. 2611 reflects a sound policy balance. It would establish a truly independent Special Prosecutor without either placing inappropriate burdens upon the judiciary or unleashing a superpowered officer beyond restraint. Both of these inconsistent charges have been leveled against S. 2611.

On the one hand, it has been argued the bill puts the judiciary in the "prosecution business" by giving them prosecutorial duties in the supervision of the Special Prosecutor. On the other hand, the same critics suggest that the Special Prosecutor would have unprecedented controlled power, without restraint by anyone.

The Special Prosecutor can hardly be subject to improper supervision by the judiciary and, at the same time, have unbounded authority. In fact, both charges misrepresent the actual operation of S. 2611. The Special Prosecutor would be subject to a whole series of checks against abuse: First, he would be removable for gross impropriety, dereliction of duty, or incapacity; second, persons could challenge action he took outside his statutory jurisdiction; third, as a Federal civil officer, he would be subject to impeachment; and fourth, Congress could always abolish the Office of Special Prosecutor simply by repealing the statute and thereby extinguish the Special Prosecutor's authority in toto.

However, with the exception of these safeguards against abuse of his authority, the Special Prosecutor is insulated from interference or removal by the Executive or the judiciary. Specifically, the court has no duty to supervise the Special Prosecutor, apart from removal for specified cause, and is prohibited from interfering with his lawful exercise of independent discretion in the conduct of his office.

In short, the bill does not put the judiciary in the "prosecution business," a result which I, too, would oppose. We do not say the President performs judicial duties merely because he appoints Federal judges; Congress does not do so if it removes judges by impeachment. And when courts appoint counsel for indigent defendants, they do not thereby perform the duties of trial counsel.

As they compare S. 2611 with the Taft-Hruska bill and the Percy-Baker bill, I hope my colleagues will keep several additional points in mind.

On November 30, Senator PERCY made a comprehensive, thoughtful statement to the Senate in support of his proposal S. 2734. He cogently outlined the clear shortcomings of the Taft-Hruska bill. That measures offers too little, too late, after all that has happened.

Understandably, I do not find his dissatisfaction with our bill quite as persuasive. As his statement points out, we seek the same objective, but I do not believe what he is prepared to give up in abandoning the court-appointed Special Prosecutor is offset by any significant benefits which would be gained from passing S. 2734 instead.

Senator PERCY suggested that his bill has adequate safeguards to insure public confidence in the investigation. I cannot agree. As I noted earlier, it is not merely a question of preventing improper dismissal, but of assuring public confidence in the ultimate results of the investigation.

It is true that the sooner we act on a Special Prosecutor bill, the sooner Congress will have met its responsibility in this matter to the American people. Nevertheless, it would be tragic if, in our haste to act, we risked the possibility that a year or more from now, when the investigation is all over, a substantial segment of the American public had doubts about the results, because of the opportunities for improper influence on an investigation conducted by the President's own appointee and carried out within the executive branch.

The issue is not our regard for Leon Jaworski. It is bigger than any personal vote of confidence. There is no suggestion he has curtailed the investigation in any way. Having served with him on the Violence Commission, I have enormous respect for his integrity, ability,

and devotion to duty, as I am sure do all those who know him.

But those of us who insisted on Archibald Cox's appointment had enormous confidence in Elliot Richardson, as well. Yet we realized the public's perception of an independent investigation could not hinge on our personal knowledge of either man. There had to be the appearance of complete independence.

Similarly, the Board of Governors of the American Bar Association, of which Mr. Jaworski is a recent past president, reaffirmed their support for a court-appointed Prosecutor even after he had been appointed to his present post.

Senator PERCY is correct that a court could appoint Mr. Jaworski, because he is already on the job and appears to be doing it well. That may well be true, but it misses the point. If Mr. Jaworski remains a Presidential appointee, the public will only know that he has been approved by the White House. Suspicions will remain regarding anyone so selected at this point. However, if Mr. Jaworski is reappointed by the court, then the public will perceive him to be less beholden to the White House and to have been judged someone who would preserve the integrity of the investigation by the nonpoliticical branch of Government.

Senator PERCY suggested in his testimony at the hearing that early test litigation would under S. 2611 delay the Special Prosecutor getting on with his work. He suggested this problem was avoided under his measure, because there was no issue whatsoever about the constitutionality of the appointment provisions of his bill. He argues that the question of removal would only be litigated if in fact the Special Prosecutor were improperly dismissed by the President in violation of the provision in S. 2734.

Nevertheless, defense counsel could also challenge the authority of the Special Prosecutor's authority under the Percy bill at the outset. An astute attorney could reasonably argue that the whole purpose of the statute turned on the ability of Congress to restrict the President's removal power—that the removal provisions were an integral part of the entire statutory scheme and, therefore, his client could challenge the constitutionality of the bill on its face at the outset.

Even if the trial court were to disagree and hold that the provisions were severable, that decision could be appealed all the way up to the Supreme Court. Whether it ultimately resulted in a full-blown test of the bill's constitutionality or not, there would be the same initial delay as would be occasioned by test litigation under our bill—but without the procedures for an expedited hearing which we have provided in S. 2611.

Finally, proponents of the Percy-Baker bill claim that the President might veto my bill. They argue that while we normally should still pass the measure we think preferable, this would set us back to square 1 at a time of urgency. But since the administration also maintains that we cannot constitutionally restrict the President's removal power over officers appointed within the executive branch, it is also quite possible that the President would use this point to veto S. 2734, the Percy-Baker bill.

In any event, should the President veto either measure—and if the veto were not overridden—Congress would have discharged its responsibility and could still pass the next strongest measure possible, or take other appropriate action. But the extra weeks of delay which might result are little compared to the year or two of effort ahead—effort to restore public confidence and effort which may be seriously impaired in the long run if we do not have a court-appointed prosecutor.

I ask unanimous consent that the editorial which appeared in today's New York Times captioned "Truly Independent," be printed in the RECORD.

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

TRULY INDEPENDENT

In reporting out its bill to provide for a court-appointed Watergate prosecutor, the House Judiciary Committee declared that "the only way to assure that the American people will have complete trust and confidence in the aggressiveness and independence of the special prosecutor is to make him truly independent of the Executive, give him tenure, and legislate limited grounds for his removal."

The bill meets those essential requirements. A three-judge panel of the United States District Court for the District of Columbia would appoint the special prosecutor for a term of three years. The three judges would have the sole power of removal and only on grounds of gross impropriety, gross dereliction of duty, or physical or mental incapacity.

At present, the post of special Watergate prosecutor is occupied by Leon Jaworski. He has a distinguished record as a corporate attorney in Texas and as former president of the American Bar Association. But the most convincing testament to Mr. Jaworski's independence and determination to do the job lies not in his own protestations but in the fact that he has retained the entire staff of his dismissed predecessor, Archibald Cox. In a sense, Mr. Jaworski is hostage to his own subordinates. Nevertheless, the President's power to fire him, though somewhat hedged about, is still real.

Many legal scholars have agreed that a court-appointed special prosecutor is constitutional. Such an appointment would help restore public confidence in the special prosecutor's independence, particularly as the White House has begun the same sniping at Mr. Jaworski that it had leveled against Mr. Cox. Congress has already delayed unduly long in enacting this essential statute.

EMERGENCY DAYLIGHT SAVING TIME ENERGY ACT OF 1973

The PRESIDING OFFICER (Mr. HATHAWAY). Under the previous order, the Senate will proceed to the consideration of S. 2702, which the clerk will report, and the unfinished business, S. 1867, will be temporarily laid aside until the disposition of S. 2702 or the close of business today, whichever is earlier.

The assistant legislative clerk read as follows:

A bill (S. 2702) to provide that daylight saving time shall be observed on a year-round basis.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum. I ask unanimous consent that the time be charged against neither side on the bill.

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

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. MAGNUSON. Mr. President, would the Chair state the pending order of business for the RECORD?

The PRESIDING OFFICER. The pending order of business is S. 2702.

The Senator from Washington is recognized.

Mr. MAGNUSON. Mr. President, this is a bill out of the Commerce Committee, approved by a great majority of the committee. I have a short statement on the bill as reported which I would like to present to the Senate at this time. There is an energy crisis and a change to daylight saving time may do something to reduce the use of energy. We had hearings on the matter. I know this has been a controversial subject in the past. I remember distinctly years ago several Senators had signs on their doors, "This office operates on God's time." Summer daylight saving time became quite an emotional and bitter issue. At that time, the justification was not energy problem; it was to allow people more recreation time. It made sense to extend the daylight hours.

Now there is an added factor. Most of the experts in the field thought it would conserve electrical consumption at least to 1½ percent, and maybe 2 percent. It is impossible to get exact figures for the wintertime, because we have never tried it.

Anyway, every American must accept his individual responsibility to save energy where he can, and I think we have the responsibility to enact appropriate national energy conservation policies. Year-round daylight saving time will contribute directly—perhaps only in a small amount, but contribute directly—to energy savings. Additionally it will remind each of us daily of our obligations to conserve the Nation's precious energy resources.

S. 2702 will alleviate the national energy shortage by imposing 1 hour advanced time on the Nation for the period of October through April during the next 2 years. The House bill provides 2 years. There was some discussion in the Commerce Committee as to whether it should be 1 or 2 years. Someone suggested permanent natior.al daylight saving time. But we thought a 2-year period was best.

S. 2702. Would preserve the power in the President to use his discretion to exempt any State, upon a finding by the Governor of that State that such an exemption from uniform advanced time is necessary to avoid undue hardship to conserve fuel.

S. 2702 would also allow States the option to go permanently on year-round daylight saving time, and it mandates a study of the energy savings resulting from year-round daylight saving time by the Secretary of the Interior.

The President stated, in his energy

crisis address of November 8, 1973, that he would seek legislation to "authorize an immediate return to daylight saving time on a year-round basis." S. 2702 is responsive to the authority sought by the President.

We know the United States faces a serious energy crisis. As the days grow shorter and the Nation moves into deep winter, we must take those steps necessary to preserve services essential to our national economy and comfort. The cutoff of oil from the Middle East aggravates the serious predicted shortages of wintertime petroleum supplies. We must turn toward measures which will cut unnecessary energy consumption without seriously harming the economy or the comfort of the citizens.

A classic example of unnecessary energy consumption by our society is the continuation of standard time when the simple expedient of shifting the clocks 1 hour might result in some energy savings.

Daylight saving time was last extended year-round during World War II. In that time of national emergency, it proved an effective method for conserving fuel resources.

I recognize that an extension of daylight saving time will affect each of us. Many people find daylight saving time inconvenient. But I am satisfied that a substantial saving of energy can be obtained in this relatively painless manner. I believe the energy crisis is most serious. I believe the entire Congress shares my determination to see that the Nation is not cold this winter and does not lose jobs as a result of short energy supplies. By passing this bill, we could make a contribution, toward stopping that catastrophe. So I suggest that the Senate pass the bill. We can go to conference with the House almost immediately, and the bill can be placed on the President's desk within a very few days.

Mr. President, I yield to the distinguished ranking minority member of the committee, the Senator from New Hampshire (Mr. COTTON).

Mr. COTTON. Mr. President, I yield myself such time as I may require to make a very brief opening statement.

Mr. MAGNUSON. Mr. President, may I ask a question? Do we have any time limitation on the bill?

The PRESIDING OFFICER. Yes; there is a 2-hour time limitation.

Mr. MAGNUSON. Divided between the Senator from New Hampshire and myself?

The PRESIDING OFFICER. The Senator from Washington is correct.

Mr. MAGNUSON. The Senator can speak on his own time.

Mr. COTTON. Mr. President, as one who, along with the distinguished Senator from Wyoming (Mr. MCGEE), had a great deal to do with drafting of the Uniform Time Act of 1966, I wish to express my support for the bill, S. 2702, which would amend that act to help alleviate the national energy shortage.

Mr. President, to refresh the recollection of my colleagues in the Senate concerning the Uniform Time Act of 1966, I would simply note that the distinguished Senator from Wyoming (Mr. MCGEE) and I had a long, hard fight for two Congresses—I do not mean two sessions, I mean two full Congresses—trying to bring some order out of chaos with respect to the observance of daylight saving time, in contradistinction to standard time. We faced a great deal of opposition, and unlike today, when we are confronted with the energy crisis, we did not consider advocating the observance of daylight saving time all the year-round because at that time nobody as far as we knew desired that, but since that time with the energy crisis, some States, such as Massachusetts, I believe, have indicated a desire to observe daylight saving time all the year round, but have been precluded by the act of 1966.

However, in 1966 we succeeded in getting the legislation enacted into law by permitting each State to determine whether it wished to exempt itself from the observance of daylight saving time during the stated period of observance, commencing at 2 a.m. on the last Sunday of April of each year and ending at 2 a.m. on the last Sunday of October of each year.

At the time we were considering the legislation which became enacted as the Uniform Time Act of 1966, 15 States began their observance of daylight saving time on the last Sunday in April, but in parts of 16 other States, daylight saving time started on some 11 different dates throughout the month of May and into early June. Then, during the fall season the switchback came on a score of different dates, ranging from August through October so that not even the 15 States which then started the observance period together ended on the same date. The Uniform Time Act of 1966, Mr. President, put an end to this kind of "clock madness."

Mr. President, this "clock madness," prior to enactment of the Uniform Time Act of 1966, cost untold millions of dollars for businesses such as airlines, railroads, and bus companies in juggling their schedules and trying to conform to conflicting periods of observance of daylight saving time.

Indeed, in some instances in this country, a person traveling 75 miles passed through several different time zones. This resulted in a very serious drain on the country's resources.

Unfortunately, Mr. President, when considering the Uniform Time Act of 1966, we did overlook one option to the States, which would be in addition to that presently provided in the 1966 act for the States to exempt themselves from observance of the statutory period of daylight saving time. That option, Mr. President, would be to provide the States the alternative to act affirmatively and to choose year-round advanced time, in the same manner as the States presently exempt themselves from the present April–October period of observance of advance time under the Uniform Time Act of 1966. The necessity for this further option has been amply demonstrated by the fact that several of the States, which in recent months have desired to observe daylight saving time year-round in order to conserve energy, have not been able to owing to the present provisions of the Uniform Time Act of 1966.

Mr. President, S. 2702 would correct this omission and provide this further option to the several States to observe daylight saving time on a year-round basis, if they so choose. This provision allowing States the option during the winter period will not have any practical effect until October-April period of 1975–76, the first winter period after the determination of nationwide advance time for energy conservation purposes mandated by S. 2702. However, after the expiration of the mandatory winter period of advanced time, each State may act to continue to have advanced time on a year-round basis if it so desires. I believe such an additional option, Mr. President, to be a most worthy one.

Mr. President, the bill which is before the Senate was the subject of hearings presided over before the committee by the distinguished Senator from Washington, who is presently on the floor, and by the distinguished Senator from Illinois (Mr. STEVENSON).

The bill provides for the observance of daylight saving time throughout the Nation for a 2-year period to cover an emergency.

It was recognized during the consideration by the committee and brought forth very clearly by certain members that in some cases hardships might be worked by this universal application. For instance, Hawaii would be in a situation different from that of the mainland.

Also, the Senator from Alaska called to our attention that State's unique situation. Moreover, there are certain States, such as Kentucky, that find themselves, or at least part of the State, on the edge of a time zone. Such States represent that this universal application would work a hardship upon them.

Another example is the case of Hawaii, where year-round observance may not lead to any conservation of energy.

So, rather than trying to legislate exceptions for any individual State, or for parts of a State, the committee provided in the bill that the President have authority during this 2-year period to remedy situations in which one of two conditions prevail.

First, where there is a condition of "undue hardship" in a State or in part of a State. Or, second, where there is a situation which leads to the expenditure of energy rather than to the conservation.

Thus, on application of the State, the President is empowered under the pending bill to make these exceptions, even to temporarily changing during the 2-year period, the time zone alinement, in such instances in order to bring about a remedy to the specified conditions.

The only change in the present law—the Uniform Time Act of 1966—that would come into effect at the expiration of the 2-year period, if the pending bill is passed as it now stands, is that the States would have three options—first, having no daylight saving time at all. Second, there would be the option of having daylight saving time during part of the year, starting on the last Sunday of April and ending on the last Sunday of October.

Third, and this is the only change in the present law, the States would have the option of having year-round day-

light saving time, if they so determined, after the expiration of 2 years.

Mr. President, this has been a very controversial subject. I do not know of any subject that has generated more controversy than tinkering with the time.

I would like to say to my distinguished chairman, with whom it is such a pleasure to work, that he referred back to the days of yore when we were fighting on this matter and that some Senators had signs on their door saying, "This office is on God's time." But, they had just thought they were on God's time. They were not, because formerly, in the early days of the Republic, before we established time zones, the time went with the sun. This meant that the time of Congress, sitting here on Capitol Hill, would be ahead of the White House—a situation which, in the opinion of many, has prevailed ever since.

But, back in those days, God's time simply moved with the sun as the world revolved, and changed as one went from city to city and State to State. There was a gradual change. It was when the time zones were established that we found ourselves in this present situation that has caused us so much trouble.

Mr. President, I think that any hardships under this bill can be taken care of, either by an amendment, or by the authority to be conferred upon the President by the pending bill to remedy those situations.

Therefore, in the interests of the conservation of energy and in the interests of orderly procedure of business and of the general conditions of life in this country, I urge favorable consideration by the Senate of the bill (S. 2702). I hope that the bill will be passed as reported by the committee.

Mr. MAGNUSON. Mr. President, before I yield to the Senator from Illinois, who has done so much to enact daylight saving time, both in the committee and outside, I send to desk three amendments to perfect the bill.

The purpose of the first amendment is to clarify the scope of authority granted the President in section 3 of S. 2702. The new wording makes it clear that the President has the decision to grant the exemption that he believes most beneficial in carrying out the purposes of the act. The President should have total discretion to grant the exemption that he considers appropriate, even if that exemption is not exactly parallel to the exemption requested by the Senate.

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

The PRESIDING OFFICER. Is there objection?

Mr. COOK. Mr. President, reserving the right to object, could we hear all three amendments, and then have the request?

Mr. MAGNUSON. Yes.

Mr. COOK. Will the Senator withdraw his request?

Mr. MAGNUSON. Yes; I withdraw my request.

The purpose of the second amendment is to allow the Secretary of the Interior sufficient time to conduct a thorough and complete study of the energy saving aspects of daylight saving time. The current form of S. 2702 allows the Secretary only 6 months in which to draw conclusions about the impact of daylight saving time. This is not sufficient time because the country will have experienced neither one complete winter nor one complete summer on which to base a comparison.

It is important that the Secretary have the necessary breadth of authority to conduct a thorough and complete study of all aspects and effects of year-round daylight saving time. It is counterproductive to require a thorough study and, at the same time, not provide sufficient time in which to conduct a study.

The third amendment is the one which deals with the hardship on daytime broadcast licensees under winter daylight saving time.

I ask unanimous consent that the amendments be agreed to en bloc, and then we can discuss them as we go along.

The PRESIDING OFFICER. Is there objection?

Mr. COOK. Mr. President, reserving the right to object, I wonder if the distinguished chairman of the Commerce Committee would ask that the first two amendments be considered en bloc, and that the third amendment might be held, so that we might discuss that one more closely.

Mr. MAGNUSON. I can do that. I ask unanimous consent that the first two amendments be considered now en bloc, and then I will submit the other amendment, and it will lie on the table.

The PRESIDING OFFICER. Without objection, it is so ordered, and the two amendments are agreed to en bloc.

Mr. MAGNUSON'S amendments agreed to en bloc are as follows:

On page 5, line 21, strike the word "such" and insert in lieu thereof the word "an"; on line 22, after the word "realignment" and before the period, insert the words "to such State."

On page 6, line 8, insert the following: strike the word "1974" and insert in lieu thereof "1975".

Mr. MAGNUSON. I submit the third amendment, and ask that it be received and lie on the table.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 6, line 9, insert the following:

"SEC. 5. Notwithstanding any other law or any regulation issued under any such law, the Federal Communications Commission shall, consistent with any existing treaty or other agreement, make such adjustment by general rules, or by interim action pending such general rules, with respect to hours of operation of daytime standard amplitude modulation broadcast stations, as may be consistent with the public interest, including the public's interest in receiving interference-free service. Such general rules, or interim action, may include variances with respect to operating power and other technical operating characteristics. Subsequent to the adoption of such general rules, they may be varied with respect to particular stations and areas because of the exigencies in each case."

Mr. MAGNUSON. Mr. President, the pending order of business would be this amendment, which deals with the broadcasting stations. I ask unanimous consent that discussion of this amendment be put over until after 2 o'clock, since there is a Republican caucus going on, and there are several Senators who want to discuss portions of this amendment. I have a statement which I will read later.

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

Mr. MAGNUSON. May I add that I have agreed we will not have any votes until after 2 o'clock on this bill. I yield to the Senator from Illinois.

Mr. STEVENSON. Mr. President, about 6 weeks ago when I introduced a year-round daylight saving time bill as part of a nationwide energy conservation campaign, the Nation faced an energy shortage estimated at 3 to 5 percent.

Today those estimates for the winter months have increased to as much as 35 percent.

What was reasonable several weeks ago is now imperative.

Given the energy shortages we cannot afford to put off an energy conservation measure as easy and productive as year-round daylight saving time:

It is a simple procedure;

It can be instituted quickly;

It will save substantial amounts of energy;

It will affect every person in the Nation by involving them in an ongoing act of energy conservation;

It will decrease crime;

It will decrease traffic accidents;

It will add to the personal convenience and safety of a large majority of citizens; and

It has widespread public support.

At the Senate Commerce Committee hearings on the bill now before us, the Director of the Office of Energy Conservation in the Department of the Interior told the committee:

The chances for net U.S. energy savings from winter daylight saving time are high . . . in terms of actual changes in energy consumption, winter daylight saving time could save at the rate of about *one* percent—a very significant amount.

The American Public Power Association testified:

Daylight saving time would result in savings, for our segment of the industry, within the range of one to two percent in kilowatt hour sales, on a year-round basis . . . it would appear that our . . . industry could save the equivalent of between 4.3 and 8.6 million barrels of oil . . . this winter if year-round daylight saving time were in effect . . . these figures cover only the local publicly-owned segment of the electric industry, which accounts for about 13 percent of total sales.

Consolidated Edison Co. of New York testified that—

Our engineers estimate that year-round daylight saving time would result in total electric savings of between 3 billion and 5 billion kilowatt hours annually. . . . The lower figure . . . is equivalent to one month's average use in the area we serve, New York City and Westchester County. It is also equivalent to more than 4 million barrels of oil.

The National Rural Electric Cooperative Association, despite rural America's traditional opposition to year-round

daylight saving time, told the committee:

Indications of major potential savings in total energy . . . are sufficient to warrant our support for implementing, on a trial basis, a wintertime daylight saving plan. . . . We feel the potential is sufficient to merit the support of our farmer members. Farmers as a group have always responded well to emergency measures undertaken in times of crisis.

The detailed analysis submitted to the committee by Mr. William Harris of the Rand Corp. concluded:

Net national fuel savings associated with daylight saving time in October to April might be as high as one to one and one-half percent, and might be as low as a modest fraction of one percent. . . . In a year of fuel shortages, even a fractional percentage savings could be of significance.

The Department of Water and Power of the city of Los Angeles told us it would save 200,000 barrels of oil annually from year-round daylight saving time. Southern California Edison Co. estimated it would save 500,000 barrels per year.

Year round daylight saving time would probably reduce energy consumption by about 1 percent. As the distinguished Senator from Washington mentioned, the experts are in disagreement. They all agree that it will decrease the consumption of energy, but they disagree by how much.

When the country returned to standard time on October 28 last, electrical generation instantly went up in the country. It went up in the first week after the return to standard time by 2.2 percent. That represents an increase of over one-half of 1 percent of total energy consumption in the country just from the increased generation of electricity. That is at the lower end of the range by all of the experts, but if roughly one-half of 1 percent can be saved as a result of just decreased electrical generation, it is very likely that daylight saving time would decrease total energy consumption by at least 1 percent and perhaps as much as 1½ percent.

Inasmuch as any other conservation measure, it can help rally the Nation to its difficult task of, day in and day out, the saving of energy.

The shift to year-round daylight saving time has been proposed often in recent years. But this is the first time since World War II that it has been suggested primarily as a conservation measure and at a time of serious energy shortages. It is the first time it has received such widespread public support.

Hundreds of radio, TV, and newspaper editorials across the Nation have endorsed the concept.

Thousands of letters supporting it have flowed into Washington in the last month. Mail in my own office is running 20 to 1 in favor of the proposal. A poll reported yesterday that 74 percent favors it.

In addition to offering substantial fuel savings, year-round daylight saving time would also help reduce crime, improve traffic safety, produce more daylight for the convenience and pleasure of most people, and eliminate the confusing twice-yearly time changes. Work and school schedules could be adjusted to the convenience of those adversely affected by early morning darkness resulting from daylight saving time.

The experts tell us daylight saving time will save energy. The people tell us that they are in favor of it. The time has come to make year-round DST a reality.

The stakes are simply too high and the need too great to ignore a measure as promising as year-round daylight saving time.

The President supports it. The House has already acted. The Senate, under the leadership of the distinguished Senator from Washington (Mr. MAGNUSON) and the ranking member the Senator from New Hampshire (Mr. COTTON), acted diligently in taking this matter up in the committee and bringing it to the floor of the Senate.

If the Senate now acts, the country can be back on daylight saving time on Sunday, December 30, 1973, conserving energy.

I urge the Senate to act.

Mr. President, I ask unanimous consent that during consideration of any amendment offered by the Senators from Colorado and Ohio (Mr. DOMINICK and Mr. TAFT), the following members of the Committee on Labor and Public Welfare may be granted access to the floor: Nick Zapple, Gerry Feder, Eugene Mittelman, Donald Elisburg, Roger King, Charles Woodruff.

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

Mr. COTTON. Mr. President, the Senator from New Hampshire inadvertently failed to do justice to the distinguished Senator from Illinois (Mr. STEVENSON). I referred in my opening statement to the fact that the Senator from Illinois had presided over the hearings. I did not refer to the fact that he has produced the bill. He worked with great diligence and should receive the lion's share of the credit.

Also, I believe that if the distinguished Senator from Wyoming (Mr. MCGEE) were here, the Senator from Illinois would also have the heartfelt sympathy of both Senator MCGEE and myself who had troubles with this problem back in 1965–66. But, the Senator from New Hampshire wishes to correct what he inadvertently failed to do in just mentioning the Senator from Illinois as having presided over the hearings. The Senator from Illinois did far, far more than that. He asserted fine leadership in this matter.

Mr. STEVENSON. Mr. President, I want to thank the Senator for his kind remarks and to commend him. He has been involved in this issue for many years. Without his assistance, we might not have been able to bring this bill to the floor today.

Mr. HUDDLESTON. Mr. President, everyone acknowledges that we do indeed face an energy crisis—and that we must act to conserve our limited fuel supplies and work toward a goal of national self-sufficiency.

But in the rush to meet the crisis, we must guard against being stampeded into enacting any and every proposal that is presented in the name of saving energy supplies. Undue haste and reckless alarm can lead to unwise legislation.

I think that is the case with the year-round daylight saving bill as it applies to certain regions. We are on the verge of enacting legislation based on nothing more than a "hope" that it will save energy—at the cost of inconvenience and hardship to millions of Americans—legislation which may, in fact, cost us precious energy in certain regions of the country.

Even sponsors of the bill acknowledge there is no certainty that energy consumption will be reduced by year-round daylight saving time. Daylight saving will not change the total amount of daylight. In areas like my State of Kentucky, the energy saved by extra daylight in the evening will be offset by the necessity of using even greater amounts of light and heat in the early morning hours.

And the inconvenience to schoolchildren, who will have to meet the schoolbus in the dark, and farmers, who will have their work schedules disrupted will be great. If we had conclusive proof that daylight saving throughout the country would indeed help meet the energy crisis, I would be more than ready to support this bill—and so would the people of my State. But we have no such assurances—we have only some estimates based on educated guesses.

If we really wanted to save energy a much more effective way of doing it would be to restrict the hours which retail outlets are open. By providing a uniform restriction—except in the case of stores whose primary function is to provide vital services to the public after normal shopping hours while using limited energy; that is, curb markets, small food stores, some drug stores, et cetera—that would prevent any unfair advantages, we would save energy for sure. There would be no uncertainty about the effectiveness of such an action. And other than perhaps eliminating some very late night shopping, we would cause a minimum of inconvenience to the American people.

Instead of enacting a bill based on uncertainty, we should enact one based on the sure knowledge that it would indeed save energy. Let us not use the energy crisis as a "gimmick" to get year-round daylight saving.

My State of Kentucky, like some others, is unique in that the State is divided into two time zones. In recent years the eastern time zone has been moved westward so that now my home county of Hardin is on the western-most boundary of the eastern time zone.

By moving to eastern time, we have already provided more than a half-hour of what daylight time is supposed to accomplish . . . and this is true in much of the central part of the Nation.

I recognize that a better case can be made, that daylight saving time would save energy on the east coast than in the middle of the country. But even there the claims of fuel savings are indefinite and inconclusive—while the inconvenience and hardships to much of the country are very real and certain.

Mr. President, let me conclude by again warning against enactment of any

and everything presented in the name of saving energy. Year-round daylight saving is one case in point. Another would be the enactment of a gas tax. Still another would be relaxation of environmental guidelines beyond what is absolutely necessary to meet our energy needs.

If we are not careful, we could do great long-term harm while trying to solve some short-term problems.

Mr. President, I have looked through the report from the committee relating to this measure, and it is a very revealing report. First of all, it points out—and the measure itself demonstrates—that there is absolutely no certainty, no real indication, that the pending measure would in any way conserve energy. The bill provides that the Secretary of the Interior shall conduct a study to determine whether or not, in fact, any energy would be saved by this bill. It seems to me that if such a study is required, it should be done before legislation is passed and before the bad effects of this legislation are imposed upon a great many American people.

The report suggests that this bill might also be a safety measure; that in some way there might be a decrease in accidents because some workers would be going home in daylight time rather than after dark. The report does not explain why it is more dangerous to go home in the dark than it is to go to work in the dark, which is the case that would exist in most of the country.

The bill provides that the President shall have the authority to look at the boundaries of our present time zones and make such adjustments as he might deem necessary. I point out to the Senate that the boundaries of our time zones are not there accidentally. They did not come about by any precipitate action of any individual. The adjustments that have been made were made after long and extensive hearings, formerly by the Interstate Commerce Commission, more recently by the Department of Transportation, which was given jurisdiction. There were long public hearings, in which all aspects were considered, and the movement of these lines is not something that can be done easily and simply.

I also have some concern about the requirement of the bill that permits States to determine whether or not they should observe daylight saving time during the winter months. I think it is reasonable to assume that far more States will exempt themselves from daylight saving time during the winter than we have experienced during the present bill. At present, only one State in the continental United States, Arizona; Hawaii, which is a special case; and portions of Indiana are exempt. So we did, in effect, achieve uniform time with the present law.

But what this bill is going to open up, in my judgment, is a very checkered pattern of time zones across the United States, as many, many States exempt themselves from daylight saving time during the winter months; and the uniform aspects of our present time situation therefore will be obviated.

I should like to say one thing about the broadcasting provisions, including the amendment that has been presented at this time. I think the Senate should understand that the amendment that has been proposed would not eliminate the very difficult situation that would evolve with the AM broadcasting situation in this country.

It is one thing to say that only 300 stations are involved because they are the stations whose actual operating hours would be affected. They are directly affected. But the fact is that 4,400 AM stations in the United States and those in Canada and Mexico also would be subjected to an adverse impact because of this bill; because there is one thing that the Senate and Congress and all its power and all its wisdom cannot revoke, cannot alter, cannot change in any way, and that is the law of physics and technology which applies to broadcast signals in this country. Radio signals act differently during the daytime and during the dark time, and nothing we can do can change that situation. So the interference involved from stations going on the air during the dark hours, when they have been licensed for daytime operation, will have an effect all over the entire country. The mere reducing of power is not as easy as might be indicated here; it is not as simple as throwing a switch. In some cases, an entirely new transmitter may be required. This will not solve all the problems of interference.

Beyond that, we have our treaty arrangements with Mexico, the Bahamian Islands, and Canada; and a stroke of the pen simply cannot change these situations.

Beyond that, the very solution suggested by the amendment, instead of conserving energy, will bring about a considerable increase in the use of energy. The measure provides that some broadcasting stations will be permitted to go on the air and stay on the air as many as 2 additional hours a day. I can assure Senators that the use of electricity by a broadcasting transmitter is considerable; and whatever saving might be brought about by this bill—to some degree, at least—will be eliminated by this move.

Mr. President, I have read the report. There is not a single statistic in this report, there is not a single fact in this report, there is not really a single assertion in this report that would say to the Senate and to the American people that one scintilla of energy will be saved by putting this Nation on daylight saving time. It is just as reasonable, it is just as valid, to assert the opposite. Certainly, one can designate instance after instance in which going on daylight saving time during the winter months would bring about an increase in the consumption of fuel, rather than a decrease, certainly in some parts of the country.

I say again that we ought to be careful about allowing the proponents of certain types of legislation to seize upon this opportunity to exploit the crisis we are faced with in this country in energy, to pass legislation which otherwise would not be acceptable to Congress and would not be acceptable to this Nation on its merits. I urge the Senate to give very careful consideration to this measure and to reject it.

The PRESIDING OFFICER. Who yields time?

Mr. COOK. Mr. President, will the Senator from New Hampshire yield me 5 minutes?

Mr. COTTON. I am glad to yield to the Senator.

Mr. COOK. Mr. President, I commend my colleague from Kentucky (Mr. HUDDLESTON) for his remarks, because I think he has elaborated on the fact that, in 2 short days of hearings and 1 day of markup in the Commerce Committee, we really did not look at this matter in its full import.

As the Senator from New Hampshire well knows, the bill as it originally was proposed by our distinguished chairman, the Senator from Washington, allowed a State to opt in or opt out. The debate on that matter took a little time, and the vote on it, I believe, was 7 to 6 or 6 to 5. It was defeated by one vote. The chairman of the committee voted to leave in that section.

With all the conversation about there now being a great necessity to push forward and to roll over all sections of the country, my colleague from Kentucky, Senator HUDDLESTON, and I are talking about the unfortunate group of people who happen to live along the edge of the thin, gray line.

I am sorry that more Members of the Senate are not present, because this is a difficult environment in which to plead one's case, especially when he has an advocate over there and three people who are committed to the bill are on the floor, and that is all we have here.

But I should like to describe the situation in which we find ourselves in Senator HUDDLESTON's hometown community of Elizabethtown and my hometown community of Louisville, and all those people who live in that region.

It is fine on the east coast of the United States if one is from here, and even if one is not from here. It is fine if you are a Senator who lives here and who does not have to be concerned about those things that happen along that thin, gray line. But let me explain what is going to happen in Louisville, Ky., and Elizabethtown, Ky., from the 1st of January until the 10th of January.

The sun is going to come up at 9 o'clock in the morning because, under the official table of sunrises and sunsets, Louisville, Ky., eastern standard time, prepared by the Nautical Almanac Office, U.S. Naval Observatory, Washington, D.C., in that part of the eastern time zone, which is the extreme western edge, from the 1st of January to the 10th of January, daylight is officially at 9 o'clock under daylight saving time. From the 11th of January until the 15th of January, the sun will rise at 8:59. We then save 1 minute.

The point I am trying to make is that the distinguished Senator from Illinois pointed out that with this time change people in schools can change their schedules. Let us evaluate that; I think that it is interesting. It seems that all we have

to do is to say that someone can change his schedule and that is easy to accomplish; however, the oversimplification is far from correct.

In my county, outside the city of Louisville there are 500 schoolbuses, and in those 500 schoolbuses ride 80,000 students. They now start school at 8 o'clock, 8:15, and 8:30 a.m. Some of those students get on those buses as early as 7 o'clock in the morning. By the way, it is dark in Louisville, Ky., at 7 o'clock these mornings. It is light here, but it is absolutely, totally dark in that community. Some students in that rural county have to get on schoolbuses before 7 o'clock. It is absolutely, totally dark.

I have received letters from mothers who say, "There is going to be an increase in fuel consumption because I am going to have to drive my children to school. I will not let my first, second, third, fourth, fifth graders stand along a county road in absolute dark."

The Senator from Illinois (Mr. STEVENSON) said, "Let us switch times." In the committee he said instead of going to school at 8 o'clock make it 9 o'clock in the morning. If school starts at 9, 9:15, and 9:30 in the morning it means we are picking up children in the dark because the sun is not going to come up until 9 o'clock. We have another problem because one of the main reasons schools start at 8, 8:15, and 8:30 is so they can close at 3, 3:15, and 3:30 and get those 80,000 youngsters home and those 500 buses off the roads with their red lights to stop traffic, before people come home from working and before people leave the factories.

Let us put the schoolbuses on the road. Instead of 3, 3:15, and 3:30, let us put them on the road at 4, 4:15, and 4:30. The Jefferson County School Board estimates the 500 buses will be on the road 45 minutes to an hour and 15 minutes longer. That would be 500 buses using 45 minutes to an hour and 15 minutes additional fuel every day and yet this legislation is billed as a fuel-conserving measure.

If it takes the buses 45 minutes to an hour and 15 minutes longer every time that bus stops on a main thoroughfare and those red lights flash on the front and back they are going to stop all traffic going home, cars containing people from plants, offices, whatever it may be, and the consumption of fuel by those vehicles is going to be increased by that percentage of time lost in getting home.

This is the problem we face along that thin gray line and we should, therefore, be given consideration. At the proper time this Senator will offer two amendments: One, the amendment for which I give full and complete credit to my chairman, the Senator from Washington, which was the language in his original amendment, and which in committee he voted to maintain in the bill, specifically that is that a State can opt in or out. It is not in his language, however, we might be able to find some language that says a State can opt in or out if they are going to consume fuel by not giving them that opportunity.

My colleague from Kentucky (Mr. HUDDLESTON) has laid the matter out very clearly. There is not a specific point in this record that says how much fuel will be saved. There is an estimate of from 1 to 1½ percent.

I have argued with the Senator from Illinois, and I am sorry he is not in the Chamber. He is fortunate enough to come from the major metropolitan area of Chicago. It is right on the eastern edge of the central time zone and yet Indianapolis, which is almost directly south of him, is on the western edge of the eastern time zone. So when he is going to be delighted to have sunrise when it comes, it is going to be an hour later in Indianapolis and they are going to be dark. That does not make sense.

If we are really talking about conserving fuel, then we must answer the question, when is the coldest part of the day in winter? It is from 4 to 5 and 6 o'clock in the morning, and that is when you are going to make everybody get up, everyone who lives on the western edge of a time zone. Every light is going to go on in the house and every light in every school will go on at 7 o'clock because we have social programs passed here which provide breakfast and other feeding programs that require the schools to be open earlier. So even if we make it 9 o'clock the schools have to open at 8 o'clock, which means every light will be on an hour before sunrise. This just does not make sense.

I know we should have a bill and I know that we ought to have an energy conservation bill, but give the areas that find themselves in conflict the option to make a determination whether they can save energy because we are not going to save in many parts of the country under this bill.

As a matter of fact, more energy will be used. My colleague (Mr. HUDDLESTON) was correct in stating that the bill refers totally and completely to the fact that they are going to have more daylight in the evening. That is fine if you want daylight to have exercises and play golf in certain parts of the country, but what does that have to do with energy conservation? We are talking about the fact whether you are going to say that Louisville, that is in the eastern time zone and does business with New York, is going to tell people in every office that has to do business with New York, because it is an hour ahead by way of the sun but not the time, that they have to come to work earlier when most of their business is conducted with areas in the East? That does not make sense and no one here is going to say that it does make sense.

The only thing this Senator really wants is the option proposed in the original bill in amendment form by the Senator from Washington: That the only time they can exercise that option is when their legislature can establish it will conserve energy. If the Senator will put that language in I would agree with him, but when they tell me and the President of the United States on television tells this Republican that we are going to save energy in my State because we are going on daylight saving time and daylight is not going to be until 9 o'clock on the 1st of January until the 10th of January and for the next days it will be at 8:59 a.m., and he is going to tell me we are going to help the great energy problem in this country and we are all going to sacrifice, I will tell him and the members of the committee that the only way we can save energy during that time is to light candles and not turn on lights in the morning.

Mr. COTTON. Mr. President, would the Senator yield?

Mr COOK. I yield.

Mr. COTTON. Mr. President, may I inquire how much time is left from my hour?

The PRESIDING OFFICER. The Senator has 30 minutes remaining from his hour.

Mr. COTTON. I merely want to suggest to the distingushed Senator from Kentucky (Mr. COOK) that he is making a very eloquent speech, a very logical speech, and one that I find very moving. Far be it from me to withhold any time from him, but he is going to be sorry later today, because, as he just noted, we have only a few Senators here, a couple of whom, at least, may not be in agreement with him. Sometime later he may want more of the hour provided on the bill to our side to say what he is saying now when more Senators are listening. I think we would be wise to try to recess until 2 o'clock.

Mr. COOK. Mr. President, if the Senator will yield, I have 1 hour on each of my amendments, and I do not mind making this same speech again, because it is important to get this into the RECORD.

Mr. COTTON. Will the Senator from Kentucky offer an amendment?

Mr. COOK. It would be ridiculous for me to offer an amendment to make that speech now with the condition we find on the floor now.

Mr. COTTON. I am sure the Senator knows of my high regard and my respect for him. But, I am sure he understands that I have only half of my time left to give to other Senators.

I do not want to usurp the role of the leadership, but in view of the fact that at 2 o'clock the Republicans will be in here from their conference, at which time we can start considering these amendments, I was going to suggest that we recess.

Mr. MAGNUSON. Mr. President, the Senator has time on his amendment.

Mr. COTTON. I was going to ask for a recess until 2 o'clock.

Mr. DOLE. Then we will have ample time after 2 o'clock to hear amendments?

Mr. COTTON. Is that all right?

Mr. DOLE. Yes.

RECESS TO 2 P.M. TODAY

Mr. COTTON. Mr. President, I ask unanimous consent that the Senate stand in recess until 2 p.m. today.

There being no objection, at 1:32 p.m. the Senate took a recess until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. WILLIAM L. SCOTT).

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, 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 amendments of the House to the bill (S. 1443) to authorize the furnishing of defense articles and services to foreign countries and international organizations.

The message also announced that the House had passed a bill (H.R. 11710) to insure that the compensation and other emoluments attached to the Office of Attorney General are those which were in effect on January 1, 1969, to amend title 39, United States Code, to clarify the proper use of the franking privilege by Members of Congress, and for other purposes, in which it requested the concurrence of the Senate.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The message further announced that the Speaker had affixed his signature to the following enrolled bills and joint resolution:

S. 1618. An act to name the headquarters building in the Geological Survey National Center under construction in Reston, Va., as the "John Wesley Powell Federal Building";

S. 2503. An act to name a Federal office building in Dallas, Tex., the "Earle Cabell Federal Building";

S. 2641. An act to confer jurisdiction upon the court of the United States of certain civil actions brought by the Senate Select Committee on Presidential Campaigns Activities and for other purposes;

H.R. 974. An act designating the Texarkana Dam and Reservoir on the Sulphur River as the "Wright Patman Dam and Lake";

H.R. 1284. An act to amend title 5, United States Code, to improve the administration of the leave system for Federal employees;

H.R. 1694. An act for the relief of Ossie Emmons and others;

H.R. 3436. An act to provide for the conveyance of certain mineral rights in and under lands in Onslow County, N.C.;

H.R. 5379. An act for the relief of John B. Clayton;

H.R. 6007. An act for the relief of Swift-Train Co.;

H.R. 6768. An act to provide for participation by the United States in the United Nations environment program;

H.R. 7210. An act for the relief of George Downer and Victor L. Jones;

H.R. 8528. An act to provide for increasing the amount of interest paid on the permanent fund of the U.S. Soldiers' and Airmen's Home; and

S.J. Res. 155. A joint resolution authorizing the securing of storage space for the U.S. Senate, the U.S. House of Representatives, and the Office of the Architect of the Capitol.

(The enrolled bills and joint resolution were subsequently signed by the Acting President pro tempore (Mr. METCALF).)

EMERGENCY DAYLIGHT SAVING TIME ENERGY CONSERVATION ACT OF 1973

The Senate continued with the consideration of the bill (S. 2702) to provide that daylight saving time shall be observed on a year-round basis.

The PRESIDING OFFICER. The pending question is on the amendment by the Senator from Washington (Mr. MAGNUSON).

Mr. MAGNUSON. Mr. President, I ask unanimous consent to suggest the absence of a quorum with the time not to be taken out from consideration of the bill.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. COTTON. Mr. President, in order that we may get along with this bill, I express the hope, with respect to the amendment which is going to be offered by the distinguished Senator from Colorado, without seeking to dictate to the Chair, that the Senator from Colorado would be recognized as we resume the consideration of the bill, so that we can dispose of his amendment.

The PRESIDING OFFICER. The Chair announces that the pending question is on the amendment of the Senator from Washington.

Who yields time?

Mr. DOMINICK. Mr. President, I am not sure what is meant by the "pending amendment." Is this the bill?

The PRESIDING OFFICER. The Chair informs the Senator that an amendment to this bill, S. 2702, has been offered by the distinguished Senator from Washington.

Mr. MAGNUSON. Mr. President, the pending order of business is the amendment I presented to alleviate the hardships of daylight saving time on the smaller radio stations that operate on a sunrise to sunset basis.

The purpose of this amendment is to insert in the bill language requested by the Federal Communications Commission to alleviate the hardship on daytime broadcast licensees under winter daylight saving time.

The Committee on Commerce has maintained very close liaison with the Federal Communications Commission in developing the proposed year-round daylight saving time bill. The Federal Communications Commission originally communicated with the committee through a letter which is printed in the committee report of the bill. Since the reporting of the bill by the committee, the FCC has conducted further investigations and analyses of the problem. Recently, I received a followup letter from the Chairman of the Federal Communications Commission which I ask unanimous consent to have it printed in the RECORD.

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

FEDERAL COMMUNICATIONS COMMISSION,
Washington, D.C.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: This is to supplement my letter of November 13, concerning the effects of year-round daylight saving time on certain AM broadcast stations licensed to operate daytime only.

Committee staff was previously supplied with a Public Notice of the Commission's November 14 instructions to its staff to prepare, on an expedited basis, a Notice of Inquiry and Proposed Rule Making designed to consider possible relief for daytime only stations and to report back to the Commission by November 21. A copy of that instruction to the staff is enclosed.

The Commission met on November 21 and again today and discussed the matter further. As a result of those further discussions, I would like to make a few additional observations.

The Commission continues to believe the language of Senate Report 93-504 will be helpful to us in our efforts to grant some relief to certain daytime only broadcast stations which, under the pending legislation, would otherwise begin operations one hour later in the morning.

It is the Commission's intention to initiate a general rule making proceeding promptly upon congressional approval of year-round daylight saving time. Because rule making proceedings can be time consuming, we also contemplate granting appropriate interim relief. A November 23 Public Notice to this effect is also enclosed.

Although, as previously indicated, we do not consider it necessary to have specific language in the bill to deal with the daytime broadcast situation in the context of a general rule making proceeding, inclusion of appropriate statutory language specifically authorizing the Commission to grant interim relief pending completion of general rule making would be helpful. This would obviate any problems that might otherwise arise under section 316 of the Communications Act with respect to any exercise of interim authority.

If statutory language is included, it could be as a new section 5 at page 6, line 9 of S. 2702 to add the phrase "or by interim action pending such general rules" following "general rules" in the first sentence and the words "or interim action" after the phrase "general rules" in the second sentence of section 5 of H.R. 11324 as reported.

Additionally, deletion of the phrase "which are not eligible for pre-sunrise operating authority" from the first sentence of section 5 of H.R. 11324 as reported would enable the Commission to grant interim relief not only to those AM standard broadcast stations not presently eligible for pre-sunrise operating authority but also to other AM stations presently eligible for, but not operating pursuant to, pre-sunrise operating authority or operating with severely restricted pre-sunrise facilities.

Thus, appropriate language could read as follows:

"SEC. 5. Notwithstanding any other law or any regulation issued under any such law, the Federal Communications Commission shall, consistent with any existing treaty or other agreement, make such adjustment by general rules, or by interim action pending such general rules, to permit daytime standard amplitude modulation broadcast stations to operate not in excess of one hour prior to local sunrise, as may be consistent with the public interest, including the public's interest in receiving interference-free service. Such general rules, or interim action, may include variances with respect to

operating power and other technical operating characteristics. Subsequent to the adoption of such general rules, they may be varied with respect to particular stations and areas because of the exigencies in each case."

The Commission shall, of course, advise the Committee of whatever further action we take to ease the impact of such legislation on some broadcasters.

This letter was adopted by the Commission November 26, 1973; Commissioners Johnson and H. Rex Lee absent.

By direction of the Commission.

DEAN BURCH,
Chairman.

STAFF INSTRUCTIONS ON IMPACT OF DAYLIGHT SAVING TIME LEGISLATION

The Federal Communications Commission today instructed its staff to prepare on an expedited basis a Notice of Inquiry and Proposed Rule Making, raising for immediate consideration any and all measures that might ameliorate the impact on daylight-only standard broadcast stations of legislation extending daylight savings time throughout the year.

The Commission staff was directed to report back to the full Commission no later than Wednesday, November 21, 1973.

IMPACT OF DAYLIGHT SAVING TIME LEGISLATION ON DAYTIME-ONLY STATIONS

The Commission, on November 14, 1973, issued a public notice announcing that it had instructed the Broadcast Bureau staff to prepare proposed rule revisions to ease the impact of pending Federal daylight saving time legislation on AM stations limited to sunrise to sunset operation.

The Commission has received a draft of proposed rule making from the Broadcast Bureau. Consistent with Congressional action, the Commission is prepared to grant, for the duration of national daylight saving time, appropriate temporary relief and to initiate a rulemaking proceeding to afford relief to daytime-only stations which are presently ineligible for pre-sunrise service authorizations (PSA's), where such action is consistent with treaty commitments, and with due regard to the protection of nighttime services rendered by U.S. clear channel stations during the pre-sunrise hours.

Mr. MAGNUSON. The purpose of the recommended amendment is twofold. First, it would guarantee that the FCC moves as expeditiously as possible to conduct general rulemaking to alleviate the economic hardship on daytime broadcasters. Second, it will grant the FCC the necessary interim authority to provide temporary relief to certain stations pending the outcome of the general rulemaking proceedings.

I believe there is great merit in my amendment which is similar to the wording recommended by the Federal Communications Commission. It is similar to the amendment which has been adopted by the House of Representatives in its version of the year-round daylight saving time bill. There is no reason to ignore the economic hardship which will be visited on this limited sector of the Nation's economy through year-round daylight saving time. We have an obligation to alleviate to the extent possible, the problems which daytime broadcasters will face under winter daylight saving time.

I note for the record two remaining difficulties which daylight saving time will cause a small number of broadcasters. First, some broadcasters are on frequency bands shared by our international neighbors. The use of these frequencies is covered by international treaties. I want the record to show clearly our intent that the State Department should move quickly to open negotiations with countries that are parties to these treaties. The State Department, together with the Federal Communications Commission, should attempt to help the daytime radio broadcasters who are limited in their broadcast hours by international treaty. I expect the State Department to act quickly, and I am sure that everyone else here today agrees.

The second problem which certain daytime broadcasters face is not susceptible to legislative solution. Many broadcasters are licensed on frequencies where interference problems with other stations can be quite significant. In many cases, the interference problems can be alleviated through station-by-station adjustments in the licensing criteria by the FCC in the course of its general rulemaking proceedings under this amendment. My amendment will help these broadcasters to the fullest extent possible through legislative action.

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

Mr. MAGNUSON. The amendment is at the desk. No one has more expertise in this matter than the distinguished Senator from Rhode Island. I would ask him to answer any questions, if he will.

Mr. HUDDLESTON. Mr. President, will the Senator yield to me for 2 minutes?

The PRESIDING OFFICER. Who yields time?

Mr. PASTORE. Does the Senator from Washington yield his time to me?

Mr. MAGNUSON. I yield.

Mr. PASTORE. I yield 2 minutes to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. HUDDLESTON. Mr. President, I am not opposed to this amendment, but I think the Senate should not be under any illusions that the amendment resolves the problem that the pending legislation would create for broadcasters in this country.

In effect, the amendment provides that the FCC is to do the best it can to resolve some of the problems that are going to result from this legislation. The FCC probably can take care of those directly affected by having the hours of operation reduced, but neither the FCC, the Senate, the House of Representatives, nor the President, nor all combined can change the physical law and technology that applies to broadcast signals in this country. There will be a considerable amount of interference.

In addition we have the matter of the treaties this Nation has with Canada, Mexico, and the Bahama Islands relating to broadcast signals.

The fact is that broadcast signals behave differently in daylight hours than in nighttime hours. However, Congress may move to change the hardships that may evolve for some specific stations, it cannot prevent the interference that would come from stations that operate in the daytime, when they operate in the nighttime or in the dark hours.

Another point is that one solution suggested is that they would be permitted an extra hour of operation. I wish to point out that radio transmitters consume a considerable amount of energy in the form of electricity, so to this extent at least the pending legislation permitting daylight saving the year around would amount in a considerable increase in the consumption of electricity.

Mr. PASTORE. There is a great deal of merit in what the Senator just said. No one here disputes it, but we have to look at the large question. The big question is, Do we legislate to provide a daylight system that is nationwide in order to conserve fuel or do we not? If we are going to save fuel during daylight saving the year around, then we should act.

Naturally, that raises some problems, and this is one of the problems. The best way to straighten it out is to give authority to the FCC to work it out. If anyone is opposed to the law in totality, I suppose he could raise a lot of arguments, but the major question is, Do we have it or not? If we are going to have daylight saving, it is going to raise problems, and it is best to have this in the act. Does the Senator agree with that?

Mr. HUDDLESTON. The Senator is correct.

Mr. PASTORE. That is the question. I do not think I need to say anything else.

Mr. President, as the committee noted in its report accompanying S. 2702, the legislation will cause temporary difficulties for some of those AM radio stations licensed to operate during daytime hours only; that is, from actual sunrise to actual sunset.

The "sign-on" and "sign-off" times of these stations are assigned in relation to the physical laws of the universe.

Because of the peculiar characteristics of these laws, more AM stations are able to operate during daytime than at night.

These laws are, of course, immutable. So even though we may set the time by which the Nation operates ahead 1 hour through legislative fiat, actual or sun time cannot be changed.

As a consequence, unless the FCC moves to adjust the hours of operation of those daytime only stations, they will begin operations 1 hour later in the morning than usual if S. 2702 is enacted.

Such delayed "sign-ons" will in turn disrupt the listening habits of many people who rely on vital early morning weather and other information.

The later "sign-on" time may also affect the economic well-being of many of these stations.

For example, S. 2702 will mean that a 7:30 a.m. "sign-on" in December and January will suddenly become an 8:30 a.m. advanced time "sign-on"—by which time many listeners will have reached their work or school with the resulting loss in "drive-time" audience. Many stations thus affected could not entirely recoup early morning advertising losses during the additional hour provided at the end of the day.

The FCC has informed the committee that if S. 2702 is enacted it intends to proceed through general rulemaking to

adjust the hours of operation of many of those "daytime stations" adversely affected by the legislation. I would suggest no less, and I think it is a necessary amendment if the law is to be enacted.

It also informed the committee that inasmuch as rulemaking proceedings can be time consuming, the Commission also contemplates granting interim relief where appropriate.

Mr. President, the interim relief which the FCC contemplates will, in my judgment, prove highly desirable in many instances because it may be granted expeditiously.

The Commission has also informed the committee, however, that if it is to exercise this interim relief it would be helpful to have specific language in the bill specifically authorizing it to use this remedy.

While the House has included such language in the measure it passed, the FCC has furnished the committee with statutory language which it prefers the Congress adopt.

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

The PRESIDING OFFICER. Does the Senator from New Hampshire yield to the Senator from Kansas?

Mr. COTTON. Mr. President, how much time does the Senator want?

Mr. DOLE. Five minutes.

Mr. COTTON. I yield 5 minutes to the Senator from Kansas.

Mr. DOLE. Mr. President, the proposal to establish daylight saving time on a year-round basis in an effort to help deal with the energy crisis raises a number of serious questions—particularly for those who live and work in the rural areas of our country. Early to bed, early to rise is a fairly accurate description of the personal and business lives of these Americans. And when winter comes, they are very much aware of the lateness at which sunrise and daylight comes.

Radio in rural America provides a very valuable service which is heavily relied upon. It brings local and community news, notices of coming events, weather reports, school openings or closings, and much additional information which is indispensible to many citizens. These areas do not usually have morning newspapers and many people are out in their cars and trucks away from television. So radio is an essential link to the locality and the rest of the world.

Many of these nearly 2,300 radio stations are small community stations which are limited in the hours they may broadcast and their signal strength. These restrictions are imposed for a variety of reasons including treaty obligations with neighboring countries, and Federal Communications Commission policies governing interference protection.

Some 625, under the presently applicable rules and regulations, are prohibited from operating before sunrise. Of course, this means that they go on the air earlier in the summer and later in the winter so their audiences must adjust their early morning tune-in times accordingly. These changing hours currently do not present much difficulty, for they get on the air by 7:30 to 8 a.m. even in the shortest days of winter. Their listeners can still get their news weather reports and local bulletins before their days are underway.

But I believe it is easy to see that winter daylight saving time would make a major difference, for under it small radio stations which broadcast only during daylight hours would be kept off the air some months until nearly 9 a.m. The same would be true, too, of full time stations that are required to operate at reduced power during the night.

As I pointed out, the early morning hours are the most important times for many of their listeners to get news of weather forecasts, school closings, stock warnings, and other important matters.

These people get up early and need to have the up-to-the-minute information that only their radio stations can provide. Lives, businesses, and the safety of children and others can depend on this news.

If the energy emergency makes winter daylight time necessary, it should not have the side effect of limiting the quality or quantity of radio broadcast information in rural America.

Unfortunately, out of 625 daytime stations which do not now have presunrise authority—PSA—368 are not now eligible for any form of such privileges.

Therefore, I submitted an amendment to provide the Federal Communications Commission with the statutory authority, within existing treaty requirements, to provide temporary relief for this class of radio station. This amendment, number 735, reflected the language adopted in the House version of this legislation. It has been further refined and modified in the amendment offered today by the Senator from Washington (Mr. MAGNUSON).

The committee report on the bill discusses the problem raised for these broadcasters and expresses the hope that the FCC will give priority attention to this problem. But I feel that statutory language is necessary to make the intent and the resolve of Congress clear in this matter so I would hope that the Senate will also view it as necessary and worthwhile.

I was pleased to have as cosponsors to my amendment the distinguished Republican leader and senior Senator from Pennsylvania (Mr. SCOTT), the Senator from South Carolina (Mr. THURMOND), and the Senator from North Carolina (Mr. HELMS).

By way of additional explanation of the problem, I ask unanimous consent to have printed in the RECORD at this point two letters from FCC Chairman Dean Burch to the distinguished chairmen of the House and Senate Commerce Committees.

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

FEDERAL COMMUNICATIONS COMMISSION,
Washington, D.C.

Hon. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce, Washington, D.C.

DEAR MR. CHAIRMAN: This is to supplement my letter of November 13, concerning the effects of year-round daylight saving time on certain AM broadcast stations licensed to operate daytime only.

Committee staff was previously supplied with a Public Notice of the Commission's November 14 instructions to its staff to prepare, on an expedited basis, a Notice of Inquiry and Proposed Rule Making designed to consider possible relief for daytime only stations and to report back to the Commission by November 21. A copy of that instruction to the staff is enclosed.

The Commission met on November 21 and again today and discussed the matter further. As a result of those further discussions, I would like to make a few additional observations.

The Commission continues to believe the language of Senate Report 93-504 will be helpful to us in our efforts to grant some relief to certain daytime only broadcast stations which, under the pending legislation, would otherwise begin operations one hour later in the morning.

It is the Commission's intention to initiate a general rule making proceeding promptly upon congressional approval of year-round daylight saving time. Because rule making proceedings can be time consuming, we also contemplate granting appropriate interim relief. A November 23 Public Notice to this effect is also enclosed.

Although, as previously indicated, we do not consider it necessary to have specific language in the bill to deal with the daytime broadcast situation in the context of a general rule making proceeding, inclusion of appropriate statutory language specifically authorizing the Commission to grant interim relief pending completion of general rule making would be helpful. This would obviate any problems that might otherwise arise under section 316 of the Communications Act with respect to any exercise of interim authority.

If statutory language is included, it could be as a new section 5 at page 6, line 9 of S. 2702 to add the phrase "or by interim action pending such general rules" following "general rules" in the first sentence and the words "or interim action" after the phrase "general rules" in the second sentence of section 5 of H.R. 11324 as reported.

Additionally, deletion of the phrase "which are not eligible for pre-sunrise operating authority" from the first sentence of section 5 of H.R. 11324 as reported would enable the Commission to grant interim relief not only to those AM standard broadcast stations not presently eligible for pre-sunrise operating authority but also to other AM stations presently eligible for, but not operating pursuant to, pre-sunrise operating authority or operating with severely restricted pre-sunrise facilities.

Thus, appropriate language could read as follows:

"SEC. 5. Notwithstanding any other law or any regulation issued under any such law, the Federal Communications Commission shall, consistent with any existing treaty or other agreement, make such adjustment by general rules, or by interim action pending such general rules, to permit daytime standard amplitude modulation broadcast stations to operate not in excess of one hour prior to local sunrise, as may be consistent with the public interest, including the public's interest in receiving interference-free service. Such general rules, or interim action, may include variances with respect to operating power and other technical operating characteristics. Subsequent to the adoption of such general rules, they may be varied with respect to particular stations and areas because of the exigencies in each case."

The Commission shall, of course, advise the Committee of whatever further action we take to ease the impact of such legislation on some broadcasters.

This letter was adopted by the Commis-

sion November 26, 1973; Commissioners Johnson and H. Rex Lee absent.

By direction of the Commission,

DEAN BURCH,
Chairman.

FEDERAL COMMUNICATIONS COMMISSION,
Washington, D.C., November 13, 1973.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
Washington, D.C.

DEAR MR. CHAIRMAN: This refers to legislative proposals currently pending before your Committee which look toward the establishment of Daylight Saving (advanced) time throughout the nation, on a year-round basis, during the current energy crisis. The proposed legislation would amend the Uniform Time Act of 1966, under which most of the country now observes advanced time for six months each year.

The Commission is, of course, sympathetic to measures designed to reduce current levels of energy consumption in the United States. The extent to which this particular proposal will reduce the overall demand for energy is a matter which we are not qualified to judge. For the record, however, I would like to bring to the Committee's attention the probable impact of such legislation on the 4435 standard (AM) broadcast stations presently operating in the United States.

The expressions of concern we have received thus far have come mainly from stations licensed to operate during daytime hours only. There are approximately 2,270 stations of this category, with the majority assigned to the 41 regional (Class III) channels which they share with a smaller number of full time stations. Since signals transmitted in the AM broadcast band propagate over vastly greater distances at night than during daytime hours, it has been possible to allocate approximately three daytime stations to every fulltime station on these channels. Hence, on a typical regional channel, there are perhaps 50 daytimers and 16 fulltimers.

In addition, a substantial (but lesser) number of daytimers are assigned to U.S. and foreign clear channels. The dominant station on these clear channels, which enjoy a high degree of nighttime interference protection, are designed to render nighttime skywave service to remote regions unserved by any primary (groundwave) signal source.

In either case, and in order to control skywave interference to fulltime stations assigned to the same channels, the basic license issued to each daytime station specifies sign-on and sign-off times for each month of the year. In accordance with the 1950 North American Regional Broadcasting Agreement (NARBA) and the 1970 U.S.-Mexican standard broadcasting agreement, to which the United States is a party, these sign-on and sign-off times reflect actual "sun" time, and are expressed in standard (non-advanced) time for the entire year. Daytime only stations are precluded by these treaties from operating earlier than sunrise or later than sunset—except for specific pre-sunrise authorizations (PSA's) granted to certain classes of AM stations on a reciprocal basis under supplemental agreements negotiated with Canada and Mexico over the past six years.

Except for daytime stations on clear channels located west of a co-channel dominant station and therefore precluded from signing on prior to sunrise at the dominant station, these PSA's generally permit a uniform, year-round 6:00 a.m. sign-on with a power of 500 watts (or less when necessary to meet foreign protection requirements). The PSA mode of operation is continued until local sunrise, when the station switches to full daytime power. PSA's have been issued to 1,650 daytime stations, or 73% of all daytime stations. In contrast to the basic station license, the PSA is keyed to local time rather than to standard (non-advanced) time.

The *local* time was negotiated on the basis of minimizing schedule disruption resulting to stations in the United States at the beginning and end of daylight saving time for a few days at the end of April and a few days in October. The disruptions resulted from the fact that daylight savings time begins the last Sunday of April and extends to the last Sunday of October, whereas the operating schedules of stations are based on monthly considerations. Therefore, extension of daylight savings time to periods beyond the April to October time frame may be a problem with Canada and Mexico since it was not contemplated when the Agreements were negotiated.

In assessing the dislocations that are apt to arise if the present six-month advanced time is extended throughout the entire year, in the absence of Commission action most of these 1,650 stations holding PSA's would pick up an additional hour of early morning operating time between the last Sunday of October and the last Sunday of April. This operation would occur in darkness, under essentially nighttime conditions, and may therefore cause additional skywave interference to fulltime stations assigned to the same frequencies.

The protected nighttime service areas of fulltime domestic stations would be affected in varying degrees. The result would be that the listening habits of an undetermined number of people could be affected by the creation of new zones of interference. This would occur largely in "fringe" reception areas around large markets where people are presently accustomed to receiving early morning service from fulltime regional stations. Clear channel stations would receive interference primarily in rural areas. After a period of adjustment, these dislocations may be tolerated, both by the public and by the fulltime stations affected, since the added interference would dissipate with the approach of sunrise.

A more serious problem, from the standpoint of the broadcast industry, would be the plight of the approximately 625 daytimers *without* PSA's and particularly those competing in the same market with daytimers holding such authorizations. As already mentioned, most PSA-holders would be picking up an additional hour of early morning operation during the late fall, winter, and early spring, thus further exacerbating the competitive imbalance already existing between these two types of daytimers. Of the 625 daytimers not presently holding PSA's approximately 257 are eligible therefor, while 368 are ineligible for pre-sunrise operating privileges in any form.

Examples of stations in this ineligible group are 243 Class II stations assigned to Canadian and Bahamian I–A clear channels; Class II stations assigned to U.S. I–A clear and located east of the dominant station; Class II stations located with the 0.5 mVm 50% skywave contour of a Class I–B clear channel station; and Class II and Class III stations so located that they cannot meet foreign cochannel protection requirements.

Because of the treaty and interference protection requirements within which the Commission must operate, the handicap of time advancement cannot promptly be redressed insofar as the 368 ineligible stations are concerned. For many of these stations, the proposed legislation will mean that a 7:30 a.m. sign-on in December and January will suddenly become an 8:30 a.m. advance time sign-on—by which time many listeners will have reached their work or school, with the resulting loss in "drive-time" audience. Many stations thus affected could not entirely recoup early morning advertising losses during the additional hour provided at the end of the day.

It should be remembered that the act of setting clocks ahead in no way affects the physical laws under which AM broadcast stations are assigned and regulated. Apart from the problems of transient interference, delayed sign-on, and competitive imbalance noted above, the main effect of the proposed advancement would be the change that would occur in the listening habits of some people unable to listen to the stations to which they are now accustomed. In most cases, however, alternate sources of programming would be available from other AM and FM stations.

To summarize, most of the 1,650 daytime stations with pre-sunrise authority would not be seriously affected by this legislation. The burden imposed by the proposed legislation would fall most heavily on the 625 daytime stations not presently holding PSA's, and particularly on the 368 daytime stations presently ineligible for pre-sunrise operation in any form. Of the 368 ineligibles, more than half (243) operate on Canadian or Bahamian I–A clear channels which, under existing international agreements, are not available for pre-sunrise use in the United States. The status of these stations could be altered only by the negotiation of supplemental international agreements. Because of the great importance attached by Canada to the role played by its seven Class I–A clear channel stations in providing nighttime skywave service to remote regions of that country, its acquiescence to any broadcasting of the PSA program to allow for pre-sunrise operation on these channels in the United States is extremely doubtful.

Most of the remaining 125 stations presently ineligible for PSA's are assigned to frequencies on which the United States has I-A or I-B clear channel priorities during the night-time hours. As to those, it is possible that the Commission could initiate rule making proceedings to consider relief where none now exists. While this effort could proceed without consultation with foreign governments it would, as you will appreciate, raise difficult questions in light of interference which would affect service from clear channel stations. In any event, any precipitous change in the interference protection presently enjoyed by U.S. clear channels stations would be difficult to accomplish, especially in light of the hearing rights conferred by section 316 of the Communications Act.

At this moment, it is impossible to assess the short-term and long-term economic hardship befalling stations which under the proposed legislation would lose up to one hour of morning operation. Presumably, the onus would fall most heavily on AM licensees lacking an FM affiliation.

In common with other agencies of government called upon to comment on the proposed legislation, there has not been sufficient time to analyze its impact fully and to examine all of the options available to us in dealing with the problems outlined above. I am forwarding copies of this letter to the other Commissioners for discussion at our Wednesday meeting, and will promptly inform you of any additional views or comments they may have.

Please let me know if I may be of further assistance on this matter.

Sincerely,

DEAN BURCH,
Chairman.

Mr. DOLE. I recognize and appreciate the many limitations and policy considerations the FCC must weigh in making any changes in its rules, guidelines, and regulations regarding frequency assignments and operating power. But I believe the serious difficulties for many broadcasters and their listeners which would flow from year-round daylight saving time require the Commission to do everything possible to reduce the hardship.

Thus, I am hopeful that this amendment will give the Commission the direction and authority necessary to avoid the most serious broadcasting problems related to winter daylight saving time.

I would also hope that the Commission, through the Department of State, will undertake discussions with Canada, Mexico and other concerned nations with a view to altering or accommodating our existing international broadcast agreements to the circumstances of winter daylight time.

The broadcast hours of many daytime and full-time American stations are controlled, not by the FCC, but by our treaty agreements, particularly those with Canada and Mexico. The Commission cannot authorize operations contrary to these treaty provisions, so diplomatic efforts are the only possibility for providing relief.

I do not know if these nations might be willing to agree to such changes, but exploratory negotiations certainly appear to be in order. It might well be that changes would be in these countries' best interests, too, and agreement could be reached without undue difficulty. In any event I believe the possibility should be fully explored.

Mr. President, I might say, as the Senator from Washington and the Senator from Rhode Island know, there is a great deal of interest in this approach by a number of Senators, including the distinguished Senator from South Carolina (Mr. THURMOND), the distinguished Senator from North Carolina (Mr. HELMS), the distinguished Senators from Pennsylvania (Mr. HUGH SCOTT and Mr. SCHWEIKER), and a number of other Senators. I share the view expressed by the Senator from Rhode Island and believe the FCC should make the determination.

We have had at least two questions raised by full-time stations in the State of Kansas, and I prepared a couple of questions which I hope by now have been delivered to the Senator from Rhode Island.

Mr. PASTORE. I have not seen them yet.

Mr. DOLE. I think the Senator's counsel has them. I can state the question, and then the Senator can supply the answer.

To touch on another aspect of these winter daylight saving time problems, I would ask the manager of the bill or the Senator from Rhode Island how he views the situations faced by many full-time stations which operate at reduced power or with a limited directional signal at night until sunrise. Does the amendment as it is now being considered offer any relief for this class of station?

Mr. PASTORE. Well, I would hope that the FCC, which is the agency in charge of the administration of the Federal Communications Act of 1934, would use its judgment and its wisdom in order to do justice and equity in every respect. I realize that this is going to raise some serious problems. We all recognize that. Just how to adjust it at this moment, I do not think anyone has the precise answer, but I think this debate is very helpful for the reason that it will impress the FCC that it has a momentous decision to make, and I think it will adjust itself accordingly, so that we will have the least disruptions possible.

Mr. DOLE. I appreciate the comment of the distinguished Senator from Rhode Island. I think it does indicate that there must be some flexibility which would provide these full time stations with some relief to offset the extra early morning hour of reduced power operation which winter daylight time would impose on them.

Perhaps it is not helpful to attach language to the amendment applying the amendment's provisions to full time stations whose nighttime authority requires them to broadcast at substantially reduced power. But I believe, in raising the question and the response that the Senator from Kansas has had from the Senator from Rhode Island, hopefully the FCC will take a look at it in order to do justice and equity.

Mr. PASTORE. I assure the Senator we intend to view this question very closely from now on, just to see what the behavior will be on the part of the FCC, what the consequences are going to be of the decision, to see that justice is done with the least possible disruptions. I do not know where else we can place this authority unless it be in the FCC.

Mr. DOLE. I understand that the FCC does not favor attempting to do it by rigidly legislating——

Mr. PASTORE. No, because we may have more problems than we will solve. I think that would be a dangerous course to follow.

Mr. DOLE. So I have no objection to the amendment. In fact, if there is no objection, I ask that I be made a cosponsor of the amendment of the Senator from Washington.

Mr. MAGNUSON. Mr. President, I just want to add that the FCC asked for this amendment, so that they could help the daytime broadcasters exactly as the Senator from Rhode Island thinks they should. They would not ask for it if they did not intend to follow through and carry out the intent of the Congress. This is the language they think would most help them take care of the problem.

Mr. PASTORE. Precisely.

Mr. President, I am ready to yield back my time.

Mr. MAGNUSON. Mr. President, the Senator from Arkansas (Mr. FULBRIGHT) wanted to put into the RECORD at this point a statement by him and a letter from the Arkansas Broadcasters Association which deals with the same point. I want to say for him that he was very anxious to speak on the subject of treaty restraints on daytime broadcasters and to call on the State Department to begin renegotiations of those treaties where appropriate. I talked with him yesterday. He seems to be assured that this amendment will start to do the necessary job.

I ask unanimous consent to put the statement of the Senator, together with the letter, in the RECORD at this point.

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

STATEMENT BY SENATOR FULBRIGHT

Mr. President, I am deeply concerned about the effect year around Daylight Savings Time may have on Arkansans served by six radio stations in Arkansas which operate on Canadian or Bahamian I–A clear channels. These stations, under existing international agreements, may not operate before sunrise. Therefore, if Daylight Savings Time is extended, they will frequently not be able to go on the air until 8:00 AM or later.

For many Arkansans, it is important to receive up to the minute news, weather, and crop reports in the morning before going out to their place of business or into the fields For my constituents who depend on the six stations which operate on Canadian or Bahamian I–A clear channels 8:00 AM will often be too late. These Arkansans, especially the farmers, will in many cases have left home before 8:00 AM and hence will have to begin work without the information they need. Such information is often vital, particularly to farmers who need accurate knowledge of weather conditions. The six Arkansas stations which operate on the Canadian and Bahamian channels are KOSE (Osceola), KBBA (Benton), KWRF (Warren), KZRK (Czark), KPCA (Marked Tree), and KFPF (Van Buren).

This problem which affects radio stations throughout the United States can only be alleviated by negotiation of supplemental international agreements. It is my hope that the Administration will move quickly to open such negotiations. It could be that early morning signals from many of the stations which operate on Canadian or Bahamian I–A clear channels will not, in fact, interfere with the Canadian or Bahamin channel. Possibly an agreement could be worked out for the use of a weaker signal before sunrise by the stations in the United States.

The letter I have received from Mr. Ted Snider, President of the Arkansas Broadcasters Association, is submitted for the RECORD.

ARKANSAS BROADCASTERS ASSOCIATION,
Little Rock, Ark., November 19, 1973.

Hon. J. W. FULBRIGHT,
Senate Office Building,
Washington, D.C.

DEAR MR. FULBRIGHT: President Nixon has proposed year-round daylight savings time. Unless special provisions are made for small town, local day-time only radio stations, they will be adversely affected by this proposal. Daytime only radio stations, which cannot sign on until sun-up, would be in many instances, be unable to go on the air until 8:00 A.M. Since one of the most important times of the day for imparting information to its listeners is between 6:00 and 8:00 A.M., the listeners would be the losers in these small towns. Listeners depend on such information as school closings, street and highway problems, weather, time, crop information, etc. It is the kind of information that only a local radio station can provide.

The Arkansas Broadcasters urge you to make sure any such proposal for year-round daylight savings time would include special provisions to allow daytimers to begin broadcasting at 6:00 A.M. This is a critical matter and we feel deserves your urgent attention. Most of your constituents are affected.

Thank you for your consideration of our problems. Please call on any broadcaster whenever you need our help.

Sincerely yours,

TED SNIDER,
President.

Mr. DOLE. Mr. President, I am certain every Senator can think of one or two stations which would be affected, such as Stations KLEO and KFDI in Wichita, Kans., full-time stations which need some relief to offset extra early morning hours of reduced power operation, and which are seeking some adjustment. I think it is fair.

The Senator from Washington has addressed himself to it, as has the Senator from Rhode Island. I hope the FCC will provide that equity.

Mr. THURMOND. Mr. President, I ask unanimous consent that I may be a coauthor of the amendment offered by the distinguished Senator from Washington concerning the daylight saving time bill, on the time that radio stations can begin broadcasting.

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

Mr. THURMOND. Mr. President, in order to understand the impact this daylight saving time bill will have on those AM radio stations which are allowed to operate during daytime hours only, it is first necessary that we have a basic understanding of the radio broadcast picture in general.

There are two main categories of radio stations: full-time stations that are licensed to operate 24 hours a day and "daytimer" stations which are licensed to operate during daytime hours only. All these stations operate on one of three types of channels: regional channels, U.S. clear channels and foreign clear channels.

Of the approximate 2,270 daytime stations in this country, the vast majority are assigned to the 41 regional channels which they share with a smaller number of full-time stations.

The remainder of these daytime stations are assigned to the United States and foreign clear channels. Each of these clear channels has one dominant station which is allowed a high degree of nighttime interference protection. The purpose of this protection is to enable thes dominant stations to reach remote regions at night which are not served by other sources.

In either case, in order to protect the signals of these full-time stations at night, when radio signals travel greater distances than they do during daylight hours, the licenses issued to the daytime stations assigned to that same channel specify sign-on and sign-off times for each month of the year. These times basically reflect the local time of sunrise and sunset.

In the winter months sunrise occurs at times ranging from 7:15 to 7:45, and that is when these "daytimers" can begin to operate. Under Daylight Savings Time, however, the time of sunrise will be 1 hour later, from 8:15 to 8:45. Accordingly that is when these stations will be allowed to begin broadcasting unless we adopt this amendment.

Mr. President, in many of the towns and rural areas which these small daytime stations serve, there is no daily morning newspaper and no early morning television that the people can turn to for necessary morning news and information. They must know whether the schools will be open that day, whether the roads have become impassable due to snow and ice during the night, whether the plant in which they work will be operating that day, what the various farm prices are and all sorts of other information. Obviously, they must know these things before they leave for school, work or town. Unless some sort of relief is given to these radio stations to allow them to begin operating at their regular times, these people will simply not receive this information in time. Furthermore, these stations are likely to lose their sponsors in proportion to their loss of their early morning "drive-in" audience. It is doubtful that these advertising losses could be recouped during the additional hour provided at the end of the day.

Mr. President, of these 2,270 daytime stations, approximately 1,645 or 73 percent have been granted presunrise authority pursuant to supplemental agreements to treaties negotiated with Canada and Mexico over the past 6 years. They are generally permitted to sign on at 6 a.m. with a power of 500 watts year round. Then, at sunrise, they switch to their full daytime power.

Of the remaining 625 daytime stations, there are 243 which operate on foreign clear channels. This means that the dominant stations on those channels are foreign ones. But due to the importance of those foreign stations to their countries, it is extremely doubtful that any supplemental agreements will be negotiated here to allow presunrise authority. For example, in Canada, there are many remote areas where there are no local stations and the Canadians are justifiably determined to preclude interference with the nighttime signals from their dominant stations which serve these areas.

However, this leaves 382 stations and it is to them that we should focus our concern. Of this number, approximately 257 are eligible for presunrise authorization but for various reasons have not yet applied for it. This amendment would facilitate and expedite that process.

Most of the remaining 125 daytime stations are on U.S. clear channels where the dominant station is in the United States. Thus, the obstacle of international negotiations is not present here.

Mr. President, it is still desirable today as it was 25 years ago that we protect the signals of these dominant stations, for they provide information to many areas where there are no local stations. But we should also recognize the fact that many towns and rural areas now have their own local daytime stations and that these stations and the interests of their local communities should also be protected.

This amendment provides such protection. It provides that the Federal Communications Commission shall take the appropriate action to allow these daytime stations without presunrise authority to begin broadcasting prior to the new sunrise time. Thus, they generally will be able to reach their regular audiences at their accustomed times.

Although it is not necessary that these stations broadcast for this presunrise period at their full daytime powers, it is understood that they will be allowed to operate at power levels which are adequate to effectively provide the services their communities so urgently need.

Mr. President, during the energy crisis it is only just that we all share the burden imposed by the various restrictions. It is unfair that these daytime radio stations and their local communities be made to bear the whole burden of this daylight savings time measure when there is such a ready avenue for fair relief. For these reasons I urge my colleagues to vote favorably on this amendment.

Mr. HUMPHREY. Mr. President, I have at the desk an amendment No. 743 to S. 2702, a bill to provide that daylight saving time shall be observed on a year-round basis.

Mr. President, this is a technical amendment which relates to the operations of standard AM radio broadcast stations. The amendment is identical to section 5 of the House-passed version of S. 2702, that is, H.R. 11324. According to Mr. STAGGERS, this language has been proposed by the Chairman of the FCC. My amendment is identical to the amendment by the Senator from Washington (Mr. MAGNUSON).

This amendment would permit the FCC to take interim action, before general rules are adopted, that would allow the stations to operate 1 hour before sunrise. It would also permit the FCC to take into consideration those stations now not operating with presunrise authorizations or which are not eligible for such authorization so as to permit them to operate 1 hour before sunrise.

Mr. President, these daytime radio stations play a vital role in many communities in Minnesota and throughout the Nation. They provide valuable information on the weather, road conditions, school closings and hour changes, and the like that the general public, particularly in the rural north in the winter, needs.

If we are going to set our clocks ahead to conserve on energy, then we must allow as many of these stations as possible to come on the air 1 hour earlier in the morning, so that they can continue to provide the same valuable public service they are providing today.

I support the Magnuson amendment and will not call up my amendment No. 743. The two amendments are identical.

Mr. SCHWEIKER. Mr. President, I am privileged to join as a cosponsor of this amendment to the emergency daylight saving time bill to provide relief to radio stations, and the communities they serve.

More than 600 radio stations in the country, including many in Pennsylvania, are only permitted to operate during daylight hours, from sunrise to sunset, because of overall radio frequency interference problems at night. If daylight saving time is instituted during the winter months, these radio stations would be unable to go on the air until approximately 8 o'clock in the morning, or later, because sunrise would occur at those times.

This situation is undesirable, and deserving of the legislative relief this amendment provides.

For instance, it would injure these stations by denying them the opportunity of a listening audience as people get up and go to work, or to school, or otherwise begin their daily activities. The hours between 6 and 8 in the morning represent "prime time" hours for radio stations. Stations that could not be per-

mitted to begin broadcasting until after this time would completely lose this "prime time" audience during winter months.

In addition, however, the communities of these radio stations would also be deprived the availability in the early morning hours of localized radio service. Local radio stations can provide up-to-date weather information, school closings in bad weather, or other forms of emergency information that distant stations do not provide. If a local radio station authorized only for daytime operation is prevented from boadcasting until daybreak, some communities could be totally without such localized service in winter months under daylight saving time.

This amendment to the emergency daylight saving bill makes a significant step toward solving these situations by providing for daytime stations to begin operations an hour prior to sunrise during the months when we normally would be on standard time. It does not solve every situation, because of complex international treaty arrangemcnts involving radio frequency issues, and clear channel issues. Nevertheless, it is a positive step that insures that daytime only radio stations not encumbered by these more complex situations can conduct operations in accordance with this legislative exemption. The amendment also specifically directs the Federal Communications Commission to evaluate these complex situations in such a way that the public interest in expanding predawn local radio broadcasting is maximized. Expedited review by the FCC of special station and area exigencies on a case-by-case basis can provide additional relief to communities affected by year-round daylight saving time.

The energy crisis that has brought about the need for this emergency daylight saving bill is serious. Congress must take swift action in a number of areas to deal with the energy crisis that will be affecting us in many ways this winter. Institution of year-round daylight savings time as an emergency measure is one step I support. But it is vital that we at the same time provide adequate legislative protection for radio stations and their local communities by allowing daytime radio stations to begin broadcasting during the predawn hours when the public is getting up, listening to the radio, and in many cases, dependent on local radio stations for vital community information.

I am cosponsoring this radio exemption amendment, and urge the support of all Members of Congress.

Mr. COOK. Mr. President, the imposition of daylight savings time during the winter months would also create serious problems in certain areas of the broadcasting industry. As my colleagues may know, six frequencies used in the United States are referred to as Canadian clear channels. By virtue of a treaty with the Canadian Government, stations using these frequencies—and there are 240 of them throughout the country—may broadcast only during the daylight hours.

Most of these stations, especially those which serve rural areas, provide invaluable public services during the early morning hours. They report on road conditions, traffic flow, and school and plant closings. If daylight savings time is imposed during the winter months, much of the value of these services will be eliminated.

For example, there are several stations in the Commonwealth of Kentucky which are located in the western portion of the eastern time zone. Without daylight savings time, these stations will be "signing on" at the following times: 7:45 a.m. in December; 8 a.m. in January; and 7:39 in February. If daylight savings time is implemented during those months, those stations will be "signing on" at 8:45 a.m., 9 a.m. and 8:39 a.m. respectively. By that time, the rush hour traffic will be in full force and children will already be in route to school. Many people may have already been stuck on snow covered roads.

Please remember that this situation recurs in at least 240 locations throughout the United States, and in some cases, these stations are the only ones for 30 or 40 miles.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that Senator HOLLINGS, Senator STEVENS, and Senator SCHWEIKER be added as cosponsors of the amendment which deals with the FCC.

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

Mr. PASTORE. Mr. President, I ask unanimous consent that the name of the Senator from Kansas be added as a cosponsor of the amendment.

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

Mr. PASTORE. Mr. President, I yield back our time.

Mr. COTTON. Mr. President, I yield back our time.

The PRESIDING OFFICER. All time on the amendment having been yielded back, the question is on agreeing to the amendment of the Senator from Washington.

The amendment was agreed to.

Mr. DOMINICK. Mr. President, I call up my amendments No. 718.

The legislative clerk proceeded to read amendments No. 718.

The PRESIDING OFFICER. The Chair will inquire of the Senator if this is the amendment for which there is an agreed upon limitation of 1½ hours.

Mr. DOMINICK. Yes.

I yield myself 15 minutes, to start with.

The PRESIDING OFFICER. Without objection, the amendments will be printed in the RECORD.

Amendment No. 718, offered by Mr. DOMINICK for himself and Mr. TAFT, is as follows:

On page 6, line 9, insert the following new title II:

"TITLE II—MINIMUM WAGE AMENDMENTS

"SEC. 201. This title may be cited as the 'Fair Labor Standards Amendments of 1973'.

"DEFINITIONS AND APPLICABILITY TO GOVERNMENT EMPLOYEES

"SEC. 202. (a) Section 3(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203 (d)) is amended to read as follows:

"'(d) "Employer" includes any person acting directly or indirectly in the interest of an employer in relation to an employee, including the United States, any State or political subdivision of a State, and any agency or instrumentality thereof or interstate governmental agency, but shall not include any labor organization (other than when acting as an employer), or anyone acting in the capacity of officer or agent of such labor organization.'

"(b) Section 3(e) of such Act is amended by adding at the end thereof the following: 'In the case of any individual employed by the United States, "employee" means any individual employed (i) as a civilian in the military departments as defined in section 102 of title 5, United States Code, (ii) in executive agencies as defined in section 105 of title 5, United States Code (including employees who are paid from nonappropriated funds), (iii) in the United States Postal Service and the Postal Rate Commission, (iv) in those units of the legislative and judicial branches of the Federal Government having positions in the competitive service, and (v) in the Library of Congress. In the case of any individual employed by a State, or the political subdivision of any State or an interstate governmental agency the term "employee" shall include any employee of that State political subdivision, or agency but the term shall not include any individual elected to public office in any State or political subdivision of any State by the qualified voters thereof or any person chosen by such officer to be on such officers' personal staff, or an appointee on the policymaking level or an immediate adviser with respect to the exercise of the constitutional or legal powers of the office. The exemption set forth in the preceding sentence shall not include employees subject to the civil service laws of a State government or political subdivision or applicable to an interstate governmental agency.'

"(c) Section 3(h) of such Act is amended to read as follows:

"'(h) "Industry" means a trade, business, industry, or other activity, or branch or group thereof, in which individuals are gainfully employed.'.

"(d) The last sentence of section 3(m) is amended to read as follows: 'In determining the wage of a tipped employee, the amount paid such employee by his employer shall be deemed to be increased on account of tips by an amount determined by the employer, but not by an amount in excess of 50 per centum of the applicable minimum wage rate, except that the amount of the increase on account of tips determined by the employer may not exceed the value of tips actually received by the employee. The previous sentence shall not apply with respect to any tipped employee unless (1) such employee has been informed by the employer of the provisions of this section, and (2) all tips received by such employee have been retained by the employee, except that nothing herein shall prohibit the pooling of tips among employees who customarily and regularly receive tips.'.

"(e)(1) The first sentence of section 3(r) of such Act is amended by inserting after the word 'whether' the words 'public or private or conducted for profit or not for profit, or whether'.

"(2) The second sentence of such subsection is amended to read as follows: 'For purposes of this subsection, the activities performed by any person in connection with the activities of the Government of the United States or any State or political subdivision shall be deemed to be activities performed for a business purpose.'.

"(f) The first sentence of section 3(s) of such Act is amended by inserting after the words 'means an enterprise' the parenthetical clause '(whether public or private or operated for profit or not for profit and including activities of the Government of the United

States or of any State or political subdivision of any State)'.

"(g) Section 4 of such Act is amended by adding at the end thereof the following new subsection:

"'(f) The Secretary is authorized to enter into an agreement with the Librarian of Congress with respect to any individual employed in the Library of Congress, to provide for the carrying out of his functions under this Act with respect to such individuals. Notwithstanding any other provision of this Act, or any other law, the Civil Service Commission is responsible for administering the provisions of this Act with respect to any individual employed by the United States (other than an individual employed in the United States Postal Service and Postal Rate Commission). Nothing in this subsection shall be construed to affect the right of an employee to bring an action for unpaid minimum wages, or unpaid overtime compensation, and liquidated damages under section 16(b) of this Act.'.

"(h) Section 13(b) of such Act is amended by striking out the period at the end of paragraph (19) and inserting in lieu thereof a semicolon and the word 'or' and by adding at the end thereof the following new paragraph:

"'(20) any employee employed by the United States (A) as a civilian in the military departments as defined in section 102 of title 5, United States Code, (B) in executive agencies as defined in section 105 of title 5, United States Code (including employees who are paid from nonappropriated funds), (C) in the United States Postal Service and the Postal Rate Commission, (D) in those units of the legislative and judicial branches of the Federal Government having positions in the competitive service, and (E) in the Library of Congress; and any employee employed by any State or a political subdivision of any State and any agency or instrumentality thereof or interstate governmental agency.'.

"INCREASE IN MINIMUM WAGE

"SEC. 203. (a) Section 6(a)(1) of the Fair Labor Standards Act of 1938 is amended to read as follows:

"'(1)(A) not less than $1.80 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1973,

"'(B) not less than $2 an hour during the second year from the effective date of such amendments,

"'(C) not less than $2.10 an hour during the third year from the effective date of such amendments,

"'(D) not less than $2.20 an hour during the fourth year from the effective date of such amendments, and

"'(E) not less than $2.30 an hour thereafter.'.

"(b) Paragraph (5) of section 6(a) is amended to read as follows:

"'(5) if such employee is employed in agriculture, not less than $1.50 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1973, not less than $1.70 an hour during the second year from the effective date of such amendments, not less than $1.90 an hour during the third year from the effective date of such amendments, and not less than $2 an hour thereafter.'.

"(c)(1) Section 6(b) of such Act is repealed.

"(2) Subsections (c), (d), and (e) of section 6 of such Act are redesignated as subsections (b), (c), and (d), respectively.

"EMPLOYEES IN THE CANAL ZONE

"SEC. 204. Section 6(a) of the Fair Labor Standards Act of 1938 is amended by striking out the period at the end of paragraph (5) of such section and inserting in lieu thereof a semicolon and the word 'or', and by adding at the end thereof the following new paragraph:

"'(6) if such employee is employed in the Canal Zone not less than $1.60 an hour.'.

"EMPLOYEES IN PUERTO RICO AND THE VIRGIN ISLANDS

"SEC. 205. Paragraphs (A) and (B) of section 6(b)(2) of the Fair Labor Standards Act of 1938 (as redesignated by section 3(c)(2) of this Act) are amended to read as follows:

"'(A) The rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1973 increased by 12.5 per centum unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary to the recommendations of a review committee appointed under paragraph (C). Such rate or rates shall become effective sixty days after the effective date of the Fair Labor Standards Amendments of 1973, or one year from the effective date of the most recent wage order applicable to such employee theretofore issued by the Secretary pursuant to the recommendations of a special industry committee appointed under section 5, whichever is later.

"'(B)(i) Effective one year after the applicable effective date under paragraph (A), the rate or rates prescribed by paragraph (A), increased by an amount equal to 12.5 per centum of the rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1973 unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendation of a review committee appointed under paragraph (C).

"'(ii) Effective two years after the applicable effective date under paragraph (A), the rate or rates prescribed by subparagraph (i) of this paragraph increased by an amount equal to 12.5 per centum of the rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1973 unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendation of a review committee appointed under paragraph (C).'.

"PROOF OF AGE REQUIREMENT

"SEC. 206. Section 12 of the Fair Labor Standards Act of 1938 is amended by adding at the end thereof the following new subsection:

"'(d) In order to carry out the objectives of this section, the Secretary may by regulations require employees to obtain from any employee proof of age.'.

"CHILD LABOR IN AGRICULTURE

"SEC. 207. (a) Section 13(c)(1) of the Fair Labor Standards Act of 1938 is amended to read as follows:

"'(c)(1) Except as provided in paragraph (2) the provisions of section 12 (relating to child labor) shall not apply to any employee employed in agriculture outside of school hours for the school district where such employee is living while he is so employed, if such employee—

"'(A) is employed by his parent, or by a person standing in the place of his parent, on a farm owned or operated by such parent or person, or

"'(B) is fourteen years of age or older, or

"'(C) is twelve years of age or older, and (i) such employment is with the written consent of his parent or person standing in place of his parent, or (ii) his parent or such person is employed on the same farm.'.

"(b) Section 13(d) of such Act is amended to read as follows:

"'(d) The provisions of sections 6, 7, and 12 shall not apply with respect to any employee engaged in the delivery of newspapers to the consumer, and the provisions of section 12 shall not apply with respect to any such employee when engaged in the delivery to households or consumers of shopping news (including shopping guides, handbills, or other type of advertising material) published by any weekly, semiweekly, or daily newspaper.'.

"EXPANDING EMPLOYMENT OPPORTUNITIES FOR YOUTH; SPECIAL MINIMUM WAGES FOR EMPLOYEES UNDER EIGHTEEN AND STUDENTS

"SEC. 208. Section 14(b) of the Fair Labor Standards Act of 1938 is amended to read as follows:

"'(b)(1) Subject to paragraph (2) and to such standards and requirements as may be required by the Secretary under paragraph (4), any employer may, in compliance with applicable child labor laws, employ, at the special minimum wage rate prescribed in paragraph (3), any employee—

"'(A) to whom the minimum wage rate required by section 6 would apply in such employment but for this subsection, and

"'(B) who is under the age of eighteen or is a full-time student.

"'(2) No employer may employ, at the special minimum wage rate authorized by this subsection—

"'(A) for a period in excess of one hundred and eighty days any employee who is under the age of eighteen and is not a full-time student; or

"'(B) for longer than twenty hours per week any employee who is a full-time student, except in any case in which any such student (i) is employed by the educational institution at which he is enrolled, or (ii) is employed during a school vacation in a retail or service establishment or in agriculture.

"'(3) The special minimum wage rate authorized by this subsection is a wage rate which is not less than the higher of (A) 85 per centum of the otherwise applicable minimum wage rate prescribed by section 6, or (B) $1.30 an hour in the case of employment in agriculture or $1.60 an hour in the case of other employment, except that such special minimum wage rate for employees in Puerto Rico, the Virgin Islands, and American Samoa shall not be less than 85 per centum of the industry wage order rate otherwise applicable to such employees, but in no case shall such special minimum wage rate be less than that provided for under the most recent wage order issued prior to the effective date of the Fair Labor Standards Act of 1973.

"'(4) The Secretary shall by regulation prescribe standards and requirements to insure that this subsection will not create a substantial probability of reducing the full-time employment opportunities of persons other than those to whom the minimum wage rate authorized by this subsection is applicable.

"'(5) For purposes of sections 16(b) and 16(c)—

"'(A) any employer who employs any employee under this subsection at a wage rate which is less than the minimum wage rate prescribed by paragraph (3) shall be considered to have violated the provisions of section 6 in his employment of the employee, and the liability of the employer for unpaid wages and overtime compensation shall be determined on the basis of the otherwise applicable minimum wage rate under section 6; and

"'(B) any employer who employs any employee under this subsection for a period in excess of the period prescribed by paragraph (2) shall be considered to have violated the provisions of section 6 in his employment of the employee during the period in excess of the authorized period.'.

"CIVIL PENALTY FOR CERTAIN LABOR VIOLATIONS

"SEC. 209. Section 16 of the Fair Labor Standards Act of 1938 is amended by adding at the end thereof the following new subsection:

"'(e) Any person who violates the provisions of section 12, relating to child labor, or any regulation issued under that section, shall be subject to a civil penalty of not to exceed $1,000 for each such violation. In determining the amount of such penalty, the appropriateness of such penalty to the size of the business of the person charged and the gravity of the violation shall be considered. The amount of such penalty, when finally determined, may be—

"'(1) deducted from any sums owing by the United States to the person charged; or

"'(2) recovered in a civil action brought by the Secretary in any court of competent jurisdiction, in which litigation the Secretary shall be represented by the Solicitor of Labor; or

"'(3) ordered by the court, in an action brought under section 17 to restrain violations of section 15(a)(4), to be paid to the Secretary.

Any administrative determination by the Secretary of the amount of such penalty shall be final, unless within fifteen days after receipt of notice thereof by certified mail the person charged with the violation takes exception to the determination that the violations for which the penalty is imposed occurred, in which event final determination of the penalty shall be made in an administrative proceeding after opportunity for hearing in accordance with section 554 of title 5, United States Code, and regulations to be promulgated by the Secretary. Sums collected as penalties pursuant to this section shall be applied toward reimbursement of the costs of determining the violations and assessing and collecting such penalties, in accordance with the provisions of section 2 of an Act entitled "An Act to authorize the Department of Labor to make special statistical studies upon payment of the cost thereof, and for other purposes" (48 Stat. 582).'.

"PENALTIES

"SEC. 210. (a) The first three sentences of section 16(c) of the Fair Labor Standards of 1938, as amended are amended to read as follows:

"'The Secretary is authorized to supervise the payment of the unpaid minimum wages or the unpaid overtime compensation owing to any employee or employees under section 6 or 7 of this Act, and the agreement of any employee to accept such payment shall upon payment in full constitute a waiver by such employee of any right he may have under subsection (b) of this section to such unpaid minimum wages or unpaid overtime compensation and an additional equal amount as liquidated damages. The Secretary may bring an action in any court of competent jurisdiction to recover the amount of the unpaid minimum wages or overtime compensation and an equal amount as liquidated damages. The right provided by subsection (b) to bring an action by or on behalf of any employee and of any employee to become a party plaintiff to any such action shall terminate upon the filing of a complaint by the Secretary of Labor in an action under this subsection in which a recovery is sought of unpaid wages or unpaid overtime compensation under sections 6 and 7 or other damages provided by this subsection owing to such employee by an employer liable under the provision of subsection (b), unless such action is dismissed without prejudice on motion of the Secretary.'

"(b) Section 11 of the Portal-to-Portal Pay Act of 1947 is amended by deleting '(b)' after 'section 16'.

"NONDISCRIMINATION ON ACCOUNT OF AGE IN GOVERNMENT EMPLOYMENT

"SEC. 211. (a)(1) The second sentence of section 11(b) of the Age Discrimination in Employment Act of 1967 is amended to read as follows: 'The term also means (1) any agent of such a person, and (2) a State or political subdivision of a State and any agency or instrumentality of a State or a political subdivision of a State, and any interstate agency, but such term does not include the United States, or a corporation wholly owned by the Government of the United States.'.

"(2) Section 11(c) of such Act is amended by striking out ', or an agency of a State or political subdivision of a State, except that such term shall include the United States Employment Service and the system of State and local employment services receiving Federal assistance'.

"(3) Section 1(f) of such Act is amended to read as follows:

"'(f) The term "employee" means an individual employed by any employer except that the term "employee" shall not include any person elected to public office in any State or political subdivision of any State by the qualified voters thereof, or any person chosen by such officer to be on such officer's personal staff, or an appointee on the policy-making level or an immediate adviser with respect to the exercise of the constitutional or legal powers of the office. The exemption set forth in the preceding sentence shall not include employees subject to the civil service laws of a State government, governmental agency, or political subdivision.'.

"(4) Section 16 of such Act is amended by striking the figure '$3,000,000', and inserting in lieu thereof '$5,000,000'.

"(b)(1) The Age Discrimination in Employment Act of 1967 is amended by redesignating sections 15 and 16, and all references thereto, as section 16 and section 17, respectively.

"(2) The Age Discrimination in Employment Act of 1967 is further amended by adding immediately after section 14 the following new section:

"'NONDISCRIMINATION ON ACCOUNT OF AGE IN FEDERAL GOVERNMENT EMPLOYMENT

"'SEC. 15. (a) All personnel actions affecting employees or applicants for employment (except with regard to aliens employed outside the limits of the United States) in military departments as defined in section 102 of title 5, United States Code, in executive agencies as defined in section 105 of title 5, United States Code (including employees and applicants for employment who are paid from nonappropriated funds), in the United States Postal Service and the Postal Rate Commission, in those units in the government of the District of Columbia having positions in the competitive service, and in those units of the legislative and judicial branches of the Federal Government having positions in the competitive service, and in the Library of Congress shall be made free from any discrimination based on age.

"'(b) Except as otherwise provided in this subsection, the Civil Service Commission is authorized to enforce the provisions of subsection (a) through appropriate remedies, including reinstatement or hiring of employees with or without backpay, as will effectuate the policies of this section. The Civil Service Commission shall issue such rules, regulations, orders, and instructions as it deems necessary and appropriate to carry out its responsibilities under this section. The Civil Service Commission shall—

"'(1) be responsible for the review and evaluation of the operation of all agency programs designed to carry out the policy of this section, periodically obtaining and publishing (on at least a semiannual basis) progress reports from each such department, agency, or unit;

"'(2) consult with and solicit the recommendations of interested individuals, groups, and organizations relating to nondiscrimination in employment on account of age; and

"'(3) provide for the acceptance and processing of complaints of discrimination in Federal employment on account of age.

The head of each such department, agency, or unit shall comply with such rules, regulations, orders, and instructions of the Civil Service Commission which shall include a provision that an employee or applicant for employment shall be notified of any final action taken on any complaint of discrimination filed by him thereunder. Reasonable exemptions to the provisions of this section may be established by the Commission but only when the Commission has established a maximum age requirement on the basis of a determination that age is a bona fide occupational qualification necessary to the performance of the duties of the position. With respect to employment in the Library of Congress, authorities granted in this subsection to the Civil Service Commission shall be exercised by the Librarian of Congress.

"'(c) Any persons aggrieved may bring a civil action in any Federal district court of competent jurisdiction for such legal or equitable relief as will effectuate the purposes of this Act.

"'(d) When the individual has not filed a complaint concerning age discrimination with the Commission, no civil action may be commenced by any individual under this section until the individual has given the Commission not less than thirty days' notice of an intent to file such action. Such notice shall be filed within one hundred and eighty days after the alleged unlawful practice occurred. Upon receiving a notice of intent to sue, the Commission shall promptly notify all persons named therein as prospective defendants in the action and take any appropriate action to assure the elimination of any unlawful practice.

"'(e) Nothing contained in this section shall relieve any Government agency or official of the responsibility to assure nondiscrimination on account of age in employment as required under any provision of Federal law.'.

"EXEMPTION REVIEW

"SEC. 212. The Secretary of Labor is hereby instructed to commence immediately a compresensive review of the exemptions under section 13 of the Fair Labor Standards Act of 1938 and submit to the Congress not later than three years after the date of enactment of this Act a report containing: (1) an analysis of the reasons why each exemption was established; (2) an evaluation of the need for each exemption in light of current economic conditions, including an analysis of the economic impact its removal would have on the affected industry; and (3) recommendations with regard to whether each exemption should be continued, removed, or modified.

"SEC. 213. (a) The Secretary shall contract for a study to determine the extent, if any, of the impact on employment of the increase in minimum wages prescribed pursuant to the amendments made to the Fair Labor Standards Act of 1938 by each of sections 3 and 5 of this Act, and to develop statistical information and techniques designed to predict the probable impact, if any, on employment of future increases in minimum wages. Each such study shall contain statistical information with respect to such impact on categories of employment and unemployment including but not limited to age, sex, occupation, education, ethnic origin, size and business of employer, and

geographic area, including Puerto Rico, the Virgin Islands, and the Panama Canal Zone.

"(b) The Secretary shall prepare and furnish the Congress on an annual basis, beginning nine months after the effective date of the Fair Labor Standards Amendments of 1973, with reports on the interim findings of each such study, and with a final report on the findings of each such study within twenty-one months after the highest minimum wage rate prescribed by each of said sections shall have become effective.

"(c) Ninety days prior to the effective date of each increase in minimum wages prescribed pursuant to the amendments made to the Fair Labor Standards Act of 1938 by sections 3 and 5 of this Act, the Secretary shall provide the Congress with an employment impact statement establishing category of employment of each such prospective increase, together with a summary of the basis for each statement.

"TECHNICAL AMENDMENTS

"SEC. 214. (a) Section 6(c)(2)(C) of the Fair Labor Standards Act of 1938 is amended by substituting '1973' for '1966'.

"(b)(1) Section 6(c)(3) of such Act is repealed.

"(2) Section 6(c)(4) of such Act is redesignated as 6c(3).

"(c)(1) Section 7(a)(1) of such Act is redesignated as 7(a).

"(2) Section 7(a)(2) of such Act is repealed.

"(d) Section 14(c) of such Act is repealed and section 14(d) is redesignated as 14(c).

"(c) Section 18(b) is amended by striking out 'section 6(b)', and inserting in lieu thereof 'section 6(a)(6)', and by striking out 'section 7(a)(1)' and inserting in lieu thereof 'section 7(a)'.

"EFFECTIVE DATE

"SEC. 215. Except as otherwise provided in this Act, the amendments made by this Act shall take effect sixty days after enactment. On and after the date of enactment of this Act, the Secretary is authorized to promulgate necessary rules, regulations, or orders with regard to the amendments made by this Act."

On page 1, change the purpose clause to read as follows: "To provide that daylight saving time shall be observed on a year-round basis, and for other purposes.".

On page 1, line 3, strike the word "Act", and in lieu thereof insert the word "title".

On pages 1, 3, and 5, renumber sections 2, 3, and 4 as sections 102, 103, and 104, respectively.

Mr. DOMINICK. Mr. President, I ask unanimous consent that Charles Woodruff and Roger King of the staff of the Labor and Public Welfare Committee be allowed the privileges of the floor during the consideration of this matter.

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

Mr. EAGLETON. Mr. President, will the Senator yield for a similar request?

Mr. DOMINICK. I yield.

Mr. EAGLETON. I ask unanimous consent that Jack Lewis, of the staff, be allowed the privilege of the floor during the consideration of this matter.

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

Mr. COTTON. Mr. President, may I inquire who has control of the time in opposition to the amendment?

The PRESIDING OFFICER. The manager of the bill, under the order, would have control of half of the time, and the Senator from Colorado would have 45 minutes.

Mr. DOMINICK. Mr. President, last week, when the minimum wage bill, sponsored by the Senator from Ohio (Mr. TAFT), the Senator from Maryland (Mr. BEALL), and myself was placed on the Senate Calendar, we indicated our intention at that time to offer it as an amendment to the daylight saving bill. The amendment which I have before the Senate today contains the provisions of S. 2727.

I say that so that no one will think that this is an amendment by which we are taking anybody by surprise.

When the Senator from Montana, the distinguished majority leader, got up and asked unanimous consent, I was forced to object, because it is obvious that the minimum wage bill is not germane, unless we could get permission to bring it up, which we subsequently did.

Before I summarize the provisions of this amendment, I want to point out to my colleagues that this is not an intention to slow up the daylight saving bill. On the contrary, our intent is simply to get congressional action on a minimum wage bill increase this year. I doubt very much, if we do not do something of this kind, that we will get any action at all.

We have chosen the daylight saving bill as a vehicle because it is one of the few pieces of legislation that seem sure to clear both Houses before this session of Congress adjourns. In order to avoid jeopardizing passage of S. 2702, we have entered a time agreement—namely 1.5 hours—under which this amendment can be considered without unnecessary delay. And we hope in so doing that we can persuade the proponents of the daylight saving time bill, the Senator from Washington and the Senator from New Hampshire, to let us get further with this particular proposal.

We believe this amendment is a reasonable compromise between the administration's minimum wage proposal and the bill (H.R. 7935) which was vetoed earlier this year. It provides for a substantial increase in minimum wage rates—from $1.60 to $1.80 immediately, and ultimately to $2.30 for covered nonfarmworkers in the next 4 years.

I say this because of the fact that during the debate on the original minimum wage bill, I emphasized strongly the inflationary effect of the bill as it was reported out of the committee and suggested that it stood a very good chance of being vetoed, and it was vetoed.

Mr. President, may I have order?

The PRESIDING OFFICER. The Senate will be in order. The Senator is entitled to be heard.

The Senator from Colorado may proceed.

Mr. DOMINICK. Mr. President, the bill was vetoed and the veto was sustained by the House.

A similar bill would, I am sure, be vetoed again and the veto would again be sustained.

So, we are trying to work out a compromise so that we can give people who are under the minimum wage the wage to which they believe they are entitled if for no other reason—and I think there are many other reasons—just on account of the inflation that occurred since 1967.

Obviously a minimum wage which may or may not have reflected the recent increases since 1966 no longer represents a reasonable position. This bill, as I have said, would go from $1.60 an hour to $1.80 an hour immediately and $2 in a subsequent year and ultimately to $2.20 for noncovered farmworkers.

The important point is that these increases would be stretched out over a 4-year period in order to minimize their inflationary and disemployment effects. The vetoed bill would have increased the minimum wage for these employees to $2 immediately, and to $2.20 on July 1 next year, forcing the economy to absorb this 37.5-percent increase in 8 months. This seems to me to be inflationary in nature.

This amendment would increase the minimum wage for covered farmworkers from the present level of $1.30—which is obviously inadequate today—to $2 in four steps over a 3-year period.

Additionally, the amendment would extend minimum wage—not overtime—coverage to the remaining Federal, State, and local government employees not covered by the 1966 amendments.

Unlike the vetoed bill, which would have repealed or phased out many of the minimum wage and overtime exemptions recognized under the existing law, this amendment would make no changes at the present time. Instead, it would direct the Labor Department to undertake for the first time a comprehensive study of these 36 or more exemptions and submit to Congress a report containing recommendations as to whether each should be retained, repealed, or modified, because after all Congress put each one of these exemptions in the bill in order to accomplish a particular purpose. By just eliminating many or most of them, we do not accomplish what that purpose was. And we do not know whether the exemptions have fulfilled the purpose for which Congress passed them.

To avoid worsening the high teenage unemployment rate—and this is a sticky question, I know, since that unemployment rate is in the neighborhood of 14 percent for the nonwhite group—the amendment provides for a youth differential of 85 percent of the new rates. However, we have tried to modify this provision so that it would be more acceptable to the unions in particular, who have been fighting the youth differential very hard. It would apply only to youths under the age of 18, and apply to them only during their first 6 months on the job. It also would apply to full-time students under 18. They can be students or nonstudents, but it would apply only for the first 6 months. It would apply to full-time students working on part-time jobs. It would mean they would still be able to go ahead under the minimum wage youth differential system when working on campuses or when they have any leisure time—if they can get any in today's educational world.

Mr. President, employers could use the youth differential rate only in accordance with Department of Labor regulations, which would be designed to insure that adult workers would not be displaced.

When we put these provisions together, for the life of me I cannot under-

stand why we still have objections from labor union leaders. But we still have them. I am not going to deceive any Senator by saying that we do not. It seems to me to be a very sensible, reasonable provision, particularly when we consider the employment rate at which youths are being paid.

These are the major provisions of the amendment.

Mr. President, I ask unanimous consent that a section-by-section analysis of the bill be printed at this point in the RECORD.

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

SECTION-BY-SECTION ANALYSIS OF AMENDMENT NO. 718 TO S. 2702

SECTION 202

Amends section 3(d) and 3(e) of the Fair Labor Standards Act to include under the definitions of "employer" and "employee" the United States and any state or political subdivision of a state. This would extend minimum wage coverage to an estimated 5 million federal, state and local government employees (1.7 million federal, 3.3 million state and local government). Military personnel, professional, executive and administrative personnel, employees in non-competitive positions, and volunteer-type employees, such as Peace Corps and VISTA, would not be included in the extension of coverage, nor would elected officials or their personal staff.

Also amends section 3(m), under which tips, up to 50 percent of the applicable minimum wage rate, may be included for purposes of computing wages paid employees. New requirement added, that in order for employer to qualify for tip credit, employees must be informed of the law, and must actually retain all tips received.

SECTION 203

Amends section 6(a)(1) of the Fair Labor Standards Act to raise the minimum wage for non-agricultural employees to $2.30 an hour in five steps over a four-year period. The minimum wage would be raised to $1.90 an hour on the effective date of these amendments; to $2.00 an hour one year later; to $2.10 two years after the effective date; to $2.20 three years after the effective date, and to $2.30 four years after the effective date. These increases would apply equally to all non-agricultural employees within the coverage of the Act, regardless of when they were first covered.

Amends section 6(a)(5) of the Act to raise the minimum wage for agricultural employees to $1.50 an hour during the first year after the effective date of these amendments, $1.70 an hour during the second year, $1.90 an hour during the third year, and $2.00 an hour thereafter.

SECTION 204

Amends section 6(a) of the Fair Labor Standards Act to retain the present minimum wage of $1.60 an hour for employees in the Canal Zone.

SECTION 205

Amends section 6(c) of the Fair Labor Standards Act to raise the minimum wage in Puerto Rico and the Virgin Islands by three 12½ percent increases over the most recent wage order rate, the first increase to be effective either 60 days after enactment of the bill or one year after the effective date of the most recent wage order, whichever is later. The second increase would be effective one year after the first; the third increase would be effective one year after the second.

SECTION 206

Amends section 12 of the Fair Labor Standards Act to authorize the Secretary of Labor to require employers to obtain proof of age from any employee. This would facilitate enforcement of the child labor provisions of the Act.

SECTION 207

Amends section 13(c)(1) of the Fair Labor Standards Act, which relates to child labor in agriculture, to prohibit employment of children under 12 except on farms owned or operated by parents; and to prohibit employment of children aged 12 and 13 except with written consent of their parents, or on farms where their parents are employed.

Amends section 13(d) of the Act to extend the existing child labor exemption for newsboys delivering daily newspapers to newsboys delivering advertising materials published by weekly and semi-weekly newspapers. Does not create a new minimum wage or overtime exemption.

SECTION 208

Amends section 14(b) of the Fair Labor Standards Act to establish a special minimum wage rate for youth under 18 and full-time students of 85 percent of the applicable minimum wage or $1.60 an hour ($1.30 an hour for agricultural employment), whichever is higher. The special minimum wage for the same employees in Puerto Rico, the Virgin Islands, and American Samoa would be 85 percent of the industry wage order rate applicable to them, but not less than the rate in effect immediately prior to the effective date of the Fair Labor Standards Amendments of 1973.

Non-students under 18 would qualify for the "youth differential" rate only during their first 6 months on a job. Full-time students would qualify for the differential rate (a) while employed at the educational institution they are attending; or (b) while employed part-time (not in excess of 20 hours per week) at any job, except that they could work full-time during school vacations at jobs in retail-service industries or agriculture.

The existing requirement in the Act that employers receive Labor Department certification prior to employment of youth at the special minimum rate would be removed. The Secretary of Labor would be required to issue regulations insuring against displacement of adult workers. Employers violating the terms of the youth differential provision would be subject to existing civil and criminal penalty provisions of the Act.

SECTION 209

Amends section 16 of the Fair Labor Standards Act to provide for a civil penalty of up to $1,000 for each violation of the child labor provisions of section 12 of the Act.

SECTION 210

Amends section 16(c) to allow the Secretary of Labor to bring suit to recover unpaid minimum wages or overtime compensation and an equal amount of liquidated damages without requiring a written request from an employee. In addition, this amendment would allow the Secretary to bring such actions even though the suit might involve issues of the law that have not been finally settled by the courts.

SECTION 211

Amends the Age Discrimination in Employment Act of 1967 (P.L. 90-202) to extend its coverage to federal, state and local government employees.

SECTION 212

Requires the Secretary of Labor to undertake a comprehensive review of the minimum wage and overtime exemptions under section 13 of the Fair Labor Standards Act and to submit to Congress within three years a report containing recommendations as to whether each exemption should be continued, removed or modified.

SECTION 213

Directs the Secretary of Labor to contract for a study estimating the impact which the minimum wage increases provided for in this bill will have on employment among various categories of workers. The study will also develop the methodology necessary to predict the employment effects of future minimum wage increases.

SECTION 214

Technical amendments.

SECTION 215

Provides that the amendments made by this title would become effective on the first day of the second full month after enactment of this Act.

Mr. DOMINICK. Mr. President, when the conference report came back to the Senate, the conferees had taken the Senate bill, which was already in grave jeopardy of being vetoed as it stood—in fact I almost guaranteed it would be—and brought it out of conference in a condition which I think is even worse than when it went in. I said so.

Let me make some comments about the conference bill, which is similar to the one that the Senator from New York (Mr. JAVITS) and the Senator from New Jersey (Mr. WILLIAMS) have now pressed. They have proposed it again. It provides for the same extensive wage increases. We have put them into effect over an even shorter period of time than did the Senate bill. It extended the overtime coverage to Federal, State, and local employees, and that issue is going to come back to haunt us, and will still haunt us if the bill is enacted, when we consider the problem this poses for municipalities in connection with their police and fire departments, most of whom now work under the overtime provisions of the Fair Labor Standards Act, and also the compensatory time provisions. No provision was made for the type of agreement which is worked out, in most cases, by collective bargaining with municipal employees. So if the Williams-Javits bill were not vetoed, we would have had a lot of trouble with these provisions throughout the country.

The potential cost to State and local governments of overtime coverage would be as high as $3.5 billion a year, according to Labor Department estimates, and the brunt of it, as I say, would be borne by the South and by the local governments in rural areas in the North.

The provisions of the conference report also extended coverage to domestics, coverage in a broader sense than the one which we passed when it first went through the Senate. We extended minimum wage coverage only, and did not include babysitters, but the conference report includes both minimum wage and overtime coverage, and does include babysitters, except those employed on a "casual basis," whatever that means.

In other words, if you have a daughter who advertises in the local newspaper that she and a group of her friends are eligible to be babysitters while out of school in the summer months, you are going to have to pay them not only a minimum, but overtime as well, if they work sufficient hours within a certain period of time.

To me, when they are trying to pick

up as much money as they can to help them in their education and with their pin money, to require reports on this quarterly by every housewife in the country would be enough to say, "Well, babysitting is going to be cut out."

It would put many domestic employees out of work and onto welfare, there is no getting around that. It was one of the flatout statements made by the Secretary of Labor when he came before our committee that the coverage of domestics would create more unemployment than any other single provision he could think of on that bill.

Also, it was stated that we can take consolation that domestic workers who earn less than $50 a quarter are not covered. But how many of us would that include? It means that if you pay a teenager $5 to mow your lawn every weekend, he is covered, because he earns $60 a quarter, and then you have to file monthly reports with the Wage and Hour Division and the Labor Department on your neighbor's boy, because you want to give him some work so he can earn some money and make his own way during the summer, on his off time.

The Senate bill, as passed by this body originally, contained a provision by Senator BUCKLEY which authorized the Labor Department to contract for a study regarding the effects of minimum wage increases in the bill on employment. The thought was that since there is real disagreement on the effect of minimum wage increases, and that this is a pretty important issue, Congress could benefit from having access to carefully and impartially developed information about it. But the conference report does not contain that provision, so once again we have no definitive study we can go back to to find out what the effect is on employment insofar as the minimum wage increases are concerned.

The conference report also does not attempt to lessen the impact of wage increases on unemployment. Though it would improve the existing student certification program by extending it to educational institutions and by removing precertification and the historic experience test requirement for firms that hire less than five students, it would do nothing about the ones who really need jobs today, the teenagers who are not in school. Again, the unemployment rate for teenagers is very high—almost 15 percent, and for nonwhite teenagers it is 31 percent. So it seems rather unfortunate that the conference bill, which the Senator from New Jersey and the Senator from New York have reintroduced, fails to deal with this very serious problem.

The other day we had a discussion in my own office. For reasons I do not quite understand, one of our newspapers published an article which was rather critical, I would say, of the effort that I have been trying to make, along with Senator TAFT and Senator BEALL, on raising the minimum wage. I received, under date of November 29, 1973, a copy of a wholly unwarranted letter from a man by the name of Mr. Barr, whom I may have met and may not, who comes from Denver, writing to the author of this particular article, talking about minimum wage legislation.

One of the things he points out is that it is very easy to talk in terms of a minimum wage, and the fact that $1.60 is not nearly enough, and neither is $2, et cetera, but what people forget and what we have tried to emphasize in the previous debate—and unfortunately did not convince enough people—is the ripple effect. He is talking as a businessman in the Weyerhaeuser Co., about the ripple effect and the reasons why there are distinctions between wage levels, how everyone wants to keep those distinctions, and how the increase in the minimum wage, no matter how you look at it, creates an upsurge in wage rates for every class of worker; and it is probably, therefore, of more benefit from a monetary point of view to the most skilled worker than it is to the minimum wage earner, because they want to keep their differential, and if they are making $7 an hour and you raise it 33 percent, or a third, I should say, insofar as the minimum is concerned, that means over a $2 an hour increase in their wage rate.

So we have a problem here in ascertaining what this ripple effect is. But we can be sure that the overall impact on inflation is going to be absolutely enormous.

I ask unanimous consent that the letter to which I have referred be printed in the RECORD at this point.

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

WEYERHAEUSER CO.,
Denver, Colo., November 29, 1973.

Mr. LEONARD LARSEN,
Washington Bureau Denver Post,
650 15th St.
Denver, Colo.

DEAR MR. LARSEN: Your article on minimum wage legislation has upset my tranquil Sunday morning. It is obvious that you have never had to meet a payroll or administer pay levels within a company.

A jump to $2.20 would trigger an instant round of inflation. Your figures of 3.8 million workers and 4 percent must be examined in far more depth.

I suspect that the 3.8 million is the number presently employed at $1.60 per hour. If so, what happens to all the workers presently at $1.70 or $2.00, etc., when the minimum goes to $2.20?

Let's consider the practical (and difficult) aspect of any company's pay program, *peoples feelings.* The rate of pay an employee receives is a source of pride. It shows he has greater skill and greater value, than the workers receiving lower pay scales. Conversely, he has incentive to further increase his value in order to move up into higher pay ranges.

It is very important to his self esteem to feel that he is of more value to the company than less skilled workers, and to be confident that his greater value is reflected in his pay rate.

The practical result of this is a stratification of pay scales into pay ranges in which workers performing certain tasks, considered of about equal value, are paid about the same scale; say between $1.80 and $2.00. Another group with higher skills might have a range of $1.95–$2.25 and so on.

For pride, job satisfaction, and fairness, it is absolutely imperative that the increments between skill groups be maintained.

The base group is the minimum wage group, even in companies which employ no one at the minimum wage.

If the minimum wage goes to $2.20, those workers *now* receiving $2.20 have every right to expect an increase to $3.00. Their skill was rated as 37% greater than the unskilled group. That spread should be maintained. And so on up the ladder.

This process takes time, but is undeniable. It is my opinion that the $1.60 minimum wage has only recently been fully absorbed by our economy. If it has been fully absorbed, then we are at a point where a *realistic* minimum wage policy can be implemented. This would involve an automatic annual increase in the minimum wage equal to the increase in a cost of living index.

We cannot, by legislation, increase the economic value of any group. This is most clearly apparent by the extreme supposition of an immediate jump to a $10.00 per hour minimum wage. The same principles apply whether the jump is $.60 or $8.40. Only the violence of the reaction varies.

I personally know quite a few $1.60 per hour people. Not one is supporting a family of four. In fact, none is even supporting themselves. They are students, wives, handicapped, or part time workers. Some of these might lose their jobs if the minimum goes to $2.20. Of the 3.8 million you quote, how many are supporting a family on their income alone?

Undoubtedly some are. In those cases, direct aid and job training are the answers, not a jump in the minimum wage.

Yours very truly,

O. JAMES BARR III.

The PRESIDING OFFICER. Who yields time?

Mr. DOMINICK. I yield to the Senator from Maryland.

Mr. BEALL. Mr. President, I would like to ask the Senator a few questions. I am sorry that I was out of the room when the Senator started his remarks and was not able to catch all of his remarks, but I suspect that the Senator has put this whole matter in proper perspective, as he generally does.

What we are really talking about here is getting an opportunity to give an increase in the minimum wage to people who really need it, is that not true?

Mr. DOMINICK. The Senator is correct.

Mr. BEALL. Because a short time ago the President vetoed a minimum wage bill that went pretty far beyond increasing the minimum wage; it changed a lot of exemptions, and more importantly, it did not make any provision for a youth differential.

Some of us feel pretty strongly that it is absolutely necessary, if we are going to eliminate the disincentives for employment of young people, to have a wage differential, so that marginal employers, in particular, who will employ young people after school and in the summertime on a part-time basis, do not have to pay these people the same wage they pay their full-time employees. Many people have testified that they would not be able to provide this employment if they did not have a differential.

So one of the issues which led to the veto was the administration's feeling that there should be a differential, so that we would have the incentive for employers to employ young people during the summer and after school hours.

Mr. DOMINICK. The Senator is absolutely correct. I might say that the certification we have for the differential, except for one industry, simply does not work. Therefore, we ought to make some changes in it. But there is such disagreement between members of our committee and also on the Senate floor that it is going to be very difficult to get anything done on this matter in the remaining days of the session.

Mr. BEALL. Yes; I think that is important also because the House of Representatives, in its wisdom, upheld the veto of the President of the United States in this regard. So if we want to have an increase in the minimum wage, it seems we ought to start moving in a way that will be acceptable, not only to the President, but also to Congress and more particularly the Members of the House. Therefore, I commend the Senator from Colorado for introducing this amendment because it is a sincere and honest attempt to get for some people who have suffered since 1966 some increase in the wages for which they have been working. I am happy to support the amendment.

Mr. DOMINICK. Mr. President, I very much appreciate the comments of the Senator from Maryland. We might think that we were trying to murder our mothers from some of the comments I have heard here, when all we are trying to do is to raise the minimum wage rate, sadly weakened from 1966 to 1973.

I would hope that we can get this accomplished in this session and on this bill.

Now, Mr. President, I yield 5 minutes to the Senator from Ohio (Mr. TAFT).

The PRESIDING OFFICER. The Senator from Ohio is recognized for 5 minutes.

Mr. TAFT. Mr. President, I thank the distinguished Senator from Colorado for yielding me this time. I want to associate myself with the remarks that he has made. I think that we might go into a little modern history of what the present status of the situation is.

At the present time, amendment No. 718, is the business before the Senate.

This amendment is exactly the same as S. 2727 which is pending on the calendar. The distinguished chairman of the committee and the ranking member of the committee, as I understand it, have introduced S. 2747 which is basically the bill which was vetoed.

As has been said, the issues involved here relate to disputes on four issues; namely, wage rates; extension coverage; repeal of exemptions; and the minimum rate for certain categories of youth;

Mr. President, of these four issues I think, really, there is very little disagreement on wage rates. The disagreements relate mainly to the other three areas. These disagreements have yet to be resolved, especially with regard to the question of a youth subminimum.

We also attempted to arrive at some agreement on the question of extension coverage without again arriving at any particular conclusion. One of the problems we talked about a good deal when the bill was on the floor the first time was the disemployment incentive involving an increase in the wage rate. I stressed the point with regard to certain workers where I fear there is likely to be a considerable disemployment effect. I think this is true and not merely related to the wage rates but also to the question of extension of coverage and repeal of exemptions.

Today, because of the energy crisis, the possibility of an increase in the rate of unemployment makes the problem of disemployment even more serious than ever, perhaps.

With regard to youth, the Senator from Colorado and I have felt strongly from the beginning, as well as the Senator from Maryland (Mr. BEALL) and others, that any change in the minimum wage law should not have the effect of increasing the already serious problem in this country of youth unemployment, particularly minority youth unemployment which is at a totally unsatisfactorily high level today.

Here I feel that the job market problems that I have just mentioned have become more serious and look as though they may well have more serious aspects, due to the fuel shortage. Once more, it seems to me there should be some "give" on both sides on this particular issue.

I wish these issues could have been resolved. I had hoped that we would have been able to reach agreement. But I have to report to the Senate that that has not happened. I, for one, regret that it has not happened. It has made appropriate and timely the approach that the Senator from Colorado and I have taken in introducing this amendment today to the daylight saving bill.

It has been said by floor leader and perhaps by others, and in the press, that somehow we are attempting to sabotage or to hold up the daylight saving legislation by this tactic. We are not doing that. I have some reservations, I must say, to the bill, as I live on the western edge of a time zone, which means that many schoolchildren in my area of Ohio will have to get up earlier in the morning and will go to school in the dark or to take the buses in the dark. I see real problems there.

I have considerable doubt, insofar as the economy of the State of Ohio is concerned, as to whether there will really be any material savings in the actual energy used because of the change to daylight saving time. But that is not the point I make here. We have agreed to a limited time agreement, and we are not in any way trying to hold up this legislation.

Mr. President, I should like to propose to the Chair a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Ohio will state it.

Mr. TAFT. It is my intention and desire at this time, or whenever appropriate, to offer an amendment in the nature of a perfecting amendment to the Dominick amendment. Would the Chair advise as to what the parliamentary situation is in that regard?

The PRESIDING OFFICER (Mr. WILLIAM L. SCOTT). It would be in order when all time is used or yielded back, or by unanimous consent.

Mr. TAFT. I have completed the remarks that I wanted to make on the bill, Mr. President. I do have such an amendment and expect to offer it at the appropriate time. There would be time, of course, of 1 hour to debate that perfecting amendment. I do not know what the desires of the Senator from New Jersey (Mr. WILLIAMS) or the Senator from Washington (Mr. MAGNUSON) may be in this regard, or of the Senator from Colorado (Mr. DOMINICK).

I merely announce my intentions and ask them, without losing my right to the floor, what the situation is in that regard.

Mr. MAGNUSON. Mr. President, it is my understanding that the time allotted on this amendment is an hour and a half, 45 minutes to each side, and the Senator from Colorado and the Senator from Ohio have used up part of that time. I intend to yield my 45 minutes to the Senator from New Jersey, at his disposal, who will speak in opposition to the amendment.

As I understand the Chair's ruling, after the time is yielded on the original amendment that was presented by the Senator from Colorado and the Senator from Ohio, it will be in order to present perfecting amendments. An hour would be allowed on each of those amendments, under the unanimous-consent agreement. I ask the Chair whether my understanding is correct.

The PRESIDING OFFICER. The Senator is correct.

Who yields time?

Mr. WILLIAMS. Mr. President, as I understand, the time in opposition to this amendment has been assigned to me.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. WILLIAMS. I yield myself 5 minutes.

Mr. President, the Senator from Colorado, in beginning his remarks on his amendment, said, in effect, that he thought the introduction of a bill, S. 2727, and then the offering of that bill as an amendment at this time to the daylight saving time bill, is probably the only way to get action again this year on a minimum wage bill.

I will say that I am impressed that the action taken by the Senator from Colorado today, joined as he was by the Senator from Ohio (Mr. TAFT) and the Senator from Maryland (Mr. BEALL) in this amendment, suggests to me that that might well be the first solid evidence we have had that there should be a chance for action again this year on a minimum wage bill. I say that because of the chronology I would like to run through briefly.

As we know, the minimum wage bill passed the Senate, passed the House, there was a conference, and it went to the President; and he had it and disposed of it by veto on September 6 of this year. The House of Representatives was the first body to be in a position to act on the veto, and an override was attempted on September 19 of this year. That failed.

Immediately, the Senator from New York and I first directed our respective staffs to go to work to see if another compromise could be arrived at so that action could be taken this year on a mini-

mum wage bill. I say "another compromise" because the bill that passed the Senate represented many, many compromises among the members of the committee—and here on the floor, too. It was a different bill from that which was originally introduced by the Senator from New York and by me. There had been compromises, but then, with the override, we knew there had to be another effort; and we instituted what we thought should have been productive talks.

First of all, our staff people talked with representatives of the administration, deputies of Secretary of the Treasury Shultz, in his capacity as economic adviser down there. I will say that we did not go hat in hand, but we went; and there was no beginning of a change from the adamant position of the veto message. I understand, too, that the staff members talked with the staff of those who sit on our committee who are in the minority of the minority.

The Senator from Colorado, the Senator from Ohio, and the Senator from Maryland, throughout our long list of substantive issues that were voted on in committee, stood as three against the rest of the committee. That was true on the last action, which was reporting the bill to the ful Senate. It was 13 to 3. So they are obviously the ones to whom we should direct our attention first, at the staff level, in an effort to see whether some adjustments could be made to make it possible for the lowest people on the economic ladder to get an increase—and this year.

I open by saying that perhaps the action here is a hope that we can arrive at something. I will say that I do not live in isolation. I am chairman of the Committee on Labor and Public Welfare. I think I have been available to all the members of that committee. I certainly am available to them when they want to put on staff or to see that emoluments of their staff are appropriately represented in terms of salary. I can assure Senators of that. I am available.

This was the first proffer of any offer at compromise that I have had from the minority of the minority—the Senators from Colorado, Maryland, and Ohio. So I am grateful for it. I believe the ranking member of the committee, with whom I have been coauthor of the various bills we have dealt with, which have passed the Senate, feels the same.

We will accept this bill, and now this amendment, as the opening opportunity for constructive suggestions. I will say that there is evidence that we are ready to make some changes. The bill that Senator JAVITS and I recently introduced has a substantial difference from the vetoed bill in respect to the scheduling of the increase of the minimum wage.

I see very little change in the amendment offered by the Senators, which is now before us. I see very little change between this amendment and the substitute they have offered on the floor on two occasions, that was voted on and defeated on two occasions.

The only difference I have been able to see, and I will be corrected if I am wrong, of course, is an additional provision for an additional study in an area that has been studied, and studied, and restudied—the effect of the differences of minimum wages on the economy. This one is priced out by the Labor Department as a $10 million study. That is their price and not mine. That is the only difference I see between this amendment and the substitute we adopted: An additional $10 million administrative expense.

Saying that, and I know it is the intention of the manager of the bill before us at an appropriate time or times to move to table, I welcome at least this sign that there might be a constructive opportunity for us to meet, not 40 feet across this Chamber of the Senate, but in the committee room on the bill that has been introduced by the Senator from New York and me, which has been referred and which is in the committee room waiting for us.

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

Mr. WILLIAMS. I yield.

Mr. BEALL. Does that bill have a youth differential provision?

Mr. WILLIAMS. Yes. For students.

Mr. BEALL. For noncollege students; for nonstudents?

Mr. WILLIAMS. As I indicated, the only difference between the bill that we have introduced and the bill that passed as a conference report deals with the scheduling of other increases of the hourly rate. We stripped that out. The second increase would run a full year after the first increase to $2, and each would be a full year thereafter.

The provisions on youth and the differential are the same as those that the Senate has voted on twice, as a bill and a conference report.

Mr. BEALL. The Senator alluded to something that is of great interest to me in talking about staff. As a junior member of the Committee on Labor and Public Welfare I have no staff. It is of great interest to me. Legislation being the art of compromise I would be very happy to talk with the Senator about staff at any time.

Mr. WILLIAMS. The Senator has an agent and a very able agent, a ranking member of the committee. He battles for the Senator's side and very effectively.

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

Mr. WILLIAMS. I yield.

Mr. JAVITS. Mr. President, I shall make a few remarks on my own. First, I would like to speak to the student and nonstudent differential.

It is true that this has been a real deadlock between the administration and the trade unions. It is a deadlock that I deprecate. It is shameful that it should exist. But in all fairness, it is necessary to note that any kind of willingness to accept a little responsibility would break this deadlock because present law gives the Secretary of Labor a great deal of authority in this area. I would like to read section 14(a) of the present FLSA:

"SEC. 14. (a) The Secretary, to the extent necessary in order to prevent curtailment of opportunities for employment, shall by regulations or by orders provide for the employment of learners, of apprentices, and of messengers employed primarily in delivering letters and messages, under special certificates issued pursuant to regulations of the Secretary, at such wages lower than the minimum wage applicable under section 6 and subject to such limitations as to time, promotion, and length of service as the Secretary shall prescribe."

It was contended for a long time that there was some Democrat there who was very pro labor, so he was not going to use this provision with any degree of flexibility in connection with substantial numbers of people. But now we have a Republican Secretary. True, he is a labor man, but everyone is aware of the problems he has had with the leadership of the trade union movement.

It seems to me as if this problem could be solved if the administration simply declared it would use this program, that it might use it in substantial numbers. It is there to be tried.

I feel something has to give somewhere so the approach which the Senator from New Jersey (Mr. WILLIAMS) and I took, which encourages the use of this section, is a sound one.

Mr. President, while I am on my feet I note with a great deal of interest that the amendment of the Senator from Ohio (Mr. TAFT) to the substitute would simply strip it of everything except the minimum wage, which means having gone up the hill we would go far back down the hill again on all kinds of overtime and other provisions in the bill, including certain child labor provisions. I can hardly conceive our doing that.

Second, I notice with great interest the statement of the Senator from Colorado. I would like to confirm that the traditional accommodations and courtesies between members of the Committee on Labor and Public Welfare have been more than observed and that is a matter of great pride to me as the ranking minority member, because the ranking minority member has mighty little jurisdiction over anything except things like that. We had notice and we knew what they were going to do and they had notice and knew what we were going to do and no one was left in the dark or caught by surprise in respect to this matter.

The Senator from Colorado (Mr. DOMINICK) said, "We are trying to work out a compromise." Well, we are trying to work out a compromise. But in the popular phrase. "It takes two to tango." If there is to be a compromise there must be an agreement between the parties.

The Senator from New Jersey (Mr. WILLIAMS) and I, in introducing the bill, which is essentially the vetoed bill except for our not using the June 30 date for subsequent increases in the minimum wage, will do our utmost, one, to rally our committee, but even more importantly, to try to work out some compromise with the administration. After all, the Senate and the House passed the bill and the President vetoed it. That is where the compromise has to be worked out.

We believe, and this lays aside Watergate and collateral issues—matters of great importance, but collateral—there is a willingness in the White House to try to work out these bills. I think the President has shown this. We may not agree

with the conditions he sets, but they are ongoing; probably a half-dozen negotiations of the same type. We believe that is sensible and fair and should go forward, and we intend to do so. I think that is the way to compromise and I do not believe, in all honesty, that going this route of adopting this amendment here, with or without the Taft amendment, is going to advance us along that line.

To compromise there will have to be something compromised on the wage rate, on the domestics issue; and something on the exemptions and other issues. For example, one of the exemptions at issue is the exemption for chainstores, enterprises doing more than $250,000 a year.

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

Mr. JAVITS. If I may, I would like to finish my remarks.

As to the wage rate proposition, there are different schedules. It is very significant, and I would like to call to the attention of the Senate that if we had adopted the approach of the Senator from Colorado (Mr. DOMINICK) to this matter last year we would now be at the $2-an-hour phase because 1 year has elapsed, yet the bill submitted to us as an amendment carries a $1.80 minimum wage for 1973 and does not take us to the $2 rate even under the Taft-Dominick proposal until 1974.

Mr. President, one final word and then I shall yield. The Senate rejected this approach on July 18, 1973, by a vote of 57 to 40. It rejected in substance the same approach in 1972 by a somewhat closer vote of 48 to 46. This approach has been rejected by the House quite recently, again by a relatively close vote, but rejected. It seems to me under all those circumstances that the sounder course for us to pursue is to go forward on the effort which the Senator from New Jersey (Mr. WILLIAMS) and I initiated here to try to bring about what would really be worked out as a compromise, to wit, working out some bill with the administration, hopefully with the concurrence of the Senator from Colorado and the Senator from Ohio, who are distinguished and constructive members of our committee, in the hope that a compromise will become law and do all the things which all of us want it to do.

Mr. DOMINICK. Mr. President, I thank the Senator for those kind words, and I am happy to reciprocate so far as he and the Senator from New Jersey (Mr. WILLIAMS) are concerned, and many others, but I wonder if the Senator would agree with me that the major areas of disagreement are in connection with what I would say may be extraneous matters. They are not extraneous, but they are more difficult to resolve; namely, youth differential, extension of coverage, number of exemptions, overtime provisions for additional coverage, and things of that kind, as opposed to just the wage rate.

Mr. JAVITS. I would say this: The differences which the Senator has mentioned exist and are significant, but I would not like to say, because it is not true, just the wage rate. After all, a 20-cents difference in the wage rate is 10 percent. That is not just the wage rate. That is a considerable amount as a base under the whole wage structure.

So while I would agree with the Senator that other issues are important, I would also have to contend that the wage is important and that it is a material factor that the Senator again, even after 2 years, starts with the $1.80.

Mr. DOMINICK. Would the Senator also agree with me that an increase from $1.60 to $2, whether we did it 2 years ago or this year, has in it just exactly the same rate of increase?

Mr. JAVITS. Yes; it is the same rate of increase, but let us remember that if we take the $1.60 and lay it side by side with the cost of living increase, the minimum wage should be, if my memory serves me correctly, exactly $2.14. So the longer we wait, not only are we behind the times, but the rougher it gets on the people who are drawing the minimum wage, and it gets more and more difficult to bridge the gap.

Mr. DOMINICK. If I may say so, this is why I wish we could have gotten my amendment 2 years ago.

Mr. JAVITS. I understand the Senator's view. Unhappily for all of us, these differences exist and result in the kind of deadlocks we now face.

I deeply believe the best way to resolve the deadlock is by agreement with the administration to pass a bill which the President will sign, and if we do what the Senator from Colorado and his colleagues wish us to do now I think we would abort that process. It is for that reason that I oppose the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. DOMINICK. Mr. President, if the Senator from New Jersey is ready, I am willing to yield back the remainder of my time so the perfecting amendment can be offered and perhaps we can get a vote on that.

Mr. MAGNUSON. Mr. President, what is the time still remaining on the first amendment, the Dominick-Taft amendment?

The PRESIDING OFFICER. The Senator from New Jersey has 26 minutes. The Senator from Colorado has 11 minutes.

Mr. MAGNUSON. The Senator from New Jersey has 26 minutes. How much does the Senator from Colorado have?

The PRESIDING OFFICER. Eleven minutes.

Mr. DOMINICK. Mr. President, I am willing to yield that time back and get 1 hour on the amendment.

Mr. WILLIAMS. Mr. President, I will yield back my time on the Dominick amendment.

The PRESIDING OFFICER. The Senator from Colorado yields back his time.

Mr. DOMINICK. Mr. President, I yield back my time provided the Senator from Ohio (Mr. TAFT) is to be recognized.

The PRESIDING OFFICER. The Chair understands that the Senator from Ohio has an amendment to the amendment.

Mr. MAGNUSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MAGNUSON. If the Senator from Ohio presents his amendment, which is a perfecting amendment to the one on the desk, that will allow one-half hour to each side. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

The Chair will state that the mover of the amendment, the Senator from Ohio, would have one-half hour and the Senator from Washington or his designee would have one-half hour.

Mr. MAGNUSON. I yield my time to the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. TAFT. Mr. President, I thank the Senators for their consideration in yielding back their time so that I may offer the perfecting amendment.

Mr. President, I have sent to the desk a perfecting amendment in the second degree to the printed amendment No. 718.

The PRESIDING OFFICER. The clerk will read the amendment.

The legislative clerk read the amendment to the amendment, as follows:

On page 1, line 5, beginning with the word, "definitions", strike through page 6, line 3.

On page 6, line 5, renumber section 203 as section 202.

On page 7, line 3, beginning with, "(c)", strike through line 6, and in lieu thereof, insert the following:

"(c) Section 6(b) of such Act is amended—

(1) by inserting after the words "Fair Labor Standards Amendments of 1966," the words "title IX of the Education Amendments of 1972, or the Fair Labor Standards Amendments of 1973,";

(2) by striking out paragraphs (1) through (5) thereof and inserting in lieu thereof the following:

(1) not less than $1.90 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1973;

(2) not less than $2.00 an hour during the second year from such date;

(3) not less than $2.10 an hour during the third year from such date;

(4) not less than $2.20 an hour during the fourth year from such date; and

(5) not less than $2.30 an hour thereafter.

On page 7, line 8, renumber section 204 as section 203.

On page 7, line 16, renumber section 205 as section 204.

On page 9, line 5, beginning with the word, "Proof", strike through page 21, line 19.

On page 21, line 21, renumber section 214 as section 205.

On page 22, line 3, beginning with "(c)", strike through line 18, and in lieu thereof, insert the following:

"EFFECTIVE DATE

"SEC. 206. The amendments made by this title shall take effect on the first day of the second full month which begins after the date of enactment of this Act."

Mr. TAFT. Mr. President, I might say I do not believe there is a sufficient number of Senators on the floor at the present time, but it is my intention, as soon as we have a sufficient number of Senators, to ask for the yeas and nays on this amendment.

Mr. President, the amendment I have just sent to the desk is a perfecting amendment which strikes all of amendment No. 718 with the exception of modi-

fications to the wage rate structures. Modifications to this section include the following: First, the change of the effective date from 60 days after enactment for wage increments to the first day of the second full month after enactment; and second, increases from $1.80 to $1.90 the initial wage increment for pre-1966 nonfarm employees.

In making that change I might say we have taken into account the very fact the distinguished Senator from New York has called our attention to—that a good deal of time has passed since the original action upon minimum wage legislation.

The remaining sections pertaining to wages remain unchanged with $2.30 the maximum level contained in the proposal.

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

Mr. TAFT. I am glad to yield without losing my right to the floor.

Mr. DOMINICK. Mr. President, I ask for the yeas and nays on the amendment to the amendment.

The yeas and nays were ordered.

Mr. TAFT. Mr. President, we are having distributed to each Senator at his desk a memorandum from the Senator from Colorado and myself explaining the provisions of this unprinted amendment. I will not read it in detail. I will point out that on the second page there is a table showing, in the top classification, the wage rates which would be implemented under this amendment if it should be adopted and become law. The memorandum also shows, by way of comparison, the differences between this bill and the vetoed bill that was acted upon earlier by the Congress.

As the Senator from Colorado (Mr. DOMINICK) has stated, our intent in offering amendments to the Federal minimum wage is not to jeopardize the passage of S. 2702. We have agreed to time limitations under which our amendments may be disposed of expeditiously. I do not intend to belabor the point. I think the nature of the perfecting amendment is relatively clear. Our intent is to provide a constructive wage increase for millions of American workers before the end of this session of Congress. We think we have waited far too long to enact such a constructive wage increase in that the cost of living has significantly increased since 1966, the last time the Fair Labor Standards Act was amended.

The debate about minimum wage legislation over the last 2 years has centered essentially around four issues: wage rates, extension of coverage, repeal of exemptions, and a subminimum rate for certain categories of youth. The amendment I have just sent to the desk is only addressed to the wage rate issue. I cannot stress this point enough, as it in no way would involve consideration of the controversial aspects regarding this matter that have arisen during the last two Congresses.

As Senators know, suggested compromise proposals have failed and the outlook for an increase in the Federal minimum wage this year does not appear to be imminent.

And I might say, to make the record abundantly clear, that while there has not been a formal meeting with the committee, there have been protracted discussions between the staff of the committee, including the staff of what has been called the minority of the minority.

By taking this approach of only asking for consideration by the Senate of the wage rate issue, we are by no means suggesting that other areas, such as youth submission, extensions of coverage, and revision of exemptions, are not important. What we are suggesting, is that extensive negotiations remain with regard to these issues before agreement can be reached. I believe that has been evidenced here on the floor of the Senate this afternoon. So, I think the choice of the Senate is clear.

I think it, therefore, would be untenable to continue to hold a wage increase for our lowest paid workers hostage until such an agreement can be reached.

All of the issues in dispute, no matter how meritorious they may be, are held hostage. Why should we delay an increase for the lowest paid workers until we are able to agree on all other matters?

Further, the longer a wage increase is postponed, the greater the pressure will be for a sudden and extensive increase over too short a period of time; thus, maximizing the inflationary and disemployment effects in the economy. This point cannot be stressed enough in light of the energy crisis before the country, in that predictions of unemployment of 8 percent or more have been forecast for some for next year.

A constructive minimum wage increase is needed now. The chairman of the Senate Labor and Public Welfare Committee stated earlier last week on the floor that:

> The key issue in the minimum wage legislation is and always has been the wage rate and its effective date.

We concur with this statement as the wage rate structure is the issue in which the vast majority of Americans are interested. Constituents question how Congress can increase the wages of Federal employees without providing a similar increment in the minimum wage. We believe they deserve an honest answer by an up and down vote on this proposal.

We understand that some of our colleagues intend to offer the previously vetoed minimum wage bill as a substitute for our amendment, or to offer a motion to table our amendment. That would be unfortunate. Since the vetoed bill addresses issues other than the wage rate which do not appear to be close to resolution, the likely effect—presumably the intended effect—would be to defeat a minimum wage increase this year.

A motion to table would have the same effect in blocking a wage increase for millions of working Americans. They have desperately needed a constructive minimum wage increase for a long time, and are justly entitled to action during this session of the Congress.

Mr. President, it is extremely unfortunate that the Senator from Washington (Mr. MAGNUSON) has moved to table the amendment. As I stated earlier, the longer a wage increase is postponed, the greater the pressure will be for an extensive increase over too short a period of time; thus, maximizing the inflationary and disemployment effects in the economy. As the Senator from Washington knows, sizable unemployment can severely affect the economy of the Nation or a State. In fact, if I am not mistaken, the Senator's State particularly felt the blunt of high unemployment in aerospace industry cutbacks.

If the projections of many economists are correct, the energy crisis may move the current rate of unemployment from 4.5 to 8 percent and more. In fact, it has been reported in the press that the Department of Commerce has unreleased unemployment forecasts of up to 14 and 16 percent because of the energy crisis. Even if unemployment only increases to 6 percent, a disemployment effect of a sizable minimum wage increase next year will be significant. The Congress must be extremely careful and stretch out any increments in the minimum wage over a responsible period of time.

The amendment that Senator DOMINICK and I have offered would accomplish this goal in that the last increment for nonagriculture employees would not become effective until 1977. The increase in the wage structure would be a gradual one with 10 cents yearly increments for employees covered prior to 1966 after the initial 30-cent jump from $1.60. The same type of gradual increase would be true for employees covered after 1966, in that after two initial increments of 20 cents, the remaining increases would be 10 cents a year from 1975 to 1977.

This proposal is a compromise from our original position and is quite close to the wage rate provisions of the vetoed bill, H.R. 7935, and to the position expressed by Secretary of Labor Brennan. In fact, when Senators review the chart we have attached with our memorandum, they will see that the amendment before them is 10 cents higher than the bill approved by the Senate earlier this year and only 10 cents less than the vetoed bill with respect to initial increases for employees covered prior to 1966. Additionally, our amendment adopts the conference committee language in that it implements wage increments the first day of the second full month after enactment; thus, if the Congress were to enact our proposal, wage increments would begin on the 1st of February next year for millions of American workers.

We can see no reason why constructive increments in the minimum wage should be held hostage to other parts of the minimum wage package that agreement cannot be reached. For instance, the question of youth subminimum for nonstudents is an issue which majority staff of the Labor Committee and organized labor have expressed no room for compromise whatsoever. This, of course, is unfortunate, but a fact of life. There are other areas in which significant disagreement exists in that Senators have problems with complete repeal of exemptions under the Fair Labor Standards Act and certain proposals for extension of coverage.

The distinguished chairman of the Senate Labor and Public Welfare Committee stated on the floor earlier this year in reference to the necessity of enacting minimum wage legislation:

> I would say again that the basic issue which Congress must face now is whether we are going to provide an adequate wage

level for millions of low-wage workers now—not in 1974, 1975, or 1976, but now.

The ranking minority member of the Labor and Public Welfare Committee, Senator JAVITS, stated on the floor:

The issue before the Senate is not whether the minimum wage should be raised—most agree that an increase is warranted—but rather how much and how soon it should be raised. Even the most cursory glance at the cost of living figures shows that the increases provided for in S. 1861 are, at most, barely adequate to compensate low income workers for inflation since 1966, the last time minimum wage legislation was enacted.

We are, therefore, at a loss to see how anyone can move to table Senate consideration of this proposal. If they do, we feel that they should be prepared to bear the responsibility in prohibiting Senate consideration of needed increases in the minimum wage to millions of American workers.

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

Mr. TAFT. I would be glad to yield the Senator from Colorado 5 minutes.

Mr. DOMINICK. Mr. President, I appreciate that very much.

I just want to say to my colleagues that Senator TAFT and I are in total agreement on this matter. We thought that the first printed amendment and the bill we voted on earlier this year were good bills. However, we were defeated by the Senate as a whole and, of course, in committee. It was obvious today from the colloquy we had that we would have a ferocious debate on that matter again and that we would have the usual disagreements we have had in the past, namely the youth differential, the difference in coverage, the difference in overtime and the question of which exemptions are knocked out.

Senator TAFT and I decided to get away from the side issues and talk about what our chairman said was the most important single thing, and that was to raise the minimum wage rate.

We have put this in and now have the yeas and nays on the question. As far as we are concerned, this would, if passed, give us an opportunity to raise the minimum wage rate and do it this year so that we can get on to the other problems in further hearings in committee or wherever else we might want to do it. We can then see if we can resolve the questions. I do not have any anticipation, frankly, that they can be resolved. I do not think that we can do it without extended debate. And while we may be debating back here in Washington, the guy who is getting $1.60 an hour will be still getting $1.60 an hour.

We would like to see it go up. As the Senator from New York has said, if my amendment had been agreed to 2 years ago, they would have been at $2 now.

But no matter how you slice it, you jump from $1.60 to $2, whether you do it 2 years ago or whether you do it today, and you have got a massive impact on the economy of this country. This system which the Senator from Ohio and I have suggested eases us into this rather readily and rather rapidly—$1.80 within 60 days, $2 within a year—and we will be on our way to get something done about the increase in the minimum wage, which I personally think is needed and is necessary.

I thank the Senator from Ohio.

Mr. JOHNSTON. Mr. President, will the Senator from New Jersey yield a minute to me, so that I may ask a question of the distinguished chairman?

Mr. WILLIAMS. Yes; I yield the Senator from Louisiana such time as he may require.

Mr. JOHNSTON. Is it the chairman's understanding that the intent of the committee is that the President, in granting hardship exemption to a State upon a finding of undue hardship or no conservation of energy, shall take into consideration the unusual situation of the Commonwealth of Puerto Rico and the Virgin Islands, nearer to the equator than the continental States and thus with less variation between long and short days, and having a commercial and societal need to operate on the same time as the Atlantic seaboard?

Mr. MAGNUSON. The Senator is quite correct. He may be sure that the managers on the part of the Senate will, in ironing out the differences between the House and Senate versions of emergency daylight saving time bills, ask that full consideration be given to the needs of the Commonwealth of Puerto Rico and the Virgin Islands. I think we can work it out.

Mr. JOHNSTON. I thank the chairman very much.

The PRESIDING OFFICER. Who yields time?

Mr. MAGNUSON. Mr. President, the Senator from New Jersey has the time allocation.

Mr. WILLIAMS. Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator from Ohio has 13 minutes remaining. The Senator from New Jersey has 28 minutes.

Mr. WILLIAMS. Mr. President, I yield myself such time as I may use within the time limitation.

I am not sure I followed completely the logic of the Senator from Ohio and agreed to by the Senator from Colorado, but I get the impression that they feel that this perfecting amendment deals with an area of need that is manifest. That I agree with.

Then it is suggested that this is an area that is not in substantial disagreement, the minimum wage rate and the scale on which it is increased. Well, I would hope that is true, but that is certainly not the way it comes back from the White House, which had the opportunity to deal with this issue. The President had it after we passed it by an overwhelming vote and sent it down there, and it was vetoed, and this is the first area that the President singled out in his veto message as a reason for the veto. He deals with and labors long and hard over the proposition that appealed to him, that this wage rate was inflationary and sharp increases in the minimum wage rate are inflationary.

Inflationary. Inflationary, when we went to $2 an hour, and then to $2.20.

Perhaps this is not a matter of great appreciation of difference among Senators, but certainly when we think wages cannot go that route again, and we pass a bill, send it down, and have it vetoed because the rate is inflationary, I think what we have to do is deal with the subject matter as we have over the last 3 years—not only the rate, but how it is to be covered under the basic Fair Labor Standards Act.

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

Mr. WILLIAMS. I yield.

Mr. JAVITS. I think the Senator has put his finger on something critically important. This amendment, which comes to us from the Senator from Colorado and the Senator from Ohio, is not represented to us as even an administration measure, having administration backing. It is essentially the idea of those two Senators—fine Senators—which they authored as Senators. It is just like our proposal, which at least is composed of the views of the conferees of the House and Senate previously.

So really, with all respect, both the amendment of the Senator from Ohio and basic amendment of the Senator from Colorado are very premature. We have got to act to work out an agreement in which the major people in the other body and this body concur with the administration; or we have got to gather up enough strength to override a veto. As the Senator from New Jersey (Mr. WILLIAMS) made very clear, that may be the only course open to us, in which case, through compromise, we would have to involve the other body as well as the Senate. But simply to sail into this essentially original presentation of two Senators seems to me to be very unwise. Therefore, I very much hope that the Senate will reject the proposal.

Mr. TAFT. Mr. President, I yield myself 2 minutes.

I do not want to have any confusion about the source of the amendment. The source of this amendment is the conviction of the Senator from Ohio and the Senator from Colorado that there ought to be an increase in the *minimum* wage. This is not an administration-initiated move.

Since the point or the question has been raised as to whether the administration would go along with the minimum wage increase that we are proposing, if Senators will look at the second page of the material that has been distributed, and which each Senator has on his desk, and will look at the first three lines, they will be able to make a direct comparison between the Dominick-Taft proposal and the administration proposal.

The only difference that I can find is that the administration bill would increase the minimum wage only slightly faster than the Dominick-Taft substitute. We arrive at $2.30 in 1977; they arrive at $2.30 in 1976. That, for all basic purposes, is the only difference. So to give the impression that the administration would not for certain go along with this amendment I believe is incorrect. I do not know what the administration would do if the measure were to be approved by the Congress.

I would strongly argue, just as I argued

with the sponsors of the bill, that we should not be holding minimum wage increases hostage to other issues. I do not care what side Senators are on with respect to other issues. The White House may tell us that they have to have a wage differential, or we will not have a bill. I do not think they would do that. I think that basic justice for this proposal ought tc be enough to carry it through the White House and the House of Representatives.

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

Mr. WILLIAMS. I yield.

Mr. JAVITS. If Senators who are moving in this way wish a minimum wage bill to be passed at this session, I think that we can come to a compromise with them and then seek a compromise with the other body. That, I believe, holds some promise. We certainly want a minimum wage bill. We have contended for it for a long time. It seems to me that that is the way to get at it. These extrapolations that maybe it is and maybe it is not close to what the administration wants, the administration may change its mind—it has done it before—because of an energy crisis, or for some other reason. So even if we did what our colleagues want us to do, the President might veto this bill, and we would be not one step further along, but would be further behind than we are today.

Thus, I deeply believe that these steps, which are well intentioned, are premature, that the road is clear by which we might get some action, but this is not it. I hope very much that the Senate will decide accordingly.

Mr. DOMINICK. Mr. President, I want to reply for the record—because I do not think we are convincing anyone in the Chamber at the moment one way or the other—but I want to reply to the Senator from New York. Both he and I know that the Senator from New Jersey said the crucial issue is to try to raise the minimum wage for this who are under it.

That is what this amendment does. It gets away from all the other issues which have created the problem. We can argue about the other issues this year, next year, whenever it may be, but in the meanwhile, people who are under minimum wage are not getting the increase they deserve. If we vote for this, they will get it, and we can argue out the other issues later.

I would be happy to commit myself—for whatever good that will do—to try to urge upon our House colleagues and also the administration, to adopt this, if it is passed today.

Mr. TAFT. Mr. President, I am ready to yield back my time.

Mr. MAGNUSON. Mr. President, I should like to make a short statement of about 2 minutes. I have voted for minimum wage bills, I guess, long before anyone who is now in this Chamber that I can see. It has been a struggle year by year. I do not want to be in the position of stymieing or doing anything that would prevent some reasonable minimum wage. But this is a matter that the committees have been working on. This is a matter on which the Senate should have more notice as to what the proposals are.

I listened intently to the debate and I am not quite sure just what the proposals are or what all the ramifications of the minimum wage bill proposed by Senator DOMINICK will be. I do not like to be put in the position that I am against any improvement in the minimum wage. I am not. For the past 38 years I have voted for them. So I do not want to be put in that position. I hope the Senator from Colorado will forgive me, I do not know what I could do in a conference with the House on a minimum wage bill. I would have to call in people who were expert on the proposal and know all about it. This is not the place for this.

So, therefore, I am restrained a little bit but I must make a motion to table the Dominick amendment.

Mr. TAFT. Mr. President——

The PRESIDING OFFICER (Mr. WILLIAM L. SCOTT). The Chair will state that the motion of the Senator from Washington is not in order until all time has expired on the amendment.

Mr. DOMINICK. Mr. President, I ask for the yeas and nays.

Mr. MAGNUSON. Is my motion in order?

The PRESIDING OFFICER. When all time has expired on the amendment——

Mr. MAGNUSON. I make the motion to table——

The PRESIDING OFFICER [continuing]. Of the Senator from Ohio and all time has been yielded back.

Mr. TAFT. Mr. President, I have not yielded back my time yet. How much time do I have remaining?

The PRESIDING OFFICER. The Senator from Ohio has 8 minutes remaining.

Mr. MAGNUSON. I will wait until the Senator has consumed his time.

Mr. TAFT. Mr. President, I do not anticipate taking a great deal more time. I was ready to yield back my time, but this question has been raised by the chairman of the committee, and so I want to make sure that every Senator, including the distinguished chairman, understands what the proposal is.

The proposal is very, very simple; that is, to change no provision, no technical provision at all in the minimum wage law, as to coverage, as to the youth differential, as to the exemptions, or anything else, other than the minimum wage rate. That is the only issue before the Senate at this time.

We have distributed to every Senator's office a memorandum which indicates exactly what the minimum wage would be. Let me repeat it here again.

The amendment would raise the present minimum for nonfarm, pre-1966 employees, to $1.90 the first day of second full month after the bill goes into effect; $2 a year thereafter; $2.10 a year thereafter; $2.20 a year thereafter; and $2.30 in the final year, which will be 1977, I believe.

As to the pre-1966 employees, it will be $1.80, $2, $210, $2.20, $2.30. For the farm employees, $1.50, $1.70, $2. So there is no change.

I might say that I have not been in the Senate for as long a time as the distinguished chairman, but I have every confidence in his ability to go to any conference and understand the issues contained in a minimum wage bill. I know he has the great knowledge to handle the problem most competently.

The PRESIDING OFFICER. Who yields time?

Mr. TAFT. Mr. President, I yield back the remainder of my time.

Mr. WILLIAMS. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time on this amendment has now been yielded back.

Mr. MAGNUSON. Mr. President, I move to table the Dominick amendment.

Mr. TAFT. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDENT OFFICER. The Senator from New York will state it.

Mr. JAVITS. As I understand the motion——

The PRESIDING OFFICER. The Chair cannot hear the distinguished Senator from New York. Would the Senator please restate his parliamentary inquiry?

Mr. JAVITS. Mr. President, the question is, Is this a motion to table the Dominick amendment?

Mr. MAGNUSON. That is my motion, yes.

The PRESIDING OFFICER. It is the understanding of the Chair that——

Mr. JAVITS. Mr. President, a further parliamentary inquiry.

The PRESIDING OFFICER. The Senator from New York will state it.

Mr. JAVITS. If the Dominick amendment is tabled, does that table, then, the amendment proposed by the Senator from Ohio?

The PRESIDING OFFICER. The Chair is informed that both amendments go together.

Mr. MAGNUSON. Mr. President, one vote. That is the purpose of this.

The PRESIDING OFFICER. Does the Senator from Ohio have a further parliamentary inquiry?

Mr. TAFT. No, I think that is it.

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

Mr. MAGNUSON. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

The question is on agreeing to the motion of the Senator from Washington to table the amendment of the Senator from Colorado. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Colorado (Mr. HASKELL), the Senator from Iowa (Mr. HUGHES), the Senator from Hawaii (Mr. INOUYE), the Senator from Wyo-

ming (Mr. McGEE), the Senator from New Hampshire (Mr. McINTYRE), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. McGOVERN) and the Senator from Rhode Island (Mr. PELL) are absent on official business.

I also announce that the Senator from Missouri (Mr. SYMINGTON) is absent because of illness.

I further announce that, if present and voting, the Senator from New Hampshire (Mr. McINTYRE), the Senator from Wyoming (Mr. McGEE), the Senator from Rhode Island (Mr. PELL), and the Senator from South Dakota (Mr. McGOVERN) would each vote "yea."

Mr. HUGH SCOTT. I announce that the Senator from Tennessee (Mr. BAKER) and the Senator from Michigan (Mr. GRIFFIN) are necessarily absent.

The Senator from Arizona (Mr. GOLDWATER) is absent by leave of the Senate on official business.

The Senator from Nebraska (Mr. CURTIS) is absent by leave of the Senate.

The Senator from Oregon (Mr. PACKWOOD) is absent on official business.

The Senator from Florida (Mr. GURNEY) is detained on official business.

The result was announced—yeas 55, nays 29, as follows:

[No. 552 Leg.]

YEAS—55

Abourezk	Gravel	Pastore
Aiken	Hart	Pearson
Allen	Hartke	Percy
Bayh	Hathaway	Proxmire
Bentsen	Hollings	Randolph
Bible	Huddleston	Ribicoff
Biden	Humphrey	Schweiker
Brooke	Jackson	Scott, Hugh
Burdick	Javits	Scott,
Byrd, Robert C.	Johnston	William L.
Cannon	Kennedy	Sparkman
Case	Magnuson	Stafford
Chiles	Mansfield	Stennis
Church	Mathias	Stevens
Clark	Mondale	Stevenson
Cook	Montoya	Tunney
Cranston	Moss	Weicker
Eagleton	Muskie	Williams
Ervin	Nelson	

NAYS—29

Bartlett	Domenici	McClellan
Beall	Dominick	McClure
Bellmon	Eastland	Metcalf
Bennett	Fannin	Nunn
Brock	Fong	Roth
Buckley	Hansen	Saxbe
Byrd,	Hatfield	Taft
Harry F., Jr.	Helms	Thurmond
Cotton	Hruska	Tower
Dole	Long	Young

NOT VOTING—16

Baker	Haskell	Packwood
Curtis	Hughes	Pell
Fulbright	Inouye	Symington
Goldwater	McGee	Talmadge
Griffin	McGovern	
Gurney	McIntyre	

So Mr. MAGNUSON's motion to table Mr. DOMINICK's amendment (No. 718) was agreed to.

Mr. HUGH SCOTT. Mr. President, with the vote just concluded the Senate broke its alltime record for the number of votes cast in a single session of Congress. We are up to 533 now—the old record was 532, achieved last year.

Although the single-session record was set last year, the 92d Congress with 955 votes fell short of the whopping alltime high 47th Congress in which the Senate cast 986 votes. The 93d Congress seems well on its way to breaking that record.

The PRESIDING OFFICER. The Chair recognizes the Senator from Oklahoma (Mr. BARTLETT).

Mr. BARTLETT. Mr. President, I ask unanimous consent for the yeas and nays on my amendment No. 756.

The PRESIDING OFFICER. Is there a sufficient second? The yeas and nays are ordered——

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

Mr. BARTLETT. I yield.

Mr. MAGNUSON. Is the Senator asking for the yeas and nays on his amendment?

The PRESIDING OFFICER. The Senator asked unanimous consent. Is there objection? Without objection, it is so ordered——

Mr. MANSFIELD. Mr. President, I object for the time being, just for the purpose of giving the Senator from Washington a chance to establish a colloquy.

Mr. BARTLETT. I have two amendments. On the one I discussed with the Senator, I did not ask for the yeas and nays.

Mr. MAGNUSON. All right. We are going to accept that one.

It is getting so around here that if somebody moves to take a comma from line 15 and add it to line 17 and the Senator in charge of the bill says, "You are right. It belongs on line 17. I will accept it," the next comment is, "Yeas and nays." [Laughter.]

Mr. MANSFIELD. Mr. President, I remove my objection to the request.

Mr. COTTON. Mr. President, reserving the right to object, are the yeas and nays being requested on an amendment when we do not know what it is?

Mr. BARTLETT. I asked for the yeas and nays on my amendment No. 756, a printed amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BARTLETT. Mr. President, I have at the desk an unprinted amendment, which I now call up and ask to have read.

The PRESIDING OFFICER. The clerk will read the amendment.

The second assistant legislative clerk read the amendment, as follows:

On page 6, after line 8, add a new section as follows:

"The Secretary of Interior, in coordination with the Secretary of Transportation shall investigate the effect of this act upon [traffic safety, including the] safety of children traveling to and from school and shall investigate the effect on the hour for opening of schools and shall make an interim report, such report to include the estimated savings of energy and the total effect impact of this act to the President and Congress not later than June 30, 1974."

Mr. BARTLETT. Mr. President, the effect of this amendment is very simple. It merely requires the Secretary of the Interior, in coordination with the Secretary of Transportation, to make an interim report. That is required just exactly 1 year later by the bill as it now stands.

It is my understanding that this amendment is agreeable with the Senator from Washington.

The PRESIDING OFFICER. Who yields time?

Mr. HUDDLESTON. Mr. President, will the Senator yield to me?

The PRESIDING OFFICER. Does the Senator from Washington yield to the Senator from Kentucky?

Mr. MAGNUSON. I yield to the Senator from Kentucky.

Mr. HUDDLESTON. I would just like to point out to the Senator——

Mr. MAGNUSON. Mr. President, a parliamentary inquiry. The Senator has two amendments, one which I think the Senator from New Hampshire and I will be glad to accept. The other is a fundamental amendment. One proposes a study. The other one the Senator is proposing now is very fundamental.

Mr. BARTLETT. It is the other way around.

Mr. MAGNUSON. It makes daylight saving time only 1 year instead of 2 years.

Mr. BARTLETT. No. If I may say to the distinguished Senator from Washington, chairman of the committee, this is not the one I asked for the yeas and nays on. The one we have before us now is the one to which the Senator from Washington agreed.

Mr. MAGNUSON. Has that been passed on?

Mr. BARTLETT. No. I just made my opening remarks, which were very simply that it calls for a study 1 year ahead of the date provided in the bill.

Mr. MAGNUSON. Mr. President, I yield back my time.

The PRESIDING OFFICER. The Senator from Kentucky had asked for recognition.

Mr. MAGNUSON. I will ask the Senator from Kentucky on which amendment he is going to speak.

Mr. HUDDLESTON. The pending amendment.

Mr. MAGNUSON. Very well.

Mr. HUDDLESTON. Mr. President, I would like to point out that this is another demonstration of the unwisdom of the legislation we are considering. The legislation already calls for a study to see whether or not this legislation will in fact do what the proponents say it ought to do, and that is whether or not it will conserve energy. And now at least one Member of this body finds it necessary that a study also be made to determine whether or not this legislation will adversely affect the safety of the children of this country.

I just would like Senators to keep in mind the nature of the legislation we are passing as we move forward on this bill to provide for year-around daylight saving time.

Mr. BARTLETT. May I say to the distinguished Senator from Kentucky that the purpose of this amendment is to require an interim study to be made available to the Congress, the President, and the people so they can assess, as best they can, next year the results and effects of this act on all concerned and the savings that would be realized in

energy. So it expedites the availability of information for the purpose of the people of this country to make a judgment on the act we are about to pass. I think that is very vital and very important.

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

Mr. BARTLETT. I yield.

Mr. COOK. May I say to the Senator from Oklahoma that I have no objection to the amendment, and I assume my colleague from Kentucky (Mr. HUDDLESTON) has no objection to it, either. The only point he is making—and I would like to reiterate it—is that we have been told by the managers of the bill and by those who conducted the hearings that it is going to save between 1 and 1.5 percent of the energy required throughout the country.

What the Senator from Oklahoma is saying is that he wants a study to be made to determine whether this is true or not. He is also saying he wants to find how this relates to the safety of the children, in the early morning hours.

I want to say to him I am not really sure what kind of job the department is going to do, because I think any of us who call any of our school superintendents will find themselves in the position—that this Senator from Kentucky does; that is, that—where sunrise is not going to be until 9 o'clock in the morning, a number of difficulties arise. We do not know how we are going to get out of the situation of sending hundreds of thousands of children to school in the dark. I do not know what might be studied to make that determination. We can tell you already that the solar charts of where the junior Senator from Kentucky and I come from shows that if this bill goes into effect in its present form that from January 1 to January 10 the sun is going to come up in our communities at 9 o'clock in the morning, and that from January 11 until the 20th it is going to come up at 8:59. We have gained 1 minute.

Even if we say that our schools ought to start at 9 o'clock in the morning, our children are going to have to be picked up by school buses in the dark to get there by sunrise.

Mr. BARTLETT. I would like to respond to the Senator from Kentucky. I believe this amendment would not only have the effect of showing the effects on the hour of sunrise, but the effect on the schoolchildren of this country and the results that will be realized in the saving of energy. So I hope it will be an effectual survey and available to the people of this country so they can judge whether or not this body or the other body should continue this legislation.

This is an experimental type of approach, and I think it is vital that we take a look at it this first winter.

So, Mr. President, I yield back my time.

The PRESIDING OFFICER. Does the Senator from Washington yield back his time?

Mr. MAGNUSON. Mr. President, as I said before, the committee is willing to accept this amendment, and I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment having been yielded back, the question is on the adoption of the amendment.

The amendment was agreed to.

The Senator from Oklahoma is recognized.

AMENDMENT NO. 756

Mr. BARTLETT. Mr. President, I call up my amendment No. 756.

The PRESIDING OFFICER. The clerk will report the amendment.

The second assistant legislative clerk read as follows:

On page 5, beginning in line 4, strike out the phrase "and during the period which commences at 2 o'clock antemeridian on the last Sunday of October 1974 and which ends at 2 o'clock antemeridian on the last Sunday of April 1975,".

Mr. BARTLETT. Mr. President, I realize that if this amendment were adopted, the section that was just amended would have to be altered in order to conform.

The purpose of the amendment is to lop off 1 year so that the period affected by the bill would be a little over 1 year. I believe it would give ample opportunity for a study to determine just what effect there is on schoolchildren traveling to and from schools and on their parents and what the effect would be in the savings of energy.

I know that there have been some decisions from very reputable people who claim that there will be a rather large savings of energy. I certainly hope this is the case. However, I also realize that in our State, which is on the western side of the central time zone, currently those youngsters who are going to schools from the rural areas and within the city by bus transportation are standing in the streets at the corners along thoroughfares and highways at a very early hour in the morning, 1 hour or 1½ hours prior to sunrise. This, of course, has its danger. This proposal which is certainly in the interest of conserving energy would require them to stand out there 1 hour earlier.

I realize that the argument could be made that the hours of school could be changed. However, I am not certain they could be changed so readily as people contend, because there are other inconveniences created if the hour is adjusted, and that is why the hour is the way it is now.

I feel that the bill with this amendment in it would conform with the time schedule as originally introduced, would provide sufficient time in order to assess the value of this program as to the savings in energy, and also the effect of the program as to the dislocation or as to the effect on the schoolchildren who are standing on the streets at a very early hour in the mornings waiting for their buses to take them to school.

I do not believe it is possible for this body to know exactly what this effect may be. I certainly do not claim that I know what it will be. However, I do think that this is somewhat of an experimental approach. I plan to support it. However, I also think that it makes more sense for this body to have all of the studies that we could have by April of next year and have the summer and early fall to evaluate whether we want to enter into this act.

Our decision could depend upon the situation with energy and what effect the bill would have had on the schoolchildren and the other people of this Nation.

So, while this is one approach, it certainly is not aimed at eliminating the bill or hampering it. I believe it gives us an ample opportunity to make up our minds as to whether to continue with it next year.

Mr. MAGNUSON. Mr. President, I am going to have to oppose this amendment. The committee went into this matter and whether daylight saving time should be 1 or 2 years. As a matter of fact, some members of the committee wanted to provide that it would have no time limitation at all.

We finally arrived at 2 years which is the same time set by the House bill. This amendment would limit it to 1 year. That is not satisfactory at all. We do not know what our experience may be in this matter of year round daylight saving time. So, I would have to oppose the amendment.

Mr. President, I yield to the Senator from New Hampshire.

Mr. COTTON. Mr. President, I, too, regret that I must oppose the amendment offered by the Senator from Oklahoma. His purpose is excellent. I think he is right that we do not know with certitude. We must study how this thing is going to work. However, we have already accepted a very good amendment which calls for an interim report by the end of the first year.

Mr. President, if there is anyone in the Senate, except the Senator from Wyoming (Mr. MCGEE), that can personally testify about the vicissitudes and problems that come when anyone starts monkeying with time, the Senator from New Hampshire is the one.

I well remember that for 4 long years—through two Congresses—I was requested not to take away from the States their right to elect what standard of time they wanted to observe. For 4 long years we fought that issue.

My experience is that any time we try to do anything about the time situation we encounter controversy. I am not blaming anyone since it is a subject that the people in the country worry about.

If we can pass this bill with the Senator's study amendment to alert us to any trouble, we can do something about it.

We also have on page 5 of the bill the following provision which we carefully included in the bill:

Notwithstanding any other provision of law, if a State, by proclamation of its Governor, makes a finding prior to the commencement of a period of advanced time under this subsection that an exemption from the operation of this subsection or a relinement of time zone limits is necessary to avoid undue hardship or to conserve fuel in such State or part thereof, the President may grant such exempton or realinement.

We have that provision in as a safety valve. Certainly, if a Governor of a State approaches the President with a worthy cause, it will be given every consideration.

In view of the fact that we have accepted the other amendment, let us not doom ourselves to have inevitably to march up the hill and back down again within 1 year.

If the thing works fairly well and the President is cooperative where hardships are involved, it will work out satisfactorily. Let us not agree to take it up again next year.

I think the other amendment was a good amendment. It was agreed to. I would have to oppose this amendment.

Mr. DOMENICI. Mr. President, I would like to support my friend, the Senator from Oklahoma. However, it seems to me that on his first amendment, which was accepted by the Senate, we will have a study and a determination of the study within 1 year of the effect of this legislation. That would preclude us from canceling it out 1 year hence in case the report is constructive.

Mr. COTTON. Mr. President, I say to the Senator, with greatest respect for the Senator from Oklahoma who is naturally prudent, if this does not work or if it has an adverse effect on the schools, the people studying this will report back to the Senate. He also will get enough complaints so that Congress will act.

Mr. DOMENICI. So the Senator is saying that we are gambling on the long side, but we can bring it back into focus if we need to, and the Senator would rather do that than having, 1 year hence, to do it all over again.

Mr. COTTON. To have to do it all over again, that is exactly what I am saying. And, I am sure that if this works a hardship, every Member of Congress will hear from his folks fast enough so that we can remedy it. That is exactly my point.

Mr. DOMENICI. I thank the distinguished Senator. I would comment that I think the distinguished Senator from Oklahoma, by submitting his first amendment, has contributed considerably to our ability to evaluate in a thorough manner the entire question.

Mr. COTTON. I agree with the Senator, and I, too, thank the Senator from Oklahoma.

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

Mr. COTTON. I yield to the distinguished Senator from Illinois.

Mr. STEVENSON. I think I understand the purpose of the Senator from Oklahoma, in that the bill I introduced provided for a 1-year experimental period, with a study during that 1-year period. But all of the witnesses in the hearings on that subject, including the witnesses from the Office of Energy Conservation, testified that it would take more than 1 year.

It was for that reason that we changed the bill to provide for a 2-year period. A 2-year period is essential to assure that there are studies. The Senator from New Mexico mentioned that if before the end of that 2-year period there is an interim report or some other basis for concluding that the savings are not significant, then Congress could reconsider and discontinue the year-round daylight saving time, but at this point it appears to be absolutely essential to provide for a 2-year experimental period, in order to assure a thorough study.

The PRESIDING OFFICER. Who yields time?

Mr. BARTLETT. Mr. President, I thank very much the distinguished Senators from Washington, New Hampshire, New Mexico, and Illinois. I know that their interest here lies in saving energy, and also in having a very sincere concern for all those who would be affected by this bill, particularly the schoolchildren. I think the Senator from New Hampshire described my feelings as well as his own very accurately. I guess where I differ is that while I would certainly recognize that if the effect of this bill happened to be very bad for the young people and schoolchildren. I would expect we would act very quickly next year, and not continue it as least as it is designed now, on the other hand, if there were some unfairness or some question as to whether this did affect some children in certain time zones or parts of time zones more adversely than others, I can see where, if the bill were automatically carried through for another year, there would have to be another march up the hill, and because this does affect the schoolchildren, and will possibly affect them adversely, I think it is very wise and prudent for us to take that march up the hill, if that is what is required, in order to save the energy.

Certainly I favor saving energy. I have introduced bills to do that, that were designed to encourage car pooling and encourage smaller cars, but I do have a concern, and I guess I would put the priority on that concern and be willing to take enough effort, if required, to extend this in the future as long as we might consider that the emergency conditions exist.

I would inform the Senator from Washington that I am ready to yield back the remainder of my time.

Mr. MAGNUSON. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. WILLIAM L. SCOTT). All remaining time having been yielded back, the question is on agreeing to the amendment (No. 756) of the Senator from Oklahoma (Mr. BARTLETT). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Colorado (Mr. HASKELL), the Senator from Iowa (Mr. HUGHES), the Senator from Hawaii (Mr. INOUYE), the Senator from Wyoming (Mr. MCGEE), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Georgia (Mr. TALMADGE), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. MCGOVERN) and the Senator from Rhode Island (Mr. PELL) are absent on official business.

I also announce that the Senator from Missouri (Mr. SYMINGTON) is absent because of illness.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL) would vote "nay."

Mr. HUGH SCOTT. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Maryland (Mr. MATHIAS), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

The Senator from Arizona (Mr. GOLDWATER) is absent by leave of the Senate on official business.

The Senator from Nebraska (Mr. CURTIS) is absent by leave of the Senate.

The Senator from Oregon (Mr. PACKWOOD) is absent on official business.

If present and voting, the Senator from Illinois (Mr. PERCY) would vote "nay."

The result was announced—yeas 31, nays 51, as follows:

[No. 553 Leg.]

YEAS—31

Abourezk	Byrd, Robert C.	Huddleston
Allen	Chiles	Long
Bartlett	Church	McClellan
Bayh	Cook	McClure
Bellmon	Ervin	Nunn
Bennett	Fannin	Randolph
Biden	Fong	Scott, William L.
Brock	Hansen	Sparkman
Burdick	Helms	Thurmond
Byrd, Harry F., Jr.	Hollings	Young
	Hruska	

NAYS—51

Aiken	Gurney	Nelson
Beall	Hart	Pastore
Bentsen	Hartke	Pearson
Bible	Hatfield	Proxmire
Brooke	Hathaway	Ribicoff
Buckley	Humphrey	Roth
Cannon	Jackson	Saxbe
Case	Javits	Schweiker
Clark	Johnston	Scott, Hugh
Cotton	Kennedy	Stafford
Cranston	Magnuson	Stevens
Dole	Mansfield	Stevenson
Domenici	Metcalf	Taft
Dominick	Mondale	Tower
Eagleton	Montoya	Tunney
Eastland	Moss	Weicker
Gravel	Muskie	Williams

NOT VOTING—18

Baker	Hughes	Packwood
Curtis	Inouye	Pell
Fulbright	Mathias	Percy
Goldwater	McGee	Stennis
Griffin	McGovern	Symington
Haskell	McIntyre	Talmadge

So Mr. BARTLETT's amendment was rejected.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. DOLE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

At the end of the bill, add the following new section:

SEC. 5. Notwithstanding any other provision of law, the President of the United States, his delegate, or any other department, agency, or instrumentality of the United States, shall take no action, involving the carrying out of any emergency energy rationing or conservation program, involving the allocation of refined petroleum products among users, or involving restrictions on amounts thereof which may be sold to users, which would result in unreasonable discrimi-

nations among such users or classes of users, or in an unreasonable classification of such users: *Provided, however,* That this section shall not apply to actions taken under the authority of the Defense Production Act of 1950 as amended.

Mr. DOLE. Mr. President, this amendment is intended to deal with a problem that is intrinsic within any fuel allocation program—the problem of equitable distribution.

It is difficult to define what an equitable distribution might be. Generally, it would seem fair and equitable to require that every sector of the economy bear an equal percentage of the total reduction required by the shortage. Yet this precludes giving a specific usage or an emergency need special consideration. The equity requirement, combined with the desirability of maintaining flexibility in any allocation program, makes it nearly an impossible task to legislatively define what an equitable program would be.

But though the task is difficult, I do feel that it is essential that we demonstrate clearly a legislative intent that any allocation program be as fair and equitable to all sectors of the economy as is possible, given the flexibility that is required.

I am therefore offering this amendment which would require that any allocation program which has been made operative to date or which shall be made operative hereafter shall not unreasonably discriminate among users or classes of users.

The need for such an amendment was illustrated by the recent fuel allocation reductions imposed upon the general aviation industry. As initially announced, a 42-percent reduction in fuel for general aviation would have been implemented, even though commercial aviation was reduced by a substantially smaller percentage and other modes of transportation would have incurred an even smaller reduction in fuel allocations. Since the initial allocation reduction was announced, the administration has modified its proposed reductions, and it now appears that only about a 25-percent overall reduction in fuel will be imposed on the general aviation industry. Yet in the 1-week period following announcement of the 42-percent reduction proposal, the impact on the general aviation industry, in general, and on Wichita, Kans.—the leading city in the general aviation industry—was almost unbelievable.

More than 2,400 employees were laid off at a plant in Wichita, and without the adjustments which were later made by the administration, it is estimated that as many as 8,000 aviation employees could have lost their jobs in Wichita alone, and as many as 100,000 jobs would have been jeopardized nationwide. When the impact of the aviation job reduction is measured on the total economy it is estimated that this could have cost the city of Wichita 20,000 jobs, and the country as a whole 250,000 jobs over the next few months.

The impact of the decision regarding general aviation fuel allocation was so great that special action was needed. In the first place, it appears that the decision was particularly harsh on the aviation industry in comparison to the cutbacks that were being imposed on other sectors of the transportation field. And secondly, the severe impact the proposed allocation would have had on the economy of Wichita and numerous other cities across the country gave the issue a priority of a different nature which deserved special consideration, given the existing needs and fuel supplies.

The amendment I am offering today is intended to express legislatively the concept that the allocation program should not unreasonably discriminate among various users and classification of users. It requires that pleasure driving not be given a higher priority than pleasure flying, that business driving not be treated differently than business flying—in other words, that there be no discrimination between users and classes of users of fuel for a given purpose.

The amendment is not intended to destroy the flexibility of the program. It will not prevent fuel allocations from reflecting priority or emergency needs. If additional fuel supplies are needed in agriculture to assure an adequate supply of food, or if additional supplies of fuel are needed for home heating purposes, the emergency needs must be met. But considering the limited supplies of fuel that are available, we must insure that classes of users or individual users of fuels which have equal priorities be equally treated. All users of fuel having the same priority should bear equally the burden of the fuel shortage.

The amendment I am now proposing limits the administraitve discretion which Congress allows the President under any fuel allocation authority. But at the same time, it does not tie the hands of the administration or take away the flexibility needed to meet emergency situations. It would prevent arbitrary decisions from being rendered. It would also prevent any user or classification of user from being unfairly treated because of its high visibility because it would serve as a good example of our effort to limit fuel consumption. It would also prevent decisions from being made for purely political reasons.

The life of every American will be affected by the fuel shortages, and we must all bear our share of the inconveniences, burdens, economic hardships, and difficulties which are sure to come in the next few months. But it is important, and I feel Congress has the responsibility, of assuring that the burden of the fuel shortage be distributed equitably among Americans and sectors of the economy. I therefore urge my colleagues to consider my amendment favorably in the interest of insuring that, in this difficult energy crisis, the sacrifices which are sure to be required, may be shared as equitably and fairly as possible.

Mr. President, I ask unanimous consent to have printed in the RECORD an editorial published in the Wichita Eagle of November 28, 1973, and a letter dated December 1, 1973, addressed to me, from James B. Taylor, vice president of Cessna/Citation.

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

A QUESTION OF FAIRNESS

President Nixon's recommendations on energy conservation leave a great deal to be desired insofar as a fair and equitable overall solution to the present crisis is concerned.

Some proposals are broad enough in scope to affect all parties in an equal manner. Others will cause undue hardship on certain segments of industry and the population. The reduction of home heating oil to residential, commercial and industrial users, the closing of service stations on Sundays, the allocation of airline jet fuel, the reduction in speed limits, the ban on residential ornamental lighting and unnecessary commercial lighting at least have some semblance of uniformity in application. However, the proposed 40 per cent fuel cut for business flying is not only discriminatory but dangerous in its implications.

Executives of Beech, Cessna and Gates Learjet are unanimous in criticizing the proposed highly restrictive fuel regulations on business and general aviation as a whole. Layoffs are already being felt in the general aviation field and the impact of the President's recommendations will cause severe hardships if implemented.

It is ridiculous and unfair to concentrate the heaviest restrictions in an area which consumes only seven-tenths of one per cent of the total fuel used in all transportation.

This seems to be only a further extension of governmental pressures to undermine the viability of general aviation as a whole. Even without the proposed fuel restrictions, the Department of Transportation's high-handed bureaucratic approach in regulating general aviation continues to undermine the health and future growth possibilities of a very important segment of the American economy. Equipment requirements, cost allocation recommendations, general aviation services reductions, etc., clearly indicate the attitude of the administration towards general aviation.

Citizens should write their senators and respective representatives to express opposition to the general aviation fuel proposal and at the same time enthusiastically support the aviation industry.

Government listens only if the public speaks loudly.

CESSNA/CITATION,
December 1, 1973.

HON. BOB DOLE,
The U.S. Senate, Senate Building, Washington, D.C.

DEAR BOB: In attempting to reduce America's fuel consumption by 17 per cent during the energy crisis, President Nixon has singled out one industry—general aviation—for a staggering FIFTY per cent cutback!

This is to urge your prompt and vocal support of pending legislation SR 2589 to correct this damaging inequity.

The President's proposal can only be based on two totally false conceptions.

First: That general aviation flying is largely for non-essential, recreational purposes, and

Second: That it accounts for a significantly large portion of the nation's fuel usage.

Neither of these assumptions is even close to the truth.

The Fact: Fully 70 per cent of general aviation flying is for business and commercial purposes.

General aviation planes transport 70 million Americans a year. This is 33 percent of ALL U.S. intercity air passengers.

Most business flights are between the nation's 10,000 secondary airports, which are not served by ANY commercial airline.

The Fact: General aviation accounts for less than 4 per cent of jet fuel consumed nationwide, only 7/10ths of 1 per cent of total fuel used for transportation.

Naturally general aviation is anxious to join in national fuel conservation programs, and asks only to be treated fairly in relation to other forms of transportation.

But the President's proposal, tantamount to a slash of 42-1/2 per cent in all business flying, would devastate an entire industry, with the loss of tens of thousands of jobs, and seriously impair the nation's transportation system and economy—to accomplish little more than a token overall fuel savings.

Business flying affects a VITAL segment of America's economy. Companies using business aircraft account for 2/3rds of the GNP, with the top 500 users making 2/3rds of all sales, 3/4ths of all profits, and employing 3/4ths of U.S. industrial workers. The aerospace industry is the largest single contributor to a positive balance of trade (4.5 billion dollars in 1973).

We respectfully ask you to support the Goldwater/Rooney Amendment to SR 2589 immediately.

Sincerely,

JAMES B. TAYLOR,
Vice President.

Mr. DOLE. Mr. President, I have discussed this amendment at length with the distinguished chairman of the committee, Mr MAGNUSON, and with the distinguished Senator from New Hampshire (Mr. COTTON). The amendment has the support of the senior Senator from Kansas (Mr. PEARSON), a member of the committee, the Senator from Pennsylvania (Mr. HUGH SCOTT), and others.

I am prepared to yield back the remainder of my time, unless the distinguished Senator from Washington has some questions.

Mr. MAGNUSON. Mr President, the Senator from Kansas has an amendment which I will accept. This is a matter that has come up since we had hearings on the bill. It is a matter, to coin a phrase, on which there are some time problems, not including setting clocks back.

The amendment provides that the executive branch shall take no action "involving the carrying out of any emergency energy rationing or conservation program, involving the allocation of refined petroleum products among users, or involving restrictions on amounts thereof which may be sold to users, which would result in unreasonable discriminations among such users or classes of user."

That would include anyone who suffered an unreasonable discrimination. Senator DOLE does not suggest that these people should not be rationed—and I do not—nor that there should be no limitation or allocation. But the discrimination among users cannot become unreasonable—I know that this may apply to the aviation field, as an example, but it could also apply to marinas or boats or anything else.

Mr. DOLE. Or to classes of motor vehicles, boats, airplanes, and modes of transportation as well as other users of fuel.

Mr. MAGNUSON. Or an ambulance that might not have the right gas.

I cannot say what will happen to this amendment in conference. I do not know. But I am hopeful that between now and the conference, some of the people who are involved in this, who made some of these quick decisions without thinking—and I understand they are now reviewing it downtown—may clear up this whole situation, even before we get this bill to the White House. The complaints exist in all kinds of transportation modes and they are reasonable complaints. We need to correct unreasonable discrimination.

Mr. DOLE. This is right.

Mr. MAGNUSON. If they are unreasonable, somebody ought to do something about it. Perhaps the very fact that we take this amendment to conference will stir somebody into action to correct what I think have been some very unreasonable decisions.

Mr. DOLE. Let me cite one example of an unreasonable restriction—the fuel reduction for general aviation. Soon after the announcement was made 2,400 employees in Wichita found their jobs terminated. The anticipated unemployment in that city alone, had the unreasonable measure stayed in effect, could have affected as many as 20,000 persons, just because of one decision made by one person, without justification in my opinion. It was unreasonable. The purpose of this amendment is to prevent that in the future. That is the sole purpose of the amendment.

I might say that I understand in the House Commerce Committee, 27 members are sponsoring an amendment identical to this one. The amendment was developed and introduced in the House by Congressman BARRY GOLDWATER, JR. of California and Congressman FRED ROONEY of Pennsylvania and they deserve much credit for the fine work they have done. With 27 sponsors, I would hope that when the bill goes to conference, there will be strong support for the concept.

Mr. MAGNUSON. I know how they feel.

Some of the decisions were made quickly, without looking at the overall situation. Everyone will have to take some cut in fuel allocations. But we must not allow unreasonable discriminations.

Mr. DOLE. They are willing to make sacrifices.

Mr. MAGNUSON. There is going to be some unemployment. But the cuts must be reasonable and fair.

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

Mr. DOLE. I yield.

Mr. CANNON. I am delighted to support the amendment of the distinguished Senator from Kansas. I made a speech on the floor last week in which I pointed out three specific areas that were being discriminated against or in which discrimination was occurring under the proposed rules. One of those was the area of general aviation, as the distinguished Senator has pointed out. Another was in the area of commercial aviation, of scheduled air transport, which is also discriminated against to a degree. The third was in relation to the Sunday closure, which clearly discriminates against my State of Nevada, rather than giving us some other day of closure to elect because of the particular type of industry in which we are engaged—the tourist-oriented industry.

So I am delighted to support the amendment of the Senator. I hope that the bureaucrats who make these off-the-cuff decisions will be a little more careful and a little more cautious in making spontaneous decisions without studying the impact they will have on the overall economy of our Nation.

Mr. DOLE. I was aware of that speech, having read it and was hopeful the Senator from Nevada (Mr. CANNON) would support the amendment. The points mentioned by the Senator from Nevada on the Senate floor are covered by this amendment. I believe the amendment will be helpful.

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

Mr. MAGNUSON. I yield such time as the Senator from West Virginia may require.

Mr. RANDOLPH. Mr. President, I support the amendment offered by the Senator from Kansas. In my judgment there is a reasonableness in his approach. Frankly, I am very alarmed about the trend toward too many instant answers which are being given in connection with such cases as have been mentioned here today.

Of course the conservation of energy—the sacrifices—must be made across the board. That is exactly what the American people, regardless of their individual or organizational interests and concerns, desire and are willing to accept. But if there exists in any segment of our society the feeling that we cannot rely upon the fairness of the judgments that are being made, then certainly we are in difficulty.

I am not a constant critic of the administration and the executive branch. But I think that the Senator from Kansas will agree with me that we must come to grips, all of us, with a commitment to reasoned judgments in connection with the rules that may come from the Executive and the laws from the Congress. The regulations for allocation and conservation—and I do not advocate indecision—must not be initiated until the necessary time has been taken to really inquire into the facts of the cases. I question whether this is being done at this time.

The Senator from Kansas has called attention to the inequities in the treatment of general aviation and I agree with him. At first glance, it may seem reasonable to press for cuts in general aviation fuel in very large proportions. A detailed analysis of general aviation travel and the impact on employment demonstrates clearly that such judgments cannot be and must not be made "at first glance."

This afternoon I had a telephone call from a good American, a citizen of a mountain county in West Virginia, who is faced with a hardship case in connection with the production of timber. He, of course, needs a certain amount of fuel. I shall not go into the facts, but he has been told, in essence, that he will receive a fuel allocation which is about one-fifteenth of what he says he thinks

he has a right to have if the timbering operation he heads is to move forward. Without the necessary fuel, men in the woods will lose their jobs, and the men in the mills will lose their jobs.

The reason I tell the story is not that this man does not want to be treated on a basis of equity, but because he was told to go to Charleston, W. Va.; there he was told to go to Pittsburgh, Pa.; from there he was told he must go to Philadelphia, Pa., and he did not get the chance to outline his problem. He called and he is frustrated. All he wants is an opportunity to explain the situation and tell his story.

American citizens expect this opportunity and have a right to do this collectively and individually. I think that is what the Senator from Washington has been saying, as well as the Senator from Nevada and the Senator from Kansas.

Someone said there must be unemployment. I look for 8 percent unemployment in the United States, and I do not throw the figure out lightly. I believe it is in the making.

I know one company now making bodies for school buses. The base for its operation is not in our State. The energy comes from natural gas. In that company 3,100 employees already are out of work. I know of another company in West Virginia that makes plastics, where the employment of 2,000 people is in jeopardy. This plant is a user of natural gas for its production process and its raw materials come from oil. Yet, the plant manager after conferences with officials of the Office of Energy Policy questions whether the economic impact, if his plant were to close, is fully understood. This plant manager does not ask for a preference, but he is asking for an equitable allocation system and the recognition of possible impacts on the economy.

We are going to face these situations by literally not hundreds of instances but by the thousands of instances in this country. We realize that unemployment will take place. I am saying only what has been emphasized here in this debate. We must have reasoned regulations and judgments that are based on the facts. Then the American people will respond.

Mr. BAYH. Mr. President, will the Senator yield to me for a half minute for a unanimous-consent request?

Mr. MAGNUSON. I yield.

Mr. BAYH. Mr. President, I ask unanimous consent that Carl Lester, of my staff, may have the privilege of the floor during the consideration of this bill.

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

Mr. DOMENICI. Mr. President, will the Senator yield for one moment?

Mr. DOLE. I yield.

Mr. DOMENICI. Mr. President, in complimenting the Senator from Kansas on his amendment, I wish to call to the attention of Senators present another problem. We should understand that States have different problems with reference to the Federal Government trying to designate one use by allocation in one place, to be applied to another area. I cite the State of New Mexico where the little airplane is a common, ordinary method of transportation. Yet perhaps in Government there are those who think if one owns a private airplane, it is for pleasure and not business and getting around and required in day-to-day affairs.

We have 5,500 airplanes, over one-half used by small businessmen. If the Government treats them as such, it cuts them back to 40 or 50 percent. We have literally hundreds of people who cannot conduct day-to-day business.

I compliment the Senator for calling to the attention of those who will allocate, the necessity of being reasonable, not to make quick judgments, and understanding that the States have different needs in connection with private airplanes and the like.

Mr. DOLE. I thank the Senator from New Mexico. I thank the Senator from West Virginia, because this is an effort to be reasonable, as he pointed out. That is the only purpose and intent of the amendment.

Mr. President, I ask unanimous consent that the Senator from West Virginia (Mr. RANDOLPH) may be added as a cosponsor of the amendment.

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

Mr. DOLE. Mr. President, I yield briefly to the Senator from Alaska.

Mr. STEVENS. Mr. President, I wish to ask the Senator from Kansas about the interpretation of the amendment. As the Senator knows, we are about to embark on the largest single project in private enterprise in history in trying to build the Alaskan pipeline. We will need increased allocations of fuel. I want to make certain the interpretation of this amendment would not prevent increased allocations to areas such as Alaska, where there will be massive new requirements for oil.

I support the general intent of the amendment, but in reading it, I want to make certain it is not to be interpreted as requiring a totally equitable allocation based on past usage of fuel in a particular area. There are no implications such as that in the amendment, are there?

Mr. DOLE. There are no implications such as that as far as the Senator from Kansas is concerned. Quite to the contrary. The only things we seek to avoid are those rare occasions when there might be unreasonable discrimination among users or within classes of users. The answer to the question is in the affirmative. That is not the intent.

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

Mr. DOLE. I yield.

Mr. DOMINICK. Do I understand this amendment is dealing in part with the allocation that has been made originally to private aircraft, private aviation, which now has been modified somewhat, but not very much.

Mr. DOLE. Yes, it does deal with that.

Mr. MAGNUSON. That would be included.

Mr. DOMINICK. That would be included.

Mr. MAGNUSON. This goes across the board.

Mr. DOLE. Not only aviation.

Mr. DOMINICK. It would take care of private aviation problems.

Mr. DOLE. I believe general aviation was generally satisfied with the action taken Saturday by the administration, because it did change the reduction for personal and pleasure flying from 50 to 35 percent, for business from 40 to 25 percent and for high priority cases, like air taxis and agricultural spraying from 20 to 15. It did put it in line with treatment of the commercial airlines. But this amendment offers another safeguard that there will be no further unreasonable discrimination between users in any class.

Mr. DOMINICK. I congratulate the Senator from Kansas, as I know full well, having a friend at Lear, how that company and Beechcraft would really have a problem in the private aviation field. I can talk from personal experience on this since I flew my personal airplane to Colorado over the Thanksgiving weekend and had a whale of a time getting enough gasoline, because of the allocation problem. At Dulles they gave me 30 gallons. I do not know how they thought I could get to Colorado on 30 gallons. Once I got away from Dulles I was all right, except for fields that were closed down entirely, where I could not get any at all, and there were plenty of those.

I think most people fail to understand the enormous influence of private aviation on the economy of this country, and if we over-allocate the shortage in their direction, we are really going to create a whale of a lot of problems.

If the Senator will permit, I would like to be added as a cosponsor of the amendment.

Mr. DOLE. Mr. President, I ask unanimous consent that the name of the Senator from North Dakota (Mr. BURDICK), the Senator from Colorado (Mr. DOMINICK), and the Senator from Alaska (Mr. STEVENS) be included as cosponsors of the amendment.

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

Mr. DOMENICI. Mr. President, will the Senator add the name of the Senator from New Mexico as a cosponsor?

Mr. DOLE. Yes. I ask unanimous consent to include the name of the Senator from New Mexico.

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

Mr. DOLE. Mr. President, I ask unanimous consent that Senators ROTH, HOLLINGS, THURMOND, CANNON, COOK, PEARSON, and MAGNUSON be added as cosponsors of my amendment.

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

Mr. MAGNUSON. Mr. President, I yield back my time on the amendment.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment was agreed to.

Mr. EAGLETON. Mr. President, I have an amendment which I send to the desk.

The PRESIDING OFFICER. The clerk will read the amendment.

The legislative clerk read the amendment offered by Mr. EAGLETON for himself as follows:

At the end of bill, insert the following:

That the President is authorized and directed to issue such orders and regulations as may be necessary to reduce or stabilize insurance premiums for personal injury, property damage, and medical expense coverage in the automobile insurance industry in order to prevent or eliminate windfall profits by persons engaged in the business of issuing such insurance as a result of reduced casualty rates experienced by such persons attributable to Federal, State, or local official action pursuant to this Act, to section 203(a)(3) of the Economic Stabilization Act of 1970 or under any other provision of Federal, State, or local law authorizing the rationing, allocation, or conservation of petroleum products.

SEC. 2. Nothing in this Act shall be construed to authorize the President to prescribe an insurance rate or formula in any State which is in excess of that rate or formula prescribed under applicable State law.

Mr. EAGLETON. Mr. President, this is the antiwindfall insurance premium amendment. The energy crisis, a matter that has been debated at great length on the floor. Also has ramifications with respect to the insurance industry.

Unlike some amendments which have been debated on the floor, this amendment is perhaps the only silver cloud in an otherwise very gray and bleak horizon. As a result of the energy crisis, with reduced automobile speeds and reduced automobile usage, there will also be, happily, a concomitant reduction in automobile accidents and automobile deaths.

This is not just speculation on my part, Mr. President. Over the Thanksgiving Day holiday, Thursday through Sunday, 14 of the 50 States enforced a 50-mile-an-hour speed limit—only 14 out of 50—and even with only that small number of States enforcing the 50-mile speed limit, there was a 22.7-percent reduction in deaths and serious accidents over the Thanksgiving holiday.

I repeat, this may be the only happy thing, the only silver cloud, on an otherwise bleak horizon.

The National Safety Council has projected an overall 20- to 25-percent reduction in the number of fatalities based on just a 15-percent cut in gasoline production and the utilization of a 50-mile-an-hour speed limit.

Further, insurance premiums in the automobile liability field are geared to the death and accident rate. As accidents increase and the number of deaths increase, on an actuarial basis the premiums for one's automobile liability insurance automatically go up. Likewise, concomitantly, as the accident rate goes down, as the death rate goes down, insurance premiums should go down. I emphasize the word "should."

So what this amendment, the antiwindfall amendment, does is to give to the President authority similar to that which he has already been given under the Economic Stabilization Act, to issue orders and regulations as may be necessary to reduce or stabilize insurance premiums for personal injury, property damage, and medical expense coverage in the automobile insurance industry so as to prevent or eliminate windfall profits.

Mr. President, I submitted last week this proposal in bill form earlier. I sent the bill to the Secretary of Transportation and the automobile insurance industry. I did not expect an answer back in that short a period of time.

I think the authority proposed by this amendment to have the President stabilize insurance premiums will be very therapeutic in its effect, because it will encourage the insurance companies to reduce their premiums as the accident rates continue to decline.

Mr. President, may I address a question to the Chair as to whether there are time limits on all amendments?

The PRESIDING OFFICER. There is a 30-minute limit to each side.

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

Mr. EAGLETON. I yield for a question.

Mr. COTTON. I am sure the object of the Senator's amendment is entirely logicaly and most praiseworthy, based as it is on the relationship between the reduction of speed of automobiles with fewer accidents and injuries, and effect of such reduction upon the rates for automobile insurance. And, if accident costs are reduced, then the insurance companies should not be able to continue to collect the same rates.

Mr. EAGLETON. That is correct.

Mr. COTTON. Since this amendment was not considered by the Commerce Committee, I would like to ask the Senator does he not think that if experience indicates—State by State—that there is a reduction in accidents and injuries, the insurance commissioners in such States can be depended upon to take steps to see to it that the companies do not get their windfall? I am a little worried about taking away from the States this authority and handing it to the President, as I understand the Senator's amendment proposes.

Mr. EAGLETON. May I respond to the Senator from New Hampshire by saying I think that is a very worthy question. I will answer it in this way: We have already in part taken this decision away from the States insofar as health and medical insurance is concerned. That area of insurance is already being regulated in part by the Cost of Living Council.

Further, the Senator is correct that, since the enactment of the so-called McCarran Act, these matters have traditionally been left to the States. However, I am not as sanguine as is the Senator from New Hampshire about what the insurance commissioner might do in my State or in some of the other States.

I will just speak of the State of Missouri. I can assure the Senator from New Hampshire that if we wait for the Commissioner of Insurance of the State of Missouri, it might be a very long wait.

Mr. COTTON. Mr. President, I would say to my good friend, the Senator from Missouri, that he said something possibly in seriousness and possibly in humor. However, our experience is greatly different from that of Missouri. We have a very aggressive insurance commissioner who has fought the insurance companies and has got the rates down. So perhaps we have had better experience than the State of Missouri.

However, it would seem to me that the people of the State of Missouri or the people of any other State, if the information were to come out in the paper as it already has in my State, that serious accidents and fatalities are declining because the laws are being obeyed, then the people would get real busy and see to it that action is taken in that State.

I am a little surprised in view of the developments in recent days and months that the State of Missouri is different from the State of New Hampshire.

I might say, somewhat facetiously, that if the Senator from Missouri would trust the President of the United States more than he would the Governor or the Lieutenant Governor or the people of the State of Missouri, then it is a vote of confidence for the President.

Mr. EAGLETON. My confidence in the President depends on the subject matter being considered.

The Senator will recall that on April 30 of this year, as part of the Economic Stabilization Act, I offered my amendment which gave the President the authority to go to gas rationing or mandatory fuel allocation or whatever. This amendment has not been implemented until recently.

The same situation would apply here, if the President is given this authority and he can exercise his discretion.

The Senator from New Hampshire has indicated that he believes the insurance commissioners would act. I say to the Senator from New Hampshire that the President of the United States could say to every insurance commissioner, "I have been given this authority to roll back insurance premiums. Before I precipitously do this, I urge you, since you have State jurisdiction over insurance premiums, to get moving on this in your own States."

Mr. MAGNUSON. Mr. President, this is an amendment that would do something that we all say ought to be done. We have been working for weeks and for months on this one feature of no-fault insurance.

We have the no-fault bill ready. The Judiciary Committee started hearings this morning. Senator EAGLETON's proposal would shortcut our well-thought-out bill.

American people pay more than $18 billion in premiums to the auto insurance companies every year. And the claims paid out amount to $8.4 billion. That cannot go on long. This is what the Commerce Committee has been working on.

The Senator knows the saying, "You are in good hands with Allstate. Give me your dollar, and now you have a chance at 50 cents." Las Vegas has better odds than that.

I commend the Senator for being concerned about this problem. However, I do not know why we want this provision on this bill and why we cannot wait to do the job we are going to do.

I have no objection to the idea. I do not know what my colleague, the Senator from New Hampshire, thinks. However, I would suggest the Senator change his amendment, to create a new title, title 1, title 2, or whatever it may be and then

take out of the first line, "The President is authorized and directed * * *"

I do not intend to compliment the White House or predict what may happen down there. I do not care who the President of the United States might be. If we direct him to act on insurance matters, he would have to hire 85 accountants and 75 Philadelphia lawyers to get even started. This is not a job for any President, no matter who he may be.

If the Senator from New Hampshire is agreeable, I will take the proposal to conference and see what the House will do. However, I wish the Senator would take out the word "directed." That is very impractical.

I applaud the Senator. I know what he is talking about. And I think that the Senator should take out the word "directed" and say instead that the President is "authorized" to issue such orders. I just do not know how he could do this as a practical matter within the next few months.

This is a little like changing life insurance policies in the health field. Does the Senator know that the longevity of the American people has gone up some 17 years in the last 20 years? That is pretty good longevity.

I have often said that the life insurance companies should take that fact into consideration. That is similar to what the Senator is talking about for automobile insurance, but in a different way.

Mr. EAGLETON. Mr. President, if I may respond to the Senator from Washington, I can agree with much that he has said. However, I must dissent, at least in part. The Senator is correct that this country spends over $18 billion a year on auto premiums. If we wait for no-fault insurance to come and the Senator knows I have some misgivings about certain aspects of that——

Mr. MAGNUSON. I do not. It is my bill.

Mr. EAGLETON. I know that the Senator does not. However, if we wait for the ultimate passage of the no-fault bill, we may have a long wait.

I do not think that is going to come about in the next few months. What I am anxious to have is an immediate reduction in insurance premiums based on today's actuarial statistics. Automobile accidents are going down. That is good. Deaths and highway fatalities are going down. That is good.

Mr. MAGNUSON. Well, they have not gone down——

Mr. EAGLETON. I do not think we should wait until some rather vague, amorphous date, for the enactment of no-fault, to begin to give the American people what is their just due. And what is their just due? A refund or a rebate of excessive insurance premiums.

I do have a suggestion with respect to language which I hope will satisfy the Senator from Washington, as follows: Rather than saying "The President is authorized and directed", I would say "The President is authorized and directed to begin preparations to issue."

This will permit the President to get a game plan in being. He does not have to issue an edict tomorrow, but we will give him authority to begin preparations.

Mr. MAGNUSON. Mr. President, I do not think any President should be put into the insurance business. I think the Senator is going at it in an improper way. I do not share the pessimism of the Senator from Missouri about no-fault. No-fault is an idea whose time has come, and it is going to be here before we finish this Congress.

Mr. EAGLETON. That might be a year from now.

Mr. MAGNUSON. All right, but we are going at it in the regular way.

Mr. EAGLETON. For that calendar year, the automobile insurance companies of this country will be collecting a windfall bonanza.

Mr. MAGNUSON. If you relate it to the energy crisis, then you may have a point.

Mr. EAGLETON. That is the whole thrust of the amendment.

Mr. MAGNUSON. But for the permanent business of setting rates in the insurance field, I do not think the States would allow that, No. 1, and I do not believe any executive——

Mr. EAGLETON. The amendment refers to the energy crisis, to eliminate windfall profits during these times.

Mr. MAGNUSON. The Senator has no time limitation on it. When does the energy crisis end?

Mr. EAGLETON. The basic time limitation on the bill to which I am trying to attach the amendment is 2 years; is that correct?

Mr. MAGNUSON. On daylight saving.

Mr. EAGLETON. That is the bill to which we are offering it.

Mr. MAGNUSON. But it does not say 2 years here.

Mr. EAGLETON. Well, the energy crisis, I daresay, will not be resolved in 2 years.

Mr. MAGNUSON. But there ought to be some time limitation. We might be better off to have Federal liability insurance, and set up a whole new agency and let them sell it.

Mr. EAGLETON. I think, as a practical matter, the time limitation itself might well be the enactment of the no-fault bill, whenever or if ever that comes about.

Mr. MAGNUSON. There is not in this amendment any time limitation at all.

Mr. EAGLETON. Would the Senator feel better with the words "begin preparations to issue"?

Mr. MAGNUSON. I do not think the amendment belongs on this bill.

Mr. EAGLETON. I might point out to the Senator from Washington that his FCC amendment did not technically belong on this bill, either.

Mr. MAGNUSON. Oh, yes, it did. That dealt with the impact of daylight saving time on radio station operations.

Mr. EAGLETON. The amendment dealt with modification of FCC regulations.

Mr. MAGNUSON. That was the only way you could handle it.

Mr. EAGLETON. And the insurance companies work on actuarial statistics and actuarial risks.

Mr. MAGNUSON. Well, it depends on who is the actuary.

Mr. EAGLETON. Mr. President, I ask unanimous consent to amend my amendment, on line 1 of the operative language thereof, by inserting, after the word "directed" the words "to begin preparations," so that the amendment would read "directed to begin preparations to issue."

The PRESIDING OFFICER. The Senator has a right to modify his amendment, and it is so modified.

Will the Senator send his modification to the desk?

Mr. EAGLETON. I send my modification to the desk, modified to include the words "to begin preparation."

Mr. EAGLETON'S amendment, as modified, is as follows:

At the end of bill, insert the following:

That the President is authorized and directed to begin preparations to issue such orders and regulations as may be necessary to reduce or stabilize insurance premiums for personal injury, property damage, and medical expense coverage in the automobile insurance industry in order to prevent or eliminate windfall profits by persons engaged in the business of issuing such insurance as a result of reduced casualty rates experienced by such persons attributable to Federal, State, or local official action pursuant to this Act, to section 203(a)(3) of the Economic Stabilization Act of 1970 or under any other provision of Federal, State, or local law authorizing the rationing, allocation, or conservation of petroleum products.

SEC. 2. Nothing in this Act shall be construed to authorize the President to prescribe an insurance rate or formula in any State which is in excess of that rate or formula prescribed under applicable State law.

Mr. EAGLETON. Mr. President, I am prepared to yield back the remainder of my time. Because I think this matter is of some significance, I am going to ask for the yeas and nays.

Mr. President, I ask for the yeas and nays.

Mr. MAGNUSON. Wait a minute, I have not yielded back my time.

Mr. EAGLETON. No, I said I was asking for the yeas and nays.

The yeas and nays were not ordered.

Mr. MAGNUSON. I suggested to the Senator he could amend the amendment to have a new title, and take out the word "directed". He did not seem to want to do that.

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

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

Mr. EAGLETON. Mr. President, I ask for the yeas and nays on the pending amendment.

The yeas and nays were ordered.

Mr. EAGLETON. Mr. President, I am prepared to yield back the remainder of my time on the amendment.

Mr. MAGNUSON. Mr. President, I want to ask the Senator from Missouri again what he considers would be the

duration of his amendment, so we will have a legislative record on it.

Mr. EAGLETON. The duration of this amendment, Mr. President, would be geared to the duration of the Economic Stabilization Act. If that act were extended, this authority would likewise be extended.

Mr. MAGNUSON. Then, as of now, it would go until April 30?

Mr. EAGLETON. If the Economic Stabilization Act is not renewed and thus expires on April 30, so would this authority.

Mr. MAGNUSON. And if the Economic Stabilization Act was extended for a year or 2 years——

Mr. EAGLETON. This would automatically be extended.

Mr. MAGNUSON. This would go along with it?

Mr. EAGLETON. Yes, sir, the Senator is correct.

Mr. MAGNUSON. Mr. President, I do not think we need a rollcall. With the modification, as far as I am concerned, we can accept it and take it to conference.

Mr. EAGLETON. The yeas and nays on a rollcall vote have been ordered, so I would prefer to go ahead with the rollcall vote.

Mr. MAGNUSON. Oh, well now——

Mr. EAGLETON. I would—sorry.

The PRESIDING OFFICER (Mr. BURDICK). Do Senators yield back their time?

Mr. EAGLETON. A rollcall has been ordered. I am prepared to yield back my time, and so do, Mr. President.

The PRESIDING OFFICER. Does the Senator from Washington yield back his time?

The Chair repeats, does the Senator from Washington yield back his time?

Mr. PASTORE. Mr. President. I should like to ask a question. What is this amendment all about?

Mr. MAGNUSON. This amendment—let the Senator from Missouri—well, I will explain it to the Senator. This is an amendment that says the President shall roll back insurance rates if the gasoline rationing and the energy crisis reduces accidents, and that the President shall develop regulations that shall go into effect in the event the insurance companies do not voluntarily reduce premiums as the reductions in auto accidents occur. This is the same thing as "no-fault" in a sense. The Senator modified his amendment. He first said that the President is authorized and directed to issue such orders, and he has taken that out and now it says, "shall make preparations"—is that correct?

Mr. EAGLETON. The Senator is correct. The President is directed to make preparations to issue—to begin preparations.

Mr. MAGNUSON. To begin preparations to roll back insurance premiums because we will drive less and maybe we will have fewer automobile accidents. That is what it means, but I have suggested that it is not appropriate because we have a Federal "no-fault" insurance bill pending which does the same thing.

Mr. PASTORE. Will the manager of the bill admit that it would have his support in the conference which would do a lot more good than a rollcall vote?

I would not want to see the manager of the bill weaken his position on the bill on such a noble amendment. I am sure the Senator from Missouri would reconsider, and leave his confidence in the hands of the distinguished manager of the bill. I would rather repose it there than repose it in the White House, to be truthful about it.

Mr. EAGLETON. In answer to the Senator from Rhode Island, this is not meant as any disrespect to the Senator from Washington. This is a matter of some considerable significance. The Senator from Washington says the premium rates are $18 billion a year. The National Safety Council estimates that accidents can be cut 20 to 25 percent. Such a cut would reduce premiums by $3.6 billion. Therefore, I think this is a matter on which the Senate should express itself in a rollcall. This will not hamper the Senator from Washington——

Mr. PASTORE. But we will have the RECORD to show by a voice vote that it was unanimous and we will indicate that, but we leave the judgment up to the acumen of the distinguished manager of the bill.

Mr. EAGLETON. We could have had our rollcall vote in all the time it has taken for this colloquy on the question of a rollcall.

Mr. PASTORE. Oh, no. That really takes a long time.

Mr. EAGLETON. Mr. President, I ask unanimous consent that this be a 10-minute rollcall vote.

Mr. PASTORE. Mr. President, I have no objection.

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

Does the Senator from Washington yield back his time?

Mr. MAGNUSON. Yes, Mr. President, I yield back my time. I think I understand the amendment. I am compelled to vote no. The Senator from Missouri is, I think, putting us in a position, those who have worked so long and so hard on this matter, which is not quite fair, in my opinion. Until we can get at auto insurance properly, I am compelled to vote no. After years and years of work—long before the Senator from Missouri was even around here, I have been working for insurance reform and we are getting it accomplished despite the energy crisis.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Missouri (Mr. EAGLETON).

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Colorado (Mr. HASKELL), the Senator from Iowa (Mr. HUGHES), the Senator from Hawaii (Mr. INOUYE), the Senator from Wyoming (Mr. MCGEE), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Mississippi (Mr. STENNIS), the Senator from Georgia (Mr. TALMADGE), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. MCGOVERN) and the Senator from Rhode Island (Mr. PELL) are absent on official business.

I also announce that the Senator from Missouri (Mr. SYMINGTON) is absent because of illness.

Mr. HUGH SCOTT. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Michigan (Mr. GRIFFIN), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

The Senator from Arizona (Mr. GOLDWATER) is absent by leave of the Senate on official business.

The Senator from Nebraska (Mr. CURTIS) is absent by leave of the Senate.

The Senator from Oregon (Mr. PACKWOOD) is absent on official business.

Also, the Senators from Maryland (Mr. BEALL and Mr. MATHIAS) and the Senator from Utah (Mr. BENNETT) are necessarily absent.

If present and voting, the Senator from Illinois (Mr. PERCY) would vote "nay."

The result was announced—yeas 15, nays 64, as follows:

[No. 554 Leg.]

YEAS—15

Abourezk	Cranston	Kennedy
Brooke	Eagleton	Mansfield
Byrd, Robert C.	Hart	Mondale
Case	Hathaway	Muskie
Clark	Huddleston	Schweiker

NAYS—64

Aiken	Ervin	Nelson
Allen	Fannin	Nunn
Bartlett	Fong	Pastore
Bayh	Gravel	Pearson
Bellmon	Gurney	Proxmire
Bentsen	Hansen	Randolph
Bible	Hartke	Ribicoff
Biden	Hatfield	Roth
Brock	Helms	Saxbe
Buckley	Hollings	Scott, Hugh
Burdick	Hruska	Scott, William L.
Byrd, Harry F., Jr.	Humphrey	Sparkman
Cannon	Jackson	Stafford
Chiles	Javits	Stevens
Church	Johnston	Stevenson
Cook	Long	Taft
Cotton	Magnuson	Thurmond
Dole	McClellan	Tower
Domenici	McClure	Tunney
Dominick	Metcalf	Weicker
Eastland	Montoya	Young
	Moss	

NOT VOTING—21

Baker	Haskell	Packwood
Beall	Hughes	Pell
Bennett	Inouye	Percy
Curtis	Mathias	Stennis
Fulbright	McGee	Symington
Goldwater	McGovern	Talmadge
Griffin	McIntyre	Williams

So Mr. EAGLETON'S amendment was rejected.

AMENDMENT NO. 754

Mr. BAYH. Mr. President, I call up my amendment No. 479.

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.). The amendment will be stated.

Mr. ROBERT C. BYRD. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will not proceed until the Senate comes to order.

The Chair inquires of the Senator from Indiana whether he means amendment No. 754?

Mr. BAYH. I am sure that is what the Senator from Indiana meant. I appreciate the Presiding Officer correcting me.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. BAYH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . Notwithstanding any other provision of law, the head of any department, agency, or instrumentality of the Federal Government is directed to negotiate and seek in good faith to enter into an agreement with any contractor of that department, agency, or instrumentality for the purpose of modifying the provisions of any contract between the department, agency, or instrumentality and such contractor if the head of that department, agency, or instrumentality determines that—

(1) the contractor's ability to perform the contract in a timely manner during a period of nationwide energy emergency is materially impaired by a shortage of petroleum, petroleum products, or other energy-producing material beyond the control of such contractor; and

(2) a modification of such contract is not inconsistent with the national interest.

The PRESIDING OFFICER. The Senate will delay until the Senate comes to order. The Senate is wasting a lot of time.

Mr. BAYH. Mr. President, the hour is late. I have discussed this amendment with the distinguished Senator from Washington as well as the distinguished Senator from New Hampshire, and I understand that they are in concurrence with it. Instead of getting involved in a long-winded explanation, let me just read the amendment.

Mr. MAGNUSON. Mr. President, I have discussed this amendment not only with the Senator from Indiana but also with my counterpart on the Republican side, and I am willing to take it to conference.

The PRESIDING OFFICER. The Senator from Virginia asks that the amendment be read.

The assistant legislative clerk read as follows:

At the appropriate place, insert the following:

SEC. . Notwithstanding any other provision of law, the head of any department, agency, or instrumentality of the Federal Government is directed to negotiate and seek in good faith to enter into an agreement with any contractor of that department, agency, or instrumentality for the purpose of modifying the provisions of any contract between that department, agency, or instrumentality and such contractor if the head of that department, agency or instrumentality determines that—

(1) the contractor's ability to perform the contract in a timely manner during a period of nationwide energy emergency is materially impaired by a shortage of petroleum. Petroleum products, or other energy-producing material beyond the control of such contractor; and

(2) a modification of such contract is not inconsistent with the national interest.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Indiana.

The amendment was agreed to.

Mr. COOK. Mr. President, I send to the desk an amendment on behalf of myself, Senators FONG, HUDDLESTON, and STEVENSON.

Mr. PASTORE. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will not proceed until the Senate comes to order. The Senate has wasted at least 10 to 15 minutes tonight by refusing to be in order.

The amendment will be stated.

The assistant legislative clerk read as follows:

On page 5 between lines 14 and 15 insert the following:

However any state with parts thereof in more than one time zone, and any state that lies entirely within one time zone and is not contiguous to any other state, may by law exempt the entire area of the state lying within one time zone from the operation of this subsection.

Mr. COOK. Mr. President, it is my understanding that the language of this amendment is now acceptable. I might say it has been my effort all day long to try to get some language that would allow States to opt out of this program if they wished to do so, and particularly States that find themselves in the position of being divided by time zones. I refer to my State of Kentucky, and the States of Texas, North Dakota, South Dakota, Utah, Arizona, Michigan, Tennessee, Alaska, Hawaii, Indiana, and Florida.

I explained earlier that the unfortunate part about this so-called energy saving bill is that in States found on the western edges of the time zones increased rather than decreased amounts of energy will be consumed. Under the present language of the bill, if daylight saving time becomes year-round a State cannot opt between one time or the other. Without the language of my amendment in it, Louisville, Ky., which is my home between the 1st of January and the 10th of January will formally and legally have sunrise at 9 o'clock in the morning, and thereafter for the next 10 days we will be fortunate because it will be at 8:59.

That will raise havoc with our school systems. We cannot send our children to school later unless we are going to burn more energy because we will be putting those buses on the road when traffic is returning home and at which time it will take an hour to an hour and 15 minutes longer than usual, with traffic stopping while the buses let the children off at the bus stops.

This is an option that States can exercise. However, there is only one option within the confines of the bill; whether a State will opt out in order to take advantage of the time situation in the eastern or western part of the State.

I address my remarks on this energy saving daylight savings time bill today, specifically to the Senators of Texas, North Dakota, South Dakota, Utah, Arizona, Michigan, Tennessee, Alaska, and Hawaii because all or part of each of these States will be drastically affected by this bill.

The ostensible purpose of S. 2702 as written is to have the entire Nation share in the energy problem by adopting year-around daylight savings time, thereby saving electricity. However, this bill will not accomplish this aim as far as the aforementioned States are concerned. Although the bill is written with the intent of conserving energy—which may well be accomplished on the East Coast—my State and others with areas lying on the western fringes of time zones will actually use increased amounts of energy. Thus, Kentucky's schoolchildren and its farmers are placed in a situation which will result in the consumption of more energy rather than the conservation of this increasingly precious commodity. In effect, the very object of the bill is thwarted when it comes to a geographical situation like Kentucky. As Kentucky is located 700 miles west of the Atlantic seaboard, there is no sun at the earlier times which means increased use of energy in schools, farm buildings, homes, and factories.

I should also like to point out that darkness presents increased hazards for early morning drivers. As we all know, on a percentage basis dawn and dusk periods produce the highest automobile accident rates. Now with this time imposition the driver is confronted with added hazards of increased early morning ice, sleet, fog, and snow during the winter months. As I said in the recent hearings on this bill, I would not want the situation as it exists today to somehow stampede us into a permanency that we really might well regret some day.

Unfortunately, we seem to look at things relative to New York and relative to Los Angeles and relative to the major metropolitan areas where most of us come from. I do not think that we fully realize the significance of school buses picking up children at 6:15 in the morning when the Sun really does not come up until after 7 o'clock; or of a farmer going out to milk cows an hour earlier to meet the urban markets.

I think we should all share in a crisis when it does occur, but I do not think we should utilize that crisis to accomplish something that we know many people in the United States are violently opposed to and which has a direct effect on their operations in the economic system, their ability to produce, and their ability to meet urban market demands and schedules. Many people in the United States who live on the western fringe of a time zone dread, fear, and resent such controls as this bill in its present form seeks to impose.

What we need is a reorientation of time zones and/or the right to an exemption due to a particular geographical location. And, therefore, in order to properly accomplish these aims we need to reestablish the State options as originally contained in Chairman MAGNUSON's bill.

Therefore, I offer the amendment which allows for State option thereby allowing those States which would, in effect, be using increased energy under the bill in its present form to opt out.

Mr. PASTORE. Mr. President, this matter came up before the committee and the Senator from Kentucky was

very persuasive. His State has a very special problem which needs particular attention. This is a fine amendment and there should be no doubt about its acceptance. I hope the Senate agrees to the amendment.

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

Mr. COOK. I yield.

Mr. COTTON. Mr. President, I would like to say that for many months—in fact for the last few years—the Senator from Kentucky has been most faithful to the interests of his people. He has worked long and hard to rectify a situation which clearly works a hardship on at least a part of the State of Kentucky and perhaps the entire State. The Senator has left no stone unturned. As a member of the Committee on Commerce, I can testify to the fact that his people have every reason to be grateful to him for his faithfulness and persistence in this matter. He is now showing a very fine spirit in presenting an amendment to take care of the situation.

I congratulate the Senator from Kentucky (Mr. COOK) on the constructive work he has done on this matter and the way he has persisted in the cause of his people. I hope the Senate accepts the amendment. We will not just take it to conference but will do all to see that the amendment is adopted in conference.

Mr. MAGNUSON. Mr. President, the Senator from New Hampshire has stated the situation very well. I suggest that we are very grateful to the Senator from Kentucky for helping all of us work out a serious problem. I am sure the Senator from New Hampshire will agree that when we get to conference we will do our best to retain the amendment.

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

Mr. COOK. I yield.

Mr. STEVENS. Mr. President, the modification of the amendment states that any State "may by law exempt the entire area of the State lying within one time zone from the operation of this subsection."

There is no attempt to exempt more than one time zone, is there?

Mr. COOK. No. The language deals with States not contiguous to any other State and it is stated specifically for the States of Alaska and Hawaii, so that the situation there can be resolved and handled the way they wish to do it. Basically those are the only two States within the framework of this language that can opt for standard time if they wish to do so, because they are not contiguous to another State.

Mr. STEVENS. But the implication is we can only exempt one time zone.

Mr. COOK. If there is more than one time zone in the Senator's State, he may exempt all those time zones.

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

Mr. COOK. I yield.

Mr. FONG. I would like to ask a question. This bill will go into effect as soon as we pass it. What happens between now and the time the legislature goes into session.

Mr. COOK. When does the Senator's State legislature go into session?

Mr. FONG. Around the latter part of January. Could we have language here that would take care of that situation?

Mr. COOK. In the language that follows this sentence, the Governor of the Senator's State, and the Senator as a Member of the Senate, and the State delegation could petition the President pursuant to the language we have in the bill saying you have assurance from your Governor or you have assurance from your legislature that they will take action, and the President has authority to exempt you prior to this act taking effect.

Mr. FONG. With that explanation I am satisfied.

I rise in support of Senator COOK's amendment.

My State of Hawaii during World War II, under martial law, had almost 4 years of daylight saving time by order of the military governor from February 9, 1942, to September 30, 1945.

May 19, 1947, Hawaii modified its standard time and accepted a permanent one-half hour of daylight saving time. This placed Hawaiian clocks permanently 30 minutes ahead of the Sun. And, it permanently established a 2-hour differential between Hawaiian standard time and Pacific standard time during the winter and a 3-hour differential during the summer when daylight saving time is in effect on the Pacific coast. This time schedule has been in effect ever since.

This schedule through the years has proven ideal for maximum use of daylight hours, for maximum energy conservation, for public safety, and for mainland-Hawaii time-zone travel convenience.

In addition, Hawaii's cultural patterns include early rising for nearly all segments of island society. Except for our tourists who enjoy the pleasures of Waikiki, our agricultural workers are up before dawn, our State government offices begin work at 7:45 a.m.; shipyard workers start between 6:30 and 7 a.m. We are a people who are truly "early to rise and early to bed."

We already have a 30-minute de facto daylight saving time. To impose an additional hour of daylight saving would not conserve major energy resources in Hawaii but merely transfer energy use from night to morning hours.

In the interest of efficiency, rather than go through the process of a proclamation of the Governor and then a Presidential grant of an exception, I believe extending to the winter—October to April—period the same system of State action to obtain an exemption as we now have available for the summer—April to October—period would be more preferable. However, with the explanation of the senior Senator from Kentucky, for the first period, as a matter of expediency, it may be necessary for us to resort to a Presidential exemption pending Hawaii's Legislature convening in January 1974, and enacting the necessary legislation to exempt Hawaii from daylight saving time.

SEVERAL SENATORS. Vote! Vote!

The PRESIDING OFFICER. The Senate will be in order. The Senator from Kentucky has the floor.

Mr. COOK. Mr. President, I ask unanimous consent to have printed in the RECORD an editorial from the Courier-Journal, Louisville, Ky.

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

A SIMPLE WAY TO BEAT FAST TIME

Year-round daylight saving time now appears to be inevitable. A bill forcing the nation to set clocks ahead one hour has passed the House, and the Senate is expected to act on a companion bill today. President Nixon's signature is assured, and the clocks could be set forward an hour before Christmas.

The valid complaints—made by Kentucky's Senator Marlow Cook and others—that people living at the western fringes of the eastern time zone will suffer unduly from the extra hour of darkness in the morning have been brushed aside in favor of the advantage to the whole nation of an estimated one per cent saving in energy and the psychological effect that this "crisis legislation" could have. All that Kentuckians can hope for now is some local mitigation of the worst aspects of "fast time."

THE DARKNESS SCHOLARS

The problem that appears to be most acute concerns children walking to school or waiting at bus-stops in deep darkness. It's one that we face every fall, as the summer daylight saving time extends into late October; in December and January the situation is bound to be even worse. As schools which have been on double sessions know, children can get to and from school in darkness safely, even though it may not be very desirable, especially for the younger ones. But if there is a way to avoid such hazards, most parents and school administrators would prefer it.

One possible escape route might be found in the federal legislation. The House bill would permit states divided by a time zone boundry, such as Kentucky and Indiana, to exempt the most eastern of the two zones from fast time, so that both parts of the state would then be on the same time schedule. The only exemption provision that the Senate bill contained when it came out of committee was for a governor to petition the President to exempt his state because of undue hardship. Either way, it could take time for the exemption to take effect; to benefit from the House loophole, Kentucky would have to wait for the General Assembly to meet in January. And putting the eastern half of Kentucky out of step with the eastern time zone would undoubtedly cause complications in many business and commercial schedules.

A more flexible approach would be to change school operating hours. Nothing in the state Constitution requires schools to be open only between the hours of 8 a.m. and 3 p.m. Bell County, where many children have long walks down mountain hollows just to get to the school buses, switched to a 9 a.m. to 4 p.m. schedule for the last few weeks of this year's daylight saving time. Some complaints were heard, especially from those who dropped off children or school-teacher spouses at school while enroute to work. But the problems were minor and the experience was generally favorable.

Such a solution might not necessarily work everywhere. In the Louisville school district, for example, where public transport takes the place of school buses and where more dislocations of working parents' arrangements would be likely, later hours might not be feasible. But the flexibility of this solution—leaving it to individual school boards to make their own decisions for their own districts—has much to recommend it. In each district, too, the length of time that the changed hours remain in effect could be varied according to local needs.

It still has to be proved that daylight saving time is going to ease our energy problems significantly. But the only way to find out is to try it. There's no reason, however, why Kentuckians should have to put up with all the disadvantages such a changeover would bring, particularly when the remedies are as simple as starting school an hour later.

Mr. COOK. Mr. President, this is not the language I would have liked and the Senator from Washington knows it. The Senator from Washington started on the basis that really and truly the State should have the option to decide if it wanted to opt or not. This Senator has come to the realization that every State has to make a sacrifice if under this bill it is proven this will save energy. Therefore, the best I could hope for was a method by which the section of my State which is in the eastern time zone could opt out if its legislature desires to join the western part so they could all be in the same time zone and we could seek to be under standard time, and the eastern section would be under standard time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kentucky.

The amendment was agreed to.

Mr. MAGNUSON. Mr. President, I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

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

The PRESIDING OFFICER. The Senate will be in order.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that H.R. 11324, a bill similar to the pending measure, be laid before the Senate and that the Senate proceed to its consideration.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Washington? The Chair hears none, and it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 11324) to provide for daylight saving time on a year-round basis for a two-year trial period, and to require the Federal Communications Commission to permit certain daytime broadcast stations to operate before local sunrise.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the bill, H.R. 11324.

Mr. MAGNUSON. Mr. President, I move to strike out all after the enacting clause of the bill, H.R. 11324, and insert in lieu thereof the language of S. 2702 as amended.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Washington.

The motion was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

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

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

Mr. MAGNUSON. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Shall the bill pass? The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CHILES (when his name was called). On this vote I have a pair with the distinguished Senator from Georgia (Mr. TALMADGE). If he were present and voting, he would vote "nay." If I were permitted to vote, I would vote "yea." I therefore withhold my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Colorado (Mr. HASKELL), the Senator from Iowa (Mr. HUGHES), the Senator from Hawaii (Mr. INOUYE), the Senator from Wyoming (Mr. MCGEE), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Mississippi (Mr. STENNIS), the Senator from Georgia (Mr. TALMADGE), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. MCGOVERN) and the Senator from Rhode Island (Mr. PELL) are absent on official business.

I also announce that the Senator from Missouri (Mr. SYMINGTON) is absent because of illness.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from New Hampshire (Mr. MCINTYRE) would each vote "yea."

Mr. HUGH SCOTT. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Michigan (Mr. GRIFFIN), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

The Senator from Arizona (Mr. GOLDWATER) is absent by leave of the Senate on official business.

The Senator from Nebraska (Mr. CURTIS) is absent by leave of the Senate.

The Senator from Oregon (Mr. PACKWOOD) is absent on official business.

Also, the Senators from Maryland (Mr. BEALL and Mr. MATHIAS) and the Senator from Utah (Mr. BENNETT) are necessarily absent.

If present and voting the Senator from Maryland (Mr. BEALL) and the Senator from Illinois (Mr. PERCY) would each vote "yea."

The result was announced—yeas 68, nays 10, as follows:

[No. 555 Leg.]

YEAS—68

Abourezk	Burdick	Dominick
Aiken	Byrd, Harry F., Jr.	Eagleton
Bartlett	Cannon	Eastland
Bayh	Case	Ervin
Bellmon	Church	Fannin
Bentsen	Clark	Fong
Bible	Cook	Gravel
Biden	Cotton	Gurney
Brock	Cranston	Hansen
Brooke	Domenici	Hart
Buckley		Hartke
Hatfield	Mondale	Scott, William L.
Hathaway	Montoya	Sparkman
Hollings	Moss	Stafford
Hruska	Muskie	Stevens
Humphrey	Nelson	Stevenson
Jackson	Pastore	Thurmond
Javits	Pearson	Tower
Johnston	Proxmire	Tunney
Kennedy	Randolph	Weicker
Long	Ribicoff	Young
Magnuson	Roth	
McClellan	Schweiker	
Metcalf	Scott, Hugh	

NAYS—10

Allen	Huddleston	Saxbe
Byrd, Robert C.	Mansfield	Taft
Dole	McClure	
Helms	Nunn	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Chiles, for

NOT VOTING—21

Baker	Haskell	Packwood
Beall	Hughes	Pell
Bennett	Inouye	Percy
Curtis	Mathias	Stennis
Fulbright	McGee	Symington
Goldwater	McGovern	Talmadge
Griffin	McIntyre	Williams

So the bill (H.R. 11324) was passed.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the bill, H.R. 11324, be printed in the RECORD as passed.

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.). Without objection, it is so ordered.

The bill H.R. 11324 as passed is as follows:

H.R. 11324

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 "Emergency Daylight Saving Time Energy Conversation Act of 1973".

SEC. 2. The Congress hereby finds and declares—

(a) that the United States faces severe energy shortages, especially in the winter of 1973–1974 and in the next several winters thereafter;

(b) that various studies of governmental and nongovernmental agencies indicate that year-round daylight saving time would produce an energy saving in electrical power consumption;

(c) that daylight saving time may yield energy savings in other areas besides electrical power consumption;

(d) that year-round daylight saving time could serve as an incentive for further energy conservation by individuals, companies, and the various governmental entities at all levels of government, and that such energy conservation efforts could lead to greatly expanded energy savings and help meet the projected energy shortages, and that such energy conservation efforts could include but not be limited to such actions as:

(1) lowering office, home, and store thermostats several degrees;

(2) limiting unnecessary automobile travel and holding down the speed of necessary automobile travel;

(3) using energy efficient automobiles;

(4) using public transportation whenever possible;

(5) turning off office air-conditioners and heating plants an hour earlier in the afternoon; and

(6) limiting unnecessary use of electric lights;

(e) that the use of year-round daylight saving time could have other beneficial effects on the public interest, including the reduction of crime, improved traffic safety, more daylight outdoor playtime for the children and youth of our Nation, greater utilization of parks and recreation areas, expanded economic opportunity through extension of day-

light hours to peak shopping hours and through extension of domestic office hours to periods of greater overlap with the European Economic Community; and

(f) that the emergency nature of an energy shortage in the winters of 1973–1974 and 1974–1975 require the temporary enactment of daylight saving time for the winter months.

SEC. 3. Section 3 of the Uniform Time Act of 1966 (15 U.S.C. 260a) is amended by—

(a) amending subsection (a) thereof by striking out all after the semicolon and inserting the following in place thereof: "however,

"(1) any State that lies entirely within one time zone may by law,

"(A) exempt itself from the provisions of this subsection providing for the advancement of time, but only if that law provides that the entire State (including all political subdivisions thereof) shall observe the standard time otherwise applicable during that period, or

"(B) provide that the standard time observed during the entire year shall be the standard time of such zone for the purposes of the Act of March 19, 1918, as amended, advanced by one hour, but only if that law provides that the entire State (including all political subdivisions thereof) shall observe such standard time advanced by one hour; and

"(2) any State with parts thereof in more than one time zone may by law,

"(A) exempt either the entire State as provided in (1)(A), or may exempt the entire area of the State lying within any time zone, or

"(B) provide that the standard time observed during the entire year within the entire State shall be advanced by one hour as provided in (1)(B), or provide that the standard time observed for the entire year within the entire area of the State lying within any time zone shall be advanced by one hour."

(b) redesignating subsections "(b)" and "(c)" thereof as subsections "(c)" and "(d)" thereof respectively; and

(c) inserting a new subsection (b) as follows:

"(b) During the period which commences at 2 o'clock antemeridian on the fourth Sunday after the date of enactment of this subsection and which ends at 2 o'clock antemeridian on the last Sunday of April 1974, and during the period which commences at 2 o'clock antemeridian on the last Sunday of October 1974 and which ends at 2 o'clock antemeridian on the last Sunday of April 1975, the standard time of each zone established by the Act of March 19, 1918, as amended (15 U.S.C. 261–265), shall be advanced by one hour. Such time, as so advanced, shall be the standard time of such zone during each such period for the purposes of the Act of March 19, 1918, as amended (15 U.S.C. 261–265). The provisions of clauses (1) and (2) of subsection (a) of this section shall not apply to this subsection.

However any State with parts thereof in more than one time zone, and any State that lies entirely within one time zone and is not contiguous to any other State, may by law exempt the entire area of the State lying within one time zone from the operation of this subsection. Notwithstanding any other provision of law, if a State, by proclamation of its Governor, makes a finding prior to the commencement of a period of advanced time under this subsection that an exemption from the operation of this subsection or a realinement of time zone limits is necessary to avoid undue hardship or to conserve fuel in such State or part thereof, the President may grant an exemption or realinement to such State."

SEC. 4. The Secretary of Interior shall (1) make an investigation and study for the purpose of determining the amount of energy in its various forms which is conserved as a result of the extension of daylight saving time pursuant to this Act, and (2) in coordination with the Secretary of Transportation, review the appropriateness of the limits of each standard time zone, and (3) report the results of such investigation and study, together with his recommendations and those of the Secretary of Transportation, with regard to the present limits of time zones, to the President and the Congress not later than June 30, 1975.

SEC. 5. Notwithstanding any other provision of law, the President of the United States, his delegate, or any other department, agency, or instrumentality of the United States, shall take no action, involving the carrying out of any emergency energy rationing or conservation program, involving the allocation of refined petroleum products among users, or involving restrictions on amounts thereof which may be sold to users, which would result in unreasonable discriminations among such users or classes of users, or in an unreasonable classification of such users: *Provided, however,* That this section shall not apply to actions taken under the authority of the Defense Production Act of 1950 as amended.

SEC. 6. Notwithstanding any other provision of law, the head of any department, agency, or instrumentality of the Federal Government is directed to negotiate and seek in good faith to enter into an agreement with any contractor of that department, agency, or instrumentality for the purpose of modifying the provisions of any contract between that department, agency, or instrumentality and such contractor if the head of that department, agency, or instrumentality determines that—

(1) the contractor's ability to perform the contract in a timely manner during a period of nationwide energy emergency is materially impaired by a shortage of petroleum, petroleum products, or other energy-producing material beyond the control of such contractor; and

(2) a modification of such contract is not inconsistent with the national interest.

SEC. 7. The Secretary of Interior, in coordination with the Secretary of Transportation shall investigate the effect of this Act upon traffic safety, including the safety of children traveling to and from school and shall investigate the effect on the hour for opening of schools and shall make an interim report, such report to include the estimated savings of energy and the total effect of this Act, to the President and Congress not later than June 30, 1974.

SEC. 8. Notwithstanding any other law or any regulation issued under any such law, the Federal Communication Commission shall, consistent with any existing treaty or other agreement, make such adjustment by general rules, or by interim action pending such general rules, with respect to hours of operation of daytime standard amplitude modulation broadcast stations, as may be consistent with the public interest, including the public's interest in receiving interference-free service. Such general rules, or interim action, may include variances with respect to operating power and other technical operating characteristics. Subsequent to the adoption of such general rules, they may be varied with respect to particular stations and areas because of the exigencies in each case.

Mr. MANSFIELD. 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 motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the secretary of the Senate be authorized to make technical and clerical corrections on the enrollment of H.R. 11324.

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

Mr. ROBERT C. BYRD. I ask unanimous consent that Calendar Order No. 479, S. 2702, be indefinitely postponed.

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

Mr. MAGNUSON. Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. PASTORE, Mr. MAGNUSON, Mr. STEVENSON, Mr. COTTON, and Mr. STEVENS conferees on the part of the Senate.

ORDER FOR TIME LIMITATION ON DEBATE ON FOREIGN AID CONFERENCE REPORT, S. 1443

Mr. ROBERT C. BYRD. Mr. President, the following unanimous-consent agreement has been cleared with the distinguished manager of the conference report on foreign aid and with the distinguished ranking minority member of the committee, the Senator from Vermont (Mr. AIKEN), and with the leadership on the other side of the aisle. I am authorized by the distinguished majority leader to make the request.

Ordered, That, during the consideration of the conference report on S. 1443, the foreign aid bill, debate thereon be limited to 2 hours, to be equally divided and controlled by the distinguished manager of the conference report, the Senator from Minnesota (Mr. HUMPHREY), and the distinguished Senator from Vermont (Mr. AIKEN).

Ordered further, That, debate on any motions or appeals relating to the conference report be limited to 20 minutes, to be equally divided and controlled by the manager of the conference report and the mover thereof.

Ordered further, That, should the conference report be defeated, debate on any request for a new conference and the appointment of conferees shall be limited to 1 hour, to be equally divided and controlled by the manager of the conference report and the Senator from Vermont, and should any motion be made to instruct the conferees before the conferees are named, any debate on any such motion shall be limited to one-half hour, to be equally divided and controlled by the mover of such and the manager of the conference report, and debate on any amendments to any such instructions shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the conference report. In all cases, when the manager of the conference report is in favor of a motion or appeal or amendment, the time in opposition shall be under the control of the minority leader or his designee.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

ORDER FOR ADJOURNMENT TO 11 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 11 a.m. tomorrow.

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

ORDER FOR RECOGNITION OF SENATORS GRIFFIN AND MANSFIELD, FOR TRANSACTION OF ROUTINE MORNING BUSINESS, AND FOR CONSIDERATION OF CONFERENCE REPORT ON FOREIGN AID AUTHORIZATION ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders or their designees have been recognized under the standing order, the distinguished minority whip, the Senator from Michigan (Mr. GRIFFIN), be recognized for not to exceed 15 minutes, that he be followed by the distinguished majority leader, the Senator from Montana (Mr. MANSFIELD), for not to exceed 15 minutes; after which there be a period for the transaction of routine morning business for not to exceed 15 minutes, with statements made therein limited to 3 minutes; at the conclusion of which the Senate proceed to the consideration of the conference report on the foreign aid bill.

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

NATIONAL ENERGY RESEARCH AND DEVELOPMENT ACT OF 1973

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at this time the Senate proceed to the consideration of S. 1283, with the understanding that there be no action on this bill tonight.

The PRESIDING OFFICER. The clerk will report the bill by title.

The second assistant legislative clerk read as follows:

Calendar No. 567 (S. 1283), a bill to establish a national program for research, development, and demonstration in fuels and energy and for the coordination and financial supplementation of Federal energy research and development; to establish development corporations to demonstrate technologies for shale oil development, coal gasification development, advanced power cycle development, geothermal steam development, and coal liquefaction development; to authorize and direct the Secretary of the Interior to make mineral resources of the public lands available for said development corporations, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

The Senate proceeded to consider the bill, which had been reported from the Committee on Interior and Insular Affairs with an amendment to strike out all after the enacting clause and insert:

That this Act may be cited as the "National Energy Research and Development Policy Act of 1973".

TITLE I—COORDINATION AND AUGMENTATION OF FEDERAL SUPPORT FOR RESEARCH AND DEVELOPMENT OF FUELS AND ENERGY

STATEMENT OF FINDINGS

SEC. 101. The Congress hereby finds that—

(a) The United States is currently suffering a critical shortage of environmentally acceptable forms of energy.

(b) Compounding this energy shortage is our past and present failure to formulate a comprehensive and aggressive research and development strategy designed to make available to American consumers our large domestic energy reserves including fossil fuels, nuclear fuels, geothermal resources, solar energy, and other unconventional forms of energy. This failure is partially a result of economic factors which have inhibited the timely development of new energy technologies.

(c) The responsibilities of the Federal Government for conducting and assisting energy research, development, and demonstration projects are fragmented among many agencies and departments and have not been planned and managed in a rational and coordinated manner.

(d) Present inadequate organizational arrangements and levels of funding for energy research, development, and demonstration have limited the Nation's current and future options for dealing with domestic energy shortages.

(e) The urgency of the Nation's critical energy problems will require a commitment similar to those undertaken in the Manhattan and Apollo projects; it will require that the Nation undertake, at a minimum, a ten-year $20,000,000,000 research, development, and demonstration program.

STATEMENT OF POLICY

SEC. 102. The Congress declares as the purpose of this Act the development within ten years of the option and the capability for the United States to become energy self-sufficient through the use of domestic energy resources by socially and environmentally acceptable means. In the achievement of this national goal, it is hereby declared to be the policy of the Congress to establish and maintain a national program of basic and applied research and development in the discovery, production, transportation, distribution, and conversion of energy resources and fuels adequate to meet the following objectives—

(a) encourage the conservation of limited energy resources and maximize the efficient development, production, conversion, and use of nonrenewable and limited primary energy resources;

(b) insure adequate, reliable, economical, and environmentally acceptable energy supply systems necessary to support the goals and essential needs of modern society including the established social objectives of Federal, State, and local government;

(c) to foster the expeditious transfer of the results of research on new energy technologies into the commercial application by the private sector through Federal assistance and participation in the demonstration and improvement of energy technologies to determine the engineering and economic feasibility, including the societal, economic, and environmental costs and benefits of said energy technologies;

(d) to develop an aggressive research strategy and priorities for solutions to the short-term (to the early 1980's) energy supply system and associated environmental problems;

(e) to develop an aggressive Federal research strategy and priorities including the information base, to support the development of the widest possible range of energy supply system options for the utilization of domestic nonnuclear energy resources to satisfy middle-term (the early 1980's to 2000) and long-term (twenty-first century) United States energy needs consistent with environmental policies; and

(f) establish within the Federal Government a central responsibility and institutional capability for maintaining continuing assessment and overview of the energy research, development, and conservation activities of the Federal Government, private industry, and nonprofit organizations pending the reorganization of the Federal energy agencies and activities to attain and support the objectives of this Act and a national energy policy.

ENERGY RESEARCH MANAGEMENT PROJECT

SEC. 103. (a) There is hereby established an Energy Research Management Project (hereinafter referred to as the "Management Project") which shall be composed of—

(1) one Assistant Secretary of the Interior who shall be designated by the Secretary of the Interior;

(2) one Commissioner of the Atomic Energy Commission who shall be designated by the Chairman of the Commission;

(3) one Commissioner of the Federal Power Commission who shall be designated by the Chairman of the Commission;

(4) the Director of the National Science Foundation;

(5) one Assistant Administrator of the Environmental Protection Agency who shall be designated by the Administrator of the Agency;

(6) one Assistant Administrator of the National Aeronautics and Space Administration who shall be designated by the Administrator;

(7) the Director of the National Bureau of Standards; and

(8) such appropriate representatives of other executive agencies which the President finds have a significant and continuing role in energy research and development.

(b) The Management Project shall have a Chairman who shall also serve as the Staff Director. The Chairman shall be appointed by the President to serve at his pleasure, by and with the advice and consent of the Senate. During his term of service, the Chairman shall not hold any other position as an officer or employee of the United States, except as a retired officer or retired civilian employee of the United States.

DUTIES

SEC. 104. The Management Project shall—

(a) review the full range of Federal activities in and financial support for fuels and energy research and development, giving consideration to research and development being conducted by industry and other non-Federal entities, to determine the capability of ongoing research efforts to carry out the policies established by this Act and other relevant Federal policies, particularly the National Environmental Policy Act of 1969 (83 Stat. 852);

(b) formulate a comprehensive energy research and development strategy for the Federal Government which will expeditiously advance the policies established by this Act, and insure that full consideration and adequate support is given to:

(1) improving the efficiency, conservation, and environmental effects of the conventional sources of energy including discovery, production, conversion, transportation, use, and disposal of waste products;

(2) advancing energy research, development, and demonstration of unconventional energy sources and technologies including but not limited to—solar energy, geothermal energy, magnetohydrodynamics, fuel cells, low head hydroelectric power, use of agricultural products and wastes as energy sources, tidal power, ocean current and thermal gradient power, wind power, automated mining methods, in situ conversion of energy resources, cryogenic transmission of electric power, electrical energy shortage methods,

alternatives to internal combustion engines, solvent refined coal, utilization of waste products for fuels, direct conversion methods, utilization of hydrogen for fuel; and

(3) improving management techniques and the effectiveness of management of existing energy systems through quality control; application of systems analysis, communications, and computer techniques; and public information to improve the reliability and efficiency of energy supplies and encourage the conservation of energy resources.

(c) utilize the funds authorized by section 120(b) of this Act to advance the energy research and development strategies pursuant to this Act by—

(1) supplementing by fund transfers the on-going energy research and development programs of Federal agencies; and

(2) initiating and maintaining, by fund transfers, grants, or contracts, new energy research and development programs or activities utilizing the facilities, capabilities, expertise, and experience of Federal agencies, national laboratories, universities, nonprofit organizations, and industrial entities which are appropriate to each type of research and development.

(d) in the exercise of its duties and responsibilities under this Act, establish procedures for periodic consultation with representatives of science, industry, environmental organizations, and such other groups who have special expertise in the areas of energy research, development, and technology.

SEC. 105. The Chairman in consultation with the Management Project is authorized and directed to—

(a) identify opportunities to accelerate the commercial applications of new energy technologies by providing Federal assistance for or participation in pilot plants demonstrating technological advances and field demonstrations of new methods and procedures, and demonstrations of prototype commercial applications for the exploration, development, production, transportation, conversion, and utilization of energy resources; and

(b) conduct preliminary investigations and to explore potential cooperative agreements which may be entered into with non-Federal entities in order to develop recommendations for Federal participation or assistance in demonstrations of the technical feasibility and economic potential of energy technologies on a prototype or full-scale basis.

RESEARCH PRIORITIES

SEC. 106. Pursuant to the authority and directions of this Act, the Chairman shall transmit to the Congress—

(a) Within six months from the date of enactment of this Act, the Chairman's recommendations for an aggressive Federal research strategy and priorities designed to achieve solutions to immediate and short-term (to the early 1980's) energy supply system and associated environmental problems. Such recommendations shall include, but not be limited to, specific anticipated actions and proposals pursuant to sections 105 and 107 for the most effective approach, through Federal assistance—

(1) to accelerate the commercial demonstration of technologies for producing a low-sulfur fuel suitable for boiler use;

(2) to accelerate the commercial demonstration of technologies for producing substitutes for natural gas, including coal gasification: *Provided*, That the Chairman shall invite proposals from potential participants based upon Federal assistance and participation in the form of a joint Federal-industry corporation, and recommendations pursuant to this clause shall be accompanied by a report on the viability of using this form of Federal assistance or participation;

(3) to accelerate the commercial demonstration of technologies for producing syncrude and liquid petroleum products from coal: *Provided*, That the Chairman shall invite proposals from potential participants based upon Federal assistance and participation through guaranteed prices or purchase of the products, and recommendations pursuant to this clause shall be accompanied by a report on the viability of using this form of Federal assistance or participation;

(4) to accelerate the commercial demonstration of advanced power cycles for the generation of electricity from coal, including technologies which employ the production of low British thermal unit gas from coal;

(5) in accordance with the program authorized by title II of this Act, to accelerate the commercial demonstration of geothermal energy technologies;

(6) (A) to accelerate the commercial demonstration of the production of syncrude from oil shale, and (B) to assist the research and development of in situ methodologies for the production of syncrude from oil shale;

(7) to demonstrate new and improved methods for the extraction of petroleum resources, including secondary and tertiary recovery of crude oil;

(8) to demonstrate new and improved methods for the extraction of coal resources: *Provided*, That the Chairman shall invite proposals from potential participants in joint Government-industry operated mines for the purpose of demonstrating new and improved mining technologies and methods and of training the associated personnel;

(9) to demonstrate the economics and commercial viability of solar energy for residential and commercial energy supply applications;

(10) to accelerate the commercial demonstration of environmental control systems including particulate and sulfur oxides emission control systems, necessary for the timely implementation of air pollution standards and water pollution standards established pursuant to Federal or State law; and

(11) to demonstrate new and innovative energy conservation technologies.

(b) Within one year from the date of enactment of this Act, the Chairman's recommendations for an aggressive Federal research strategy and priorities designed to achieve solutions to middle-term (the early 1980's to 2000) energy supply system and associated environmental problems. Such recommendations shall include, but not be limited to, specific anticipated actions and proposals for the most effective approach—

(1) to improve the economics and cost-effectiveness of the technologies set forth in the research strategy recommended pursuant to subsection (a);

(2) to advance improvements in the methods and technologies for the transportation and storage of electric energy;

(3) to commercially demonstrate advanced power cycles for the generation of electricity which represent significant improvements in the efficiency of conversion of energy resources to electricity;

(4) to commercially demonstrate hot dry rock geothermal energy technologies;

(5) to commercially demonstrate advanced solar energy technologies;

(6) to determine the economics and commercial viability of the use of hydrogen as a primary energy source;

(7) to commercially demonstrate the use of fuel cells for central stations electric power generation; and

(8) to determine the economics and commercial viability for producing synthetic energy supplies from agricultural products and wastes.

(c) Within eighteen months from the date of enactment of this Act, the Chairman's recommendations for a Federal research strategy and priorities designed to achieve solutions to long-term (beyond 2000) energy supply systems and associated environmental problems. Such recommendations shall include, but not be limited to, specific anticipated actions and proposals—

(1) to further improve the economics and cost-effectiveness of the technologies set forth in the research strategy recommended pursuant to subsections (a) and (b);

(2) to commercially demonstrate nuclear fusion; and

(3) to commercially advance the use of hydrogen as a primary energy source.

FORMS OF FEDERAL ASSISTANCE

SEC. 107. (a) In developing proposals pursuant to section 105, the Chairman shall consider various forms of Federal assistance and participation which may include but are not limited to—

(1) joint Federal-industry corporations consistent with the provisions of section 108;

(2) contractual arrangements with non-Federal participants including corporations, consortia, universities, governmental entities, and nonprofit institutions;

(3) contracts for the construction and operation of federally owned facilities;

(4) Federal purchases or guaranteed price of the products of demonstration plants or activities consistent with the provisions of section 109; and

(5) Federal loans to non-Federal entities conducting demonstrations of new technologies.

(b) (1) A financial award under this Act may be made only in the amount of the Federal share of the estimated total design and construction costs, plus operation and maintenance costs; and

(2) For the purposes of this Act the non-Federal share may be in any form, including, but not limited to, lands or interests therein needed for the project or personal property or services, the value of which shall be detemined by the Chairman.

(c) The Chairman shall, within ninety days of enactment of this Act, promulgate regulations establishing procedures for submission of proposals to the Management Project for the purposes of this Act. Such regulations shall establish a procedure for selection of proposals which—

(A) provides that projects will be carried out under such conditions and varying circumstances as will assist in solving energy extraction, transportation, conversion, and end-use problems of various areas and regions, under representative geological, geographic, and environmental conditions; and

(B) provides time schedules for submission of, and action on proposal requests for the purposes of implementing the goals and objectives of this Act.

Such regulations also shall specify the types and form of the information, data, and support documentation that are to be contained in proposals for each form of Federal assistance or participation set forth in subsection (a): *Provided*, That such proposals to the extent possible shall include, but not be limited to—

(A) specification of technology;

(B) description of prior pilot plant operating experience with the technology;

(C) preliminary design of the demonstration plant;

(D) time tables containing proposed construction and operation plans;

(E) budget-type estimates of construction and operating costs;

(F) description and proof of title to land for proposed site, natural resources, electrical and water supply and logistical information related to access to raw materials to construct and operate plant and to dispose of salable products produced from plant;

(G) analysis of environmental impact of the proposed plant and plans for disposal of wastes resulting from the operation of the plant;

(H) plans for commercial use of technology if demonstration is successful;

(I) plans for continued use of plant if demonstration is successful; and

(J) plans for dismantling of plant if dem-

onstration is unsuccessful or otherwise abandoned.

(d) The Chairman shall from time to time review and, as appropriate, modify and repromulgate regulations issued pursuant to this section.

MODEL CORPORATION

SEC. 108. Joint Federal-industry corporations proposed pursuant to section 107 shall conform to the following guidelines:

(a) Each such corporation shall have the function to design, construct, operate, and maintain one or more full-scale, commercial-size facilities or other operations which will demonstrate the technical, environmental, and economic feasibility of a particular unconventional energy technology. In carrying out this function, the corporation shall be empowered, either directly or by contract, to utilize commercially available technologies, perform tests, or design, construct, and operate pilot plants as may be necessary for the design of the full-scale facility.

(b) Each corporation shall have—

(1) a Board of nine Directors consisting of individuals who are citizens of the United States, of whom one shall be elected annually by the Board to serve as Chairman. The Board shall be empowered to adopt and amend bylaws. Five members of the Board shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and four members of the Board shall be appointed by the President on the basis of recommendations received by him from any non-Federal entity or entities entering into contractual arrangements to participate in the corporation;

(2) a President and such other officers and employees as may be named and appointed by the Board (the rates of compensation of all officers and employees shall be fixed by the Board); and

(3) the usual power conferred upon corporations by the District of Columbia Business Corporation Act.

(c) An appropriate time interval, not to exceed twelve years, shall be established for the term of Federal participation in the corporation at the expiration of which the Board of Directors shall take such action as may be necessary to dissolve the corporation or otherwise terminate Federal participation and financial interests. In carrying out such dissolution, the Board of Directors shall dispose of all physical facilities of the corporation in such manner and subject to such terms and conditions as the Board determines are in the public interest, and a share of the appraised value of the corporate assets proportional to the Federal participation in the corporation, including the proceeds from the disposition of such facilities, on the date of its dissolution, after satisfaction of all its legal obligations, shall be made available to the United States and deposited in the Treasury of the United States as miscellaneous receipts. All patent rights of the corporation shall, on such date of dissolution, be vested in the Administrator of General Services: *Provided*, That Federal participation may be terminated prior to the time established in the authorizing Act upon recommendation of the Board of Directors.

(d) Any commercially valuable product produced by demonstration facilities shall be disposed of in such manner and under such terms and conditions as the corporation shall prescribe. All revenues received by the corporation from the sale of such products shall be available to the corporation for use by it in defraying expenses incurred in connection with carrying out its functions under this title.

(e) The estimated Federal share of the construction, operation, and maintenance cost over the life of each corporation shall be determined to facilitate the congressional authorization of the full amount at the time of establishment of the corporation.

(f) The Federal share of the cost of each such corporation shall reflect (1) the technical and economic risk of the venture, (2) the probability of any financial return to the non-Federal participants arising from the venture, (3) the financial capability of the potential non-Federal participants, and (4) such other factors as the Chairman may set forth in proposing the corporation: *Provided*, That in no instance shall the Federal share exceed 90 per centum of the cost.

SUPPORT THROUGH PRICE GUARANTEES

SEC. 109. Competitive systems of price supports proposed pursuant to section 107 shall conform to the following guidelines:

(a) The Chairman shall determine the types and capacities of the desired full scale, commercial size facility or other operation which would demonstrate the technical, environmental, and economic feasibility of a particular energy technology.

(b) The Chairman may award planning grants for the purpose of financing a study of the full cycle economic and environmental costs associated with the demonstration facility selected pursuant to subsection (a) of this section. Such planning grants may be awarded to industrial entities, Federal agencies, national laboratories, universities, or nonprofit organizations. Such planning grants may be awarded to industrial entities, Federal agencies, national laboratories, universities, or nonprofit organizations. Such planning grants shall also be used by the grantee to prepare a detailed and comprehensive bid to construct the demonstration facility.

(c) Following the completion of the studies pursuant to the planning grants awarded under subsection (b) of this section, the Chairman shall invite bids from all interested parties to determine the minimum amount of Federal price support needed to construct the demonstration facility. The Chairman may designate one or more competing entities each to construct one commercial demonstration facility. Such designation shall be made on the basis of those entities' (1) commitment to construct the demonstration facility at the minimum level of Federal price supports, (2) detailed plan of environmental protection, and (3) proposed design and operation of the demonstration facility.

(d) The construction plans and actual construction of the demonstration facility, together with all related facilities, shall be monitored by the Administrator of the Environmental Protection Agency. The Administrator of the Environmental Protection Agency is authorized and directed to require the application of the best available pollution control technologies as determined pursuant to the Clean Air Act, as amended (42 U.S.C. 1857 et seq.), and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1151 et seq.) on all demonstration facilities constructed pursuant to this section. If such additional environmental requirements are imposed after the designation of the successful bidders and if such additional environmental requirements result in additional costs, the Chairman is authorized to renegotiate the support price to cover such added costs.

(e) The estimated amount of the Federal price supports of the demonstration facilities' product over the life of such facilities shall be determined by the Chairman to facilitate the congressional authorization of the full amount of such support amounts at the time of the designation of the successful bidders.

(f) There shall be established in the Treasury of the United States a Competitive Research and Development Price Support Fund which shall be available to the Chairman for carrying out the price-support program authorized by this Act, including the payment of administrative expenses incurred in connection therewith.

CONGRESSIONAL APPROVAL

SEC. 110. (a) For each proposal which is considered pursuant to section 105, and in which the potential Federal investment is estimated to exceed $10,000,000 the Chairman shall prepare and transmit to the Congress a report setting forth the following:

(1) the anticipated, research, development, and application objectives to be achieved by the activities or facilities proposed;

(2) the economic, environmental, and societal significance which a successful demonstration may have for the national fuels and energy system;

(3) the relationship of the proposal to the criteria of priority set forth in section 111;

(4) the availability of non-Federal participants to construct and operate the facilities or perform the activities associated with the proposal and to contribute to the financing of the proposal;

(5) the total estimated cost and the probable time schedule;

(6) the proposed participants and the proposed financial contributions of the Federal Government and of the non-Federal participants; and

(7) the proposed cooperative arrangement agreements among the participants, and form of management of the activities.

(b) If the total estimated amount of the Federal contribution to the proposal does not exceed $50,000,000 the Chairman is authorized to proceed with the negotiation of agreements and implementation of the proposal as set forth in the report subject to the availability of funds under the authorization of appropriations granted in section 120 (b) of this Act: *Provided*, That if said Federal contribution exceeds $10,000,000 no funds may be expended for any proposal under the authority granted by this subsection prior to sixty calendar days (which sixty days, however, shall include days on which either House of Congress is not in session because of an adjournment of more than three calendar days to a day certain) from the date on which the Chairman's report is received by the Congress.

(c) Proposals for which the total estimated amount of the Federal contribution exceeds $50,000,000 shall be implemented by the Chairman only if the implementation and the necessary appropriations are specifically authorized by the Congress in subsequent legislation: *Provided, however*, That such proposal shall recommend whether an authorization is being sought for the total estimated amount of the Federal contribution in block or on an annual basis.

DETERMINATION OF NEED FOR FEDERAL PARTICIPATION IN RESEARCH AND DEVELOPMENT

SEC. 111. In evaluating proposed opportunities for particular research and development undertakings pursuant to this Act, the Chairman shall assign priority to those undertakings in which—

(1) the urgency of public need for the potential results of the research, development, or demonstration effort is high, and it is unlikely that similar results would be achieved in a timely manner in the absence of Federal assistance;

(2) the potential opportunities for non-Federal interests to recapture the investment in the undertaking through the normal commercial exploitation of proprietary knowledge appear inadequate to encourage timely results;

(3) the extent of the problems treated and the objectives sought by the undertaking are national or widespread in their significance;

(4) there are limited opportunities for regulatory actions and incentives other than direct Federal financial assistance, including, but not limited to, end-use controls, tax and price incentives, and public education, to induce non-Federal support of the undertaking;

(5) the degree of risk of loss of investment inherent in the research is high, and

the availability of risk capital to the non-Federal entities which might otherwse engage in the field of the research is inadequate for the timely development of the technology; or

(6) the magnitude of the investment appears to exceed the financial capabilities of potential non-Federal participants in the research to support effective efforts.

PATENT POLICY AND MANDATORY LICENSURE

SEC. 112. (a)(1) All research, development, or demonstration contracted for, sponsored, or cosponsored by the Government pursuant to this Act, shall require as a condition of Federal participation that all information resulting from federally assisted research shall be made available at the earliest practicable date to the general public, including nongovernmental United States interests capable of bringing about further development, utilization, and commercial applications of such results. The disposition of patent rights in inventions or discoveries arising out of resarch under this Act shall be governed by the President's Statement of Government Patent Policy issued on August 23, 1971 (31 F.R. 16887, August 26, 1971) and amended in September 1973 (38 F.R. 23782, September 4, 1973).

(2) The Chairman in administering patents pursuant to this Act shall make a determination, on a case by case basis, as to whether a requested license shall be granted on a royalty-free basis or upon a basis of charges designed to recover part or all of the costs of the research.

(3)(A) Where a participant in an energy research and development project holds background patents, trade secrets, or proprietary information which will be employed in and are requisite to the proposed research and development project, the Chairman shall enter into an agreement which will provide equitable protection to the participant's rights: *Provided*, That any such agreement must provide that when the energy research and development project reaches the stage of commercial application any of the participant's previously developed background patents, trade secrets, or proprietary information necessary to commercial application of the energy process or system developed under this title, but not embodied in any commercially available equipment, devices, or apparatus useful in such commercial application will be made available to any qualified applicant on reasonable license terms including suitable confidentiality agreements, reasonable royalties and such other conditions as may be applicable, which shall take into account that the commercial viability of the total energy process or system was achieved with the assistance of public funds.

(B) As employed herein, the term "background patent" means a United States patent owned or pending by a contractor, grantee, participant, or other party conducting research or development work, or both, pursuant to this Act for or under the sponsorship or cosponsorship of the chairman of a corporation established pursuant to this Act which would be infringed by the practice of any new technology developed under the research or development work, or both, contracted for, sponsored or cosponsored pursuant to this Act, or any demonstration-type or commercial-size facility authorized by any corporation thereunder.

(b)(1) Any corporation established pursuant to this Act shall receive a royalty-free license to practice such inventions or discoveries in connection with any demonstration-type or commercial-type facility provided for hereinafter. Such license shall include the right to make, use, and sell, and shall be without territorial limitation. As used herein, the term "research" includes "development" within its scope.

(2) Any corporation established pursuant to this Act shall license to responsible parties at reasonable terms, including reasonable royalties, any patent obtained by the corporation with respect to any invention or discovery made in performance of any activity conducted pursuant to this title. Any net royalty income shall accrue to the corporation during its existence and shall be available for use by the corporation in the advancement of its purposes. On and after the dissolution of the corporation, the Administrator of General Services shall administer such patent and shall have the sole right to issue licenses thereunder: *Provided*, That participants in the corporation shall receive a royalty-free license during and after the life of the corporation: *And provided further*, That the Chairman may recommend variations from this policy which he believes to be in the public interest for the consideration of the Congress when specific corporations are proposed for authorization.

(c) Whenever the Attorney General determines, upon application of the Chairman—

(1) that—

(A) in the implementation of the requirements of this Act a right under any United States letters patent, which is being used or intended for public or commercial use and not otherwise reasonably available, is necessary to the development or demonstration of an energy system or technology pursuant to this Act, and

(B) there are no reasonable alternative methods to accomplish such purpose, and

(2) that the unavailability of such right may result in a substantial lessening of competition or tendency to create a monopoly in any line of commerce in any section of the country,

the Attorney General may so certify to a district court of the United States, which may issue an order requiring the person who owns such patent to license it on such reasonable terms and conditions as the court, after hearing, may determine. Such certification may be made to the district court for the district court in which the person owning the patent resides, does business, or is found.

PRESIDENTIAL REVIEW

SEC. 113. (a) The President shall—

(1) in connection with any reorganization plan which he has proposed or may propose which has significant impacts upon the agencies represented on the Management Project, or

(2) immediately upon the authorization by the Congress of any reorganization which has significant impact upon the agencies represented upon the Management Project,

make his recommendations to the Congress concerning the appropriate agency and organizational arrangements to perform the functions authorized by this title.

(b) Not later than two years from the date of this Act, unless a permanent reorganization of the energy research and development functions of the Federal Government has been accomplished in the interim, the President shall report to the Congress on his evaluation of the progress of fuels and energy research and development and his recommendation for further management of the Federal research and development programs, including but not limited to—

(1) the necessity for continuing the Management Project,

(2) the appropriate membership of the Management Project if it is continued, and

(3) the appropriate agency to receive the duties, funding, and staff of the Management Project if it is to be terminated.

ADMINISTRATIVE PROVISIONS

SEC. 114. The Chairman shall be compensated at the rate provided for level II of the Executive Schedule Pay Rates (5 U.S.C. 5313).

POWERS

SEC. 115. (a) The Chairman may employ such officers and employees as may be necessary to carry out the functions of the Management Project under this title and may employ and fix the compensation of such experts and consultants as may be necessary, in accordance with section 3109 of title 5, United States Code (but without regard to the last sentence thereof);

(b) The Management Project may—

(1) acquire, furnish, and equip such office space as is necessary;

(2) use the United States mails in the same manner and upon the same conditions as other agencies of the United States;

(3) purchase, hire, operate, and maintain passenger motor vehicles;

(4) enter into contracts or agreements for studies and surveys with non-Federal public and private organizations and transfer funds to Federal agencies to carry out aspects of the Management Project's duties; and

(5) incur such necessary expenses and exercise such other powers as are consistent with and reasonably required to perform its functions under this title.

(c) The Chairman shall have the authority and be responsible for—

(1) the supervision of personnel;

(2) the assignment of duties and responsibilities among personnel; and

(3) the use and expenditure of funds.

COOPERATION OF FEDERAL AGENCIES

SEC. 116. Upon request of the Chairman, the head of any Federal department or agency is authorized—

(1) to furnish the Management Project within the limits of available funds, including funds transferred for that purpose pursuant to section 115(b) of this Act, such information as may be necessary for carrying out its functions, and

(2) to detail to temporary duty with the Management Project on a reimbursable basis such personnel as it may require for carrying out its functions pursuant to this Act, each such detail to be without loss of seniority, pay, or other employee status.

CONGRESSIONAL ACCESS TO INFORMATION

SEC. 117. The Chairman shall keep the Congress fully and currently informed of all the Management Project's activities and shall submit to the Congress an annual report.

ENVIRONMENTAL EVALUATION

SEC. 118. (a) The Council on Environmental Quality established under the provisions of the National Environmental Policy Act (83 Stat. 852) is authorized and directed to carry out a continuing analysis of the conduct of research and development of energy technologies to evaluate—

(1) the adequacy of attention to energy conservation methods,

(2) the adequacy of attention to the probable environmental effects of the application of technology, and

(3) the adequacy of attention to environmental protection in connection with energy processes.

(b) The Council on Environmental Quality, in carrying out the provisions of this section, may employ consultants or contractors and may by fund transfer employ the services of other Federal agencies for the conduct of studies and investigations.

(c) The Council on Environmental Quality shall hold annual public hearings on the conduct of energy research and development and the probable environmental consequences of trends in the application of energy technology, and the transcript of the hearings shall be published and made available to the public.

(d) The Council on Environmental Quality shall make such reports to the President, the Chairman, and the Congress as it deems appropriate concerning the conduct of energy research and development, and the President as a part of the annual Environmental Policy Report required by section 201 of the Na-

tional Environmental Policy Act (83 Stat. 854) shall set forth the findings of the Council on Environmental Quality concerning the conduct of energy research and development and the probable environmental consequences of trends in the application of energy technology.

ACQUISITION OF ESSENTIAL MATERIALS

SEC. 119. To achieve the purposes of this Act, the President is authorized to take such action as may be necessary to obtain or allocate materials which are or may be in critical supply and which are essential to the expeditious progress of energy research and development efforts.

APPROPRIATIONS

SEC. 120. (a) There are authorized to be appropriated to the Chairman to remain available until expended $2,000,000 for fiscal year 1974 and $10,000,000 annually for fiscal years 1975 and 1976 for the expenses of the Management Project in administering this Act including such amounts as may be expended for consulting services and including funds transferred to other Federal agencies in compensation for personal services in assisting the Management Project with the administration of this Act.

(b) There are authorized to be appropriated to the Chairman to remain available until expended not to exceed $800,000,000 for each of the fiscal years ending June 30, 1974, and 1975, and such amounts as may be authorized by annual authorization Acts in fiscal year 1976 to carry out the provisions of subsections 104(c), 105, 106, and 107 of this Act: *Provided,* That 1 per centum of such amounts as may be appropriated in each fiscal year under the authority of this subsection shall be made available by fund transfer to the Council on Environmental Quality for the purposes authorized and directed by section 118.

(c) The Chairman of the Management Project, in conjunction with his recommendations for annual appropriations pursuant to subsection (b) of this section, shall report to the Congress on the activities of the previous calendar year, the expenditure of funds, the new projects initiated, the projects which have been terminated, and any new contractual arrangements entered into, and the progress which has been made during that year toward attaining the capability of domestic energy self-sufficiency for the United States within ten years of the date of enactment of this Act. In each instance where delays in scheduled accomplishments are reported, the reasons for the delays shall be set forth along with recommendations for actions, including specific estimates of additional funding, or requirements for new legislative authority which would assist in regaining the schedule.

TITLE II—GEOTHERMAL ENERGY

SEC. 201. This title may be cited as the "Geothermal Energy Act of 1973".

LOAN GUARANTEE PROGRAM

SEC. 202. (a) The Congress, in consideration of the Federal responsibility for the general welfare, to facilitate commerce, to encourage productive harmony between man and his environment, and to protect the public interest, finds that the advancement of technology by private industry for the production of useful forms of energy from geothermal resources is important to all of those areas of responsibility. It is the policy of the Congress, therefore, to encourage and assist in the commercial development of practicable means to produce useful energy from geothermal resources with environmentally acceptable processes. Accordingly, it is the policy of the Congress to facilitate such commercial development by authorizing the Secretary of the Interior to guarantee loans for such purposes.

(b) In order to encourage the commercial production of energy from geothermal resources, the Secretary of the Interior, hereinafter referred to as the Secretary, is authorized to guarantee, and to enter into commitments to guarantee, banks or other financial institutions against loss of principal or interest on loans made by such institutions to qualified borrowers for the purposes of acquiring rights in geothermal resources and performing exploration, development, and construction and operation of facilities for the commercial production of energy from geothermal resources.

(c) Any guaranty under this title shall apply only to so much of the principal amount of any loan as does not exceed 75 per centum of the aggregate cost of the project with respect to which the loan is made.

(d) Loan guaranties under this title shall be on such terms and conditions as the Secretary determines: *Provided, however,* That a guaranty shall be made under this title only if—

(1) the loan involved is at a rate of interest which does not exceed the prevailing interest rates for conventional construction loans;

(2) the terms of such loans require full repayment within thirty years after the date thereof;

(3) in the judgment of the Secretary, the amount of the loan (when combined with amounts available to the qualified borrower from other sources) will be sufficient to carry out the project; or

(4) in the judgment of the Secretary, there is reasonable assurance of repayment of the loan by the qualified borrower of the guaranteed indebtedness.

(e) The Secretary shall not guarantee any loan for any project the amount of which exceeds $25,000,000, nor guarantee any combination of loans for any single qualified borrower in an amount exceeding $50,000,000.

SEC. 203. (a) With respect to any loan guaranteed pursuant to this title, the Secretary is authorized to enter into a contract to pay, and to pay, the lender for and on behalf of the borrower the interest charges which become due and payable on the unpaid balance of any such loan if the Secretary finds:

(1) that the borrower is unable to meet interest charges, and that it is in the public interest to permit the borrower to continue to pursue the purposes of his project, and that the probable net cost to the Government in paying such interest will be less than that which would result in the event of a default, and

(2) the amount of such interest charges which the Secretary is authorized to pay shall be no greater than an amount equal to the average prime interest rate for the preceding fiscal year as determined by the Secretary of the Treasury, plus one-half of 1 per centum.

(b) In the event of any default by a qualified borrower on a guaranteed loan, the Secretary is authorized to make payment in accordance with the guaranty, and the Attorney General shall take such action as may be appropriate to recover the amounts of such payments from such assets of the defaulting borrower as are associated with the project.

SEC. 204. No loan guaranties shall be made, or interest assistance contract entered into, pursuant to this title, after the expiration of the ten-calendar-year period following the date of enactment of this title.

SEC. 205. There is established in the Treasury of the United States a Geothermal Resources Development Fund (referred to in this title as the "fund"), which shall be available to the Secretary of the Interior for carrying out the loan guaranty and interest assistance program authorized by this title, including the payment of administrative expenses incurred in connection therewith. Moneys in the fund not needed for current operations shall be invested in bonds or other obligations of, or guaranteed by, the United States.

SEC. 206. There shall be paid into the fund the amounts appropriated pursuant to section 207 of this title and such amounts as may be returned to the United States pursuant to section 203(b) of this title, and the amounts in the fund shall remain available until expended: *Provided,* That after the expiration of the ten-year term established by section 204 of this title, such amounts in the fund which are not required to secure outstanding guaranty obligations shall be paid into the general fund of the Treasury.

SEC. 207. There are authorized to be appropriated (1) to the fund not to exceed $50,000,000 annually, and (2) such amounts as may be required for the administrative costs of carrying out the provisions of sections 201 through 206 of this title.

SEC. 208. Business-type financial reports covering the operations of the fund shall be submitted to the Congress by the Secretary annually upon the completion of an appropriate accounting period.

COORDINATION OF FEDERAL ACTIVITIES IN GEOTHERMAL ENERGY EXPLORATION, RESEARCH, AND DEVELOPMENT

SEC. 209. The Congress, in consideration of the Federal responsibility for the general welfare, to facilitate commerce, to encourage productive harmony between man and his environment, and to protect the public interest, finds that the advancement of technology with the cooperation of private industry for the production of useful forms of energy from geothermal resources is important to all of those areas of responsibility. It is the policy of the Congress, therefore, to encourage and assist private industry through Federal assistance for the development and demonstration of practicable means to produce useful energy from geothermal resources with environmentally acceptable processes. Such means shall accordingly include resource inventory, research, and financial and technical assistance in the construction of pilot plants and demonstration developments with the objective of reaching commercialization in the most timely and practicable manner.

SEC. 210. The Secretary, acting through the Geological Survey, is authorized and directed to:

(a) develop and carry out a general plan for the orderly inventorying of all forms of geothermal resources of the Federal lands and, where consistent with property rights and determined by the Secretary to be in the national interest, of non-Federal lands;

(b) conduct regional surveys, based upon such a general plan, using innovative geologic, geophysical, geochemical, and drilling techniques, which will lead to a national inventory of geothermal resources in the United States;

(c) publish and make available maps, reports, and other documents developed from such surveys to encourage and facilitate the commercial development of geothermal resources for beneficial use and consistent with the national interest;

(d) make such recommendations for legislation as may from time to time appear to be necessary to make Federal leasing policy for geothermal resources consistent with known inventories of various resources types, with the current state of technologies for geothermal energy development, and with current evaluations of the environmental impacts of such developments; and

(e) participate with the Atomic Energy Commission, the National Aeronautics and Space Administration, and the National Sci-

ence Foundation in research to develop, improve, and test technologies for the discovery and evaluation of all forms of geothermal resources, and conduct research into the principles controlling the location, occurrence, size, temperature, energy content, producibility, and economic lifetimes of geothermal reservoirs.

SEC. 211. The Secretary shall coordinate the development and implementation of the inventory authorized by section 210(a) and the applied research authorized by subsection 210(e) with the geothermal research and development program of the Atomic Energy Commission to insure that information is developed in a timely manner for the optimum progress of geothermal development.

SEC. 212. In preparing or implementing the resources inventory plan, the Secretary is authorized to:

(a) employ contractors and consultants;

(b) acquire by fund transfers the services of employees and facilities of other Federal agencies; and

(c) cooperate and enter into contracts with State, regional, and local governmental agencies and educational and research institutions.

SEC. 213. The Administrator of the National Aeronautics and Space Administration, hereinafter referred to as NASA, is authorized and directed to prepare and transmit to the Secretary within six months from the date of enactment of this title a proposal for the employment of space technologies and the services and facilities of NASA for inventorying and mapping of geothermal resources.

SEC. 214. The Secretary is authorized and directed to transmit to the President and the Congress, not later than one year from the date of enactment of this title, the general plan including a schedule and objectives, for inventory of, and applied research on, geothermal resources required by section 210, and each year thereafter a report on the status of activities authorized to be performed by the Secretary under the provisions of this title.

SEC. 215. (a) The Atomic Energy Commission in cooperation with private industry is authorized and directed to:

(1) conduct, encourage, and promote basic and applied scientific research to develop effective, economical, and environmentally acceptable processes and equipment for the purpose of utilizing all forms of geothermal resources for the production of useful energy forms;

(2) pursue the findings of research authorized by this title having potential applications in matters other than geothermal energy to the extent that such findings can be published in a form of utilization by others;

(3) conduct engineering and technical work including the design, construction, and testing of pilot plants to develop and improve geothermal energy processes and plant design concepts to the point of demonstration on a commercial scale;

(4) conduct laboratory and field experiments and tests of technologies necessary for the successful development of all forms of geothermal resources;

(5) study methods for the reduction and elimination of undesirable environmental impacts of geothermal development;

(6) study methods for the recovery and marketing of byproducts resulting from the production of energy from geothermal resources; and

(7) undertake engineering and economic studies to determine the potential for energy from geothermal resources to contribute to energy requirements on national and regional levels.

(b) The Commission shall coordinate the research and development activities authorized by this section with the activities of the Department of the Interior relating to geothermal resources research to insure the full utilization of expertise and information and to prevent duplication of efforts.

SEC. 216. (a) The Commission is authorized to investigate, negotiate, and enter into cooperative agreements with non-Federal utilities, industries, and governmental entities for the construction, operation, and maintenance of demonstration developments for the production of electric or heat energy, water supplies, or minerals from geothermal resources.

(b) No agreement shall be entered into under the authority granted by this section unless the Commission determines that:

(1) the nature of the resource the geographical location, the scale and engineering design of the facilities, the techniques of production, or other significant factors of the proposal offer opportunities to make important contributions to the general knowledge of its development, or public confidence in the technology;

(2) the potential non-Federal cooperating entities are willing and capable to make contributions toward the capital cost of the development, to operate the facilities, and to provide a market for the energy produced;

(3) no benefits have been obtained through the loan guaranty provisions of this title and applied to development of any facility for which funding assistance pursuant to this section is proposed;

(4) the development or the practical benefits of the development as set forth in clause (1) of this subsection are unlikely to be accomplished without Federal assistance or through the assistance provided by this title; and

(5) the Federal investment in each such development project will not exceed $10,000,000.

(c) The Commission is authorized to investigate potential agreements for the cooperative development of major facilities to demonstrate the feasibility of the production of energy from geothermal resources and to submit engineering and financial proposals to the Congress for consideration of authorization to proceed with implementation of said proposals. The Commission may consider:

(1) cooperative agreements with non-Federal governmental entities and utilities for construction of facilities to produce energy for commercial disposal;

(2) cooperative agreements with other Federal agencies for the construction and operation of facilities to produce energy for direct Federal consumption.

(d) Before favorably considering proposals under subsection (c) of this section, the Commission must find that:

(1) the nature of the resource the geographical location the scale and engineering design of the facilities the techniques of production or other significant factor of the proposal offer opportunities to make important contributions to the general knowledge of geothermal energy the techniques of its development or public confidence in the technology;

(2) the development or the practical benefits as set forth in clause (1) of this subsection are unlikely to be accomplished without such cooperative development; and

(3) where non-Federal participants are involved the proposal is not eligible for adequate Federal assistance under the loan guarantee provisions of this title.

SEC. 217. There are authorized to be appropriated to remain available until expended to carry out the purposes of section 210 through 216:

(a) $10,000,000 for fiscal years 1974, 1975, and 1976 to the Secretary of the Interior;

(b) $35,000,000 for fiscal years 1974, 1975, and 1976 to the Atomic Energy Commission;

(c) such amounts as may be required in fiscal years 1974, 1975, and 1976 to NASA.

SEC. 218. As used in this title, the term

(a) "geothermal resources" means (A) all products of geothermal processes embracing indigenous steam, hot water, and brines; (B) steam and other gases, hot water, and hot brines resulting from water, gas, or other fluids artifically introduced into geothermal formations; and (C) and byproduct derived from them;

(b) "qualified borrower" means any public or private agency, institution, association, partnership, corporation, political subdivision, or other legal entity which the Secretary has determined has presented satisfactory evidence of a property interest in a geothermal resource identified in a manner acceptable to the Secretary, as being of sufficient interest for research objectives or the development and production of energy, and which has the financial responsibility to establish and operate, utilizing such resource, a commercial facility;

(c) "pilot plant" means an experimental unit of small size used for early evaluation and development of new or improved process and to obtain technical and engineering data; and

(d) "demonstration development" means a complete facility which produces electricity or heat energy for commercial disposal from geothermal resources and which will make a significant contribution to the knowledge of full-sized technology, plant operation, and process economics.

ORDER FOR CONSIDERATION OF S. 1283 TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the disposition of the conference report on the foreign aid authorization bill, the Senate resume its consideration of calendar No. 567, S. 1283, the so-called energy research and development bill.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, may I ask the Chair as to whether or not the amendments to bills S. 979, S. 584, and S. 1039, Calendar Order Nos. 568, 569, and 571, respectively, are at the desk?

The PRESIDING OFFICER. They are at the desk.

Mr. ROBERT C. BYRD. Mr. President, may I say to the distinguished acting Republican leader, the Senator from Vermont (Mr. STAFFORD), that earlier today these three bills were cleared for action. However, because the amendments were not at the desk, the request to take them up was withdrawn.

I therefore renew the request at this time.

CALL OF THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Orders Nos. 568, 569, and 571.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

SPRINGFIELD ARMORY NATIONAL HISTORIC SITE, MASS.

The Senate proceeded to consider the bill (S. 979) to authorize the establishment of the Springfield Armory National Historic Site, Mass., and for other purposes which had been reported from the Committee on Interior and Insular Affairs with an amendment on page 3, at the beginning of line 2, strike out "such sums as may be necessary to carry out the purposes of this Act" and insert "not to exceed $5,365,000 for development of the historic site"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in order to preserve in public ownership for the benefit and inspiration of the people of the United States the property comprising the historically significant Springfield Armory, commissioned by President Washington in 1794 and, until deactivation in 1968, the oldest manufacturing arsenal in the United States, and the site of the defeat of insurgent farmers in Shays' Rebellion (1786–1787), the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to acquire by donation such real or personal property or interests therein which constitute a part of, or are located upon, the historic Springfield Armory property, Springfield, Massachusetts, as in his judgment will constitute an administrable unit, for establishment as the Springfield Armory National Historic Site.

SEC. 2. The Secretary shall establish the Springfield Armory National Historic Site by publication of a notice to that effect in the Federal Register when (a) he has accepted title to the real and personal property described in section 1 of this Act, (b) he has reached a satisfactory agreement with the Commonwealth of Massachusetts, or any agency or instrumentality thereof, for preservation of historic buildings and the physical setting of lands not in Federal ownership which comprised part of the historic Springfield Armory, and (c) he has reached a satisfactory agreement with the Secretary of the Armory concerning the retention or transfer of the arms collection and other museum objects at the Armory. Prior to such establishment and thereafter, the property acquired for the Springfield Armory National Historic Site shall be administered by the Secretary in accordance with the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2–4), as amended and supplemented, and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461 et seq.)

SEC. 3. There are hereby authorized to be appropriated not to exceed $5,365,000 for development of the historic site.

The amendment was agreed to.

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

INDIANA DUNES NATIONAL LAKESHORE

The Senate proceeded to consider the bill (S. 584) to amend the act entitled "An Act to provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes which had been reported from the Committee on Interior and Insular Affairs with amendments on page 1. line 3, after the word "That", strike out "section 10 of"; in line 6, after the word "amended", strike out "to read"; after line 6, insert:

(a) Delete the period at the end of subsection 6(a), insert in lieu thereof a colon and the following: "Provided, That, whenever an owner of property elects to retain a right of use and occupancy as provided for in this Act, such owner shall be deemed to have waived any benefits or rights accruing under sections 203, 204, 205, and 206 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1899), and for the purposes of those sections such owner shall not be considered to be a displaced person as defined in section 101(6) of that Act.

(b) Amend section 0 to read as follows:

And, on page 2, line 10, strike out "$32,600,000" and insert "$35,526,000"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled "An Act to provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes", approved November 5, 1966 (80 Stat. 1312), is amended as follows:

(a) Delete the period at the end of subsection 6(a), insert in lieu thereof a colon and the following: "*Provided,* That, whenever an owner of property elects to retain a right of use and occupancy as provided for in this Act, such owner shall be deemed to have waived any benefits or rights accruing under sections 203, 204, 205, and 206 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1899), and for the purposes of those sections such owner shall not be considered to be a displaced person as defined in section 101(6) of that Act.

(b) Amend section 10 to read as follows: "SEC. 10. There are hereby authorized to be appropriated not more than $35,526,000 for the acquisition of land and interests in land pursuant to this Act."

The amendments were agreed to.

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

The title was amended, so as to read: "A bill to amend the Act entitled 'An Act to provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes', approved November 5, 1966."

LAND ACQUISITION FOR THE NATIONAL PARK SYSTEM

The Senate proceeded to consider the bill (S. 1039) to authorize appropriations for additional costs of land acquisition for the National Park System, which had been reported from the Committee on Interior and Insular Affairs with amendments on page 2, line 2, after the word "appropriated", to strike out "such sums as may be necessary" and insert "not to exceed $8,400,000"; and, after line 7, insert a new section, as follows:

SEC. 2. Whenever an owner of property elects to retain a right of use and occupancy pursuant to any statute authorizing the acquisition of property for purposes of a unit of the national park system, such owner shall be deemed to have waived any benefits under sections 203, 204, 205, and 206 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1894), and for the purposes of those sections such owner shall not be considered a displaced person as defined in section 101(6) of that Act.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in all instances where authorizations of appropriations for the acquisition of lands for the national park system enacted prior to January 9, 1971, do not include provisions therefor, there are authorized to be appropriated such additional sums as may be necessary to provide for moving costs, relocation benefits, and other expenses incurred pursuant to the applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Public Law 91–646; 84 Stat. 1894). There are also authorized to be appropriated not to exceed $8,400,000 in addition to those authorized in Public Law 92–272 (86 Stat. 120) to provide for such moving costs, relocation benefits, and other related expenses in connection with the acquisition of lands authorized by Public Law 92–272.

SEC. 2. Whenever an owner of property elects to retain a right of use and occupancy pursuant to any statute authorizing the acquisition of property for purposes of a unit of the national park system, such owner shall be deemed to have waived any benefits under sections 203, 204, 205, and 206 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1894), and for the purposes of those sections such owner shall not be considered a displaced person as defined in section 101 (6) of that Act.

The amendments were agreed to.

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

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

ORDER FOR RECOGNITION OF SENATOR KENNEDY ON THURSDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Thursday, after the two leaders or their designee have been recognized under the standing order, the distinguished senior Senator from Massachusetts (Mr. KENNEDY) be recognized for not to exceed 15 minutes.

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at the hour of 11 o'clock a.m. tomorrow.

After the two leaders or their designees have been recognized under the standing order, the distinguished minority whip (Mr. GRIFFIN) will be recognized for not to exceed 15 minutes, after which the distinguished majority leader (Mr. MANSFIELD) will be recognized for not to exceed 15 minutes, after which there will be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 3 minutes, at the conclusion of which the Senate will proceed to the consideration of the conference re-

port on S. 1443, the foreign aid authorization bill.

There is a time limitaiton thereon. There will be at least one yea-and-nay vote, I am sure, on the adoption of the conference report, and there may be other votes.

On the disposition of the conference report on the foreign aid authorization bill, S. 1443, the Senate will take up Calendar Order No. 567, S. 1283, the so-called energy research and development bill. I am sure there will be yea and nay votes on amendments thereto tomorrow. Final action on that bill is not contemplated tomorrow. The Senate will resume consideration of the bill on Thursday.

Does the distinguished acting Republican leader have anything to state?

Mr. STAFFORD. Nothing further, I would say.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from Vermont.

ADJOURNMENT TO 11 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 11 o'clock a.m. tomorrow.

The motion was agreed to; and at 6:45 p.m., the Senate adjourned until tomorrow, Wednesday, December 5, 1973, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate December 4, 1973:

DEPARTMENT OF STATE

Harry G. Barnes, Jr., of Maryland, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Romania.

Heyward Isham, of the District of Columbia, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Haiti.

Joseph J. Jova, of Florida, a Foreign Service officer of the class of career minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Mexico.

Ralph J. McGuire, of the District of Columbia, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Mali.

Anthony D. Marshall, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Kenya.

Francis E. Meloy, Jr., of the District of Columbia, a Foreign Service officer of the class of career minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Guatemala.

DEPARTMENT OF JUSTICE

Charles D Loos, of Indiana, to be U.S. marshal for the southern district of Indiana for the term of 4 years. (Reappointment.)

Anthony E. Rozman, of Michigan, to be U.S. marshal for the eastern district of Michigan for the term of 4 years. (Reappointment.)

Denny L. Sampson, of Nevada, to be U.S. marshal for the district of Nevada for the term of 4 years. (Reappointment.)

EXTENSIONS OF REMARKS

SENATOR RANDOLPH RECEIVES RECOGNITION FOR AVIATION LEADERSHIP

HON. TED STEVENS

OF ALASKA

IN THE SENATE OF THE UNITED STATES

Tuesday, December 4, 1973

Mr. STEVENS. Mr. President, on November 17 it was my privilege to accompany the distinguished senior Senator from West Virginia (Mr. RANDOLPH) to his hometown of Elkins to participate in the dedication of a new terminal building at the Elkins-Randolph County Airport. With us on that important occasion were many nationally known persons who have worked and pioneered in aviation programs over a period of many, many years. It was fascinating to me to listen to these leaders—men such as C. R. Smith, chairman of the board and chief executive officer of American Airlines; Lt. Gen. Pete Quesada, first Administrator of the Federal Aviation Administration; Representative DON CLAUSEN, president of the Congressional Flying Club, and former astronaut Mike Collins—describe their years of association with Senator RANDOLPH and his effective efforts in the development of aviation and air travel.

Mr. President, I personally was aware that the Senator from West Virginia has been deeply involved in almost every legislative effort since the early 1930's to strengthen and improve aviation programs. Nevertheless, to hear C. R. Smith state that "when the history of aviation is written there will be a bright shining golden page there for JENNINGS RANDOLPH and he will certainly deserve it," brought home to me and to those present the unique role that Senator RANDOLPH has exercised in the realization of aviation progress.

Members of this body know that Senator RANDOLPH is concerned with constructive results in the activities in which he participates. However, on this day in Elkins there was one activity which had been purposely kept from him by the people of his hometown, his staff, and citizens who were to participate in the program. In addition to the dedication of the new terminal building, the Elkins City Council and the Randolph County Court had voted some time before to designate the airport as Jennings Randolph Field in recognition of his work in the establishment of the airport in 1934 and the improvements to it since that time, and as a tribute to their own Senator for his aviation leadership at the national level.

Mr. President, I ask unanimous consent that the program for the ceremony and two articles from the Elkins, W. Va., Inter-Mountain be printed in the RECORD.

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

DEDICATION—JENNINGS RANDOLPH FIELD, ELKINS-RANDOLPH COUNTY AIRPORT, NOVEMBER 17, 1973

A TRIBUTE TO "MR. AVIATION"

"He has led us in aviation . . . more than any other man", said L. Welch Pogue, former chairman of the Civil Aeronautics Board.

"He's the best friend civil aviation ever had", said John Shaffer, former chief of the Federal Aviation Administration.

Both were speaking of U.S. Sen. Jennings Randolph—known in the field of aviation and in the halls of Congress as "Mr. Aviation".

By presenting the first bill in Congress for federal aid to airports, he helped establish airports across the nation.

Back in his hometown of Elkins, there is no greater friend of the local airport than Sen. Randolph.

That friendship started in 1932 when as a young professor and athletic director at Davis and Elkins College, Jennings Randolph was elected to the U.S. House of Representatives. Working from his Washington office with a group of Elkins aviation enthusiasts, he became a dynamic force in a movement to establish the original Elkins Municipal Airport in 1934.

When the Elkins airport was expanded, the runways enlarged and the terminal building moved and renovated in 1944, it was again Congressman Randolph who helped Elkins leaders secure federal financing for the airport development.

Elkins was the second city in West Virginia to be served by a commercial airline—American Airlines came to Elkins in 1934 at the urging of Jennings Randolph.

And on May 12, 1939, Elkins was one of the first cities on the experimental Air Mail Pickup Service route. It was Congressman Randolph who authored the Air Mail Pickup legislation.

When the Weather Station was terminated in Elkins, he was instrumental in getting it reinstated.

And always, he is in the forefront to keep the vital Federal Aviation Administration's flight service station in Elkins.

Many, many cities much larger than Elkins have no scheduled air carrier service. Sen. Randolph has been influential in the continuation of scheduled air carrier service in his hometown.

And today, 39 years after the original airport was built, Sen. Randolph has been a key figure in obtaining a new airport terminal building for Elkins.

Emerson Phares, president of the Elkins-Randolph County Airport Authority speaking for officials and citizens, paid this tribute to Sen. Randolph:

"Sen. Randolph consistently has been the strongest single force and advocate of better and improved aviation facilities to serve Elkins and Randolph County. He has been eager to assert his important office with dispatch when a need arises. Without question, we would not have this fine airport, nor would we now be dedicating this new terminal building if it had not been for Sen. Randolph".

PROGRAM

Flag Raising—West Virginia Highlanders Bagpipe Band, Color Guard, American Legion Post 29.